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BARTLETT BEST

A Treatise on the Implications of Kelsen's Doctrine Springer Science & Business Media
This paperback edition of the first of the twelve volumes of A Treatises of Legal Philosophy and General Jurisprudence, serves as an introduction to the first-ever multivolume treatment of all important issues in legal philosophy and general jurisprudence, consisting of a five-volume theoretical part and a six-volume historical part. The theoretical part covers the main topics of contemporary debate. The historical volumes trace the development of legal thought from ancient Greek times through the twentieth century. All volumes are edited by the renowned theorist Enrico Pattaro.
Coherence and Fragmentation in European Private Law Bloomsbury Publishing
The digital economy is gradually gaining traction through a variety of recent technological developments, including the introduction of the Internet of things, artificial intelligence and markets for data. This innovative book contains contributions from leading competition law scholars who map out and investigate the anti-competitive effects that are developing in the digital economy.
A poststructuralist moral theory for the twenty-first century Routledge
This book addresses issues concerning the shifting contemporary meaning of legal certainty. The book focuses on exploring the emerging tensions that exist between the demand for legal certainty and the challenges of regulating complex, late modern societies. The book is divided into two parts: the first part focusing on debates around legal certainty at the

national level, with a primary emphasis on criminal law; and the second part focusing on debates at the transnational level, with a primary emphasis on the regulation of transnational commercial transactions. In the context of legal modernity, the principle of legal certainty—the idea that the law must be sufficiently clear to provide those subject to legal norms with the means to regulate their own conduct and to protect against the arbitrary use of public power—has operated as a foundational rule of law value. Even though it has not always been fully realized, legal certainty has functioned as a core value and aspiration that has structured normative debates throughout political modernity, both at a national and international level. In recent decades, however, legal certainty has come under increasing pressure from a number of competing demands that are made of contemporary law, in particular the demand that the law be more flexible and responsive to a social environment characterized by rapid social and technological change. The expectation that the law operates in new transnational contexts and regulates every widening sphere of social life has created a new degree of uncertainty, and this change raises difficult questions regarding both the possibility and desirability of legal certainty. This book compiles, in one edited volume, research from a range of substantive areas of civil and criminal law that shares a common interest in understanding the multi-layered challenges of defining legal certainty in a late modern society. The book will be of interest both to lawyers interested in understanding the transformation of core rule of law values in the context of contemporary social change and to political scientists and social theorists.
Interdisciplinary Reflections on Legal Method Edward Elgar Publishing
This volume offers a critical analysis and illustration of the challenges and promises of 'stateless' law thought, pedagogy and approaches to governance - that is, understanding and conceptualizing law in a post-national condition. From common, civil and international law perspectives, the collection focuses on the definition and role of law as an academic discipline, and hybridity in the practice and production of law. With contributions by a diverse and international group of scholars, the collection includes fourteen chapters written in English and three in French. Confronting the 'transnational challenge' posed to the traditional theoretical and institutional structures that underlie the teaching and study of law in the university, the seventeen authors of Stateless Law: Evolving Boundaries of a Discipline bring new insight to the ongoing and crucial conversation about the future shape of legal scholarship, education and practice that is emblematic of the early twenty-first century. This collection is essential reading for academics, institutions and others involved in determining the future roles, responsibilities and education of jurists, as well as for academics interested in Law, Sociology, Political Science and Education.
Legal Argumentation Theory: Cross-Disciplinary Perspectives Walter de Gruyter
Does the law contain implicit exceptions to its own rules? If so, what consequence does that have for understanding the relationship between law and morality? This collection gathers leading legal philosophers to analyse the logical

structure of legal norms, advancing the understanding of the general philosophy of law.

Exceptions and Defences in International Law Cambridge University Press

Through fourteen original essays, the book seeks to understand the viability of the notion of sovereignty in a globalized world, thus taking into account the inclusion of a language of rights, limitation and legitimacy. It examines sovereignty using a normative approach.

Essays on Defeasibility Springer Nature

This book is a thorough treatise concerned with coherence and its significance in legal reasoning. The individual chapters present the topic from the general philosophical perspective, the perspective of legal-theory as well as the viewpoint of cognitive sciences and the research on artificial intelligence and law. As it has turned out the interchange of knowledge among these disciplines is very fruitful for each of them, providing mutual inspiration and increasing understanding of a given topic. This book is a unique resource for anyone interested in the concept of coherence and the role it plays in reasoning. As this book captures important contemporary issues concerning the ongoing discussion on coherence and law, those interested in legal reasoning should find it particularly helpful. By presenting such a broad scope of views and methods on approaching the issue of coherence we hope to promote the general interest in the topic as well as the academic research that centers around coherence and law.

Logic in the Theory and Practice of Lawmaking Springer Science & Business Media

This book discusses the question of whether legal interpretation is a scientific activity. The law’s dependency on language, at least for the usual communication purposes, not only makes legal interpretation the main task performed by those whose work involves the law, but also an unavoidable step in the process of resolving a legal case. This task of decoding the words and sentences used by normative authorities while enacting norms, carried out in compliance with the principles and rules of the natural language adopted, is prone to all of the difficulties stemming from the uncertainty intrinsic to all linguistic conventions. In this context, seeking to determine whether legal interpretation can be scientific or, in other words, can comply with the requirements for scientific knowledge, becomes a central question. In fact, the coherent application of the law depends on a knowledge regarding the meaning of normative sentences that can be classified (at least) as being structured, systematically organized and tendentially objective. Accordingly, this book focuses on analyzing precisely these problems; its respective contributions offer a range of revealing perspectives on both the problems and their ramifications.

JURIX 2001 : the Fourteenth Annual Conference IOS Press

Until quite recently questions about methodology in legal research have been largely confined to understanding the role of doctrinal research as a scholarly discipline. In turn this has involved asking questions not only about coverage but, fundamentally, questions about the identity of the discipline. Is it (mainly) descriptive, hermeneutical, or normative? Should it also be explanatory? Legal scholarship has been torn between, on the one hand, grasping the expanding reality of law and its context, and, on the other,

reducing this complex whole to manageable proportions. The purely internal analysis of a legal system, isolated from any societal context, remains an option, and is still seen in the approach of the French academy, but as law aims at ordering society and influencing human behaviour, this approach is felt by many scholars to be insufficient. Consequently many attempts have been made to conceive legal research differently. Social scientific and comparative approaches have proven fruitful. However, does the introduction of other approaches leave merely a residue of 'legal doctrine', to which pockets of social sciences can be added, or should legal doctrine be merged with the social sciences? What would such a broad interdisciplinary field look like and what would its methods be? This book is an attempt to answer some of these questions.

Legal Interpretation and Scientific Knowledge Routledge

One of the most important characteristics of today’s private law is that it increasingly flows from different sources: Next to national legislation and case law, it is also shaped by European and supranational sources and rapidly becoming a mixture of differently oriented rules and principles. This development can be described as one from coherence to fragmentation. The aim of the new book is to consider how this important shift has worked out in different subfields of the law like in contract and property law, in competition, insurance, marketing and private international law as well as in the law of intellectual property. This cross-disciplinary approach shows how pervasive legal fragmentation has become, and points out how to remedy the adverse effects it brings with it. The volume is therefore indispensable for anyone interested in how Europeanisation affects national private laws.

Proportionality, Fundamental Rights and Balance of Powers Springer

In 'The Back Pain Book', physical therapist Mike Hage shows readers how to take control of back problems through self-treatment. Instead of addressing specific medical diagnoses, medications, surgery, or nutritional adjustments, Hage gives advice on how to use posture and movement to ease, relieve, and prevent your pain.

Handbook of Legal Reasoning and Argumentation Edward Elgar Publishing

This book presents the current state of the art regarding the application of logical tools to the problems of theory and practice of lawmaking. It shows how contemporary logic may be useful in the analysis of legislation, legislative drafting and legal reasoning concerning different contexts of law making. Elaborations of the process of law making have variously emphasised its political, social or economic aspects. Yet despite strong interest in logical analyses of law, questions remains about the role of logical tools in law making. This volume attempts to bridge that gap, or at least to narrow it, drawing together some important research problems—and some possible solutions—as seen through the work of leading contemporary academics. The volume encompasses 20 chapters written by authors from 16 countries and it presents diversified views on the understanding of logic (from strict mathematical approaches to the informal, argumentative ones) and differentiated choices concerning the aspects of law making taken into account. The book

presents a broad set of perspectives, insights and results into the emerging field of research devoted to the logical analysis of the area of creation of law. How does logic inform lawmaking? Are legal systems consistent and complete? How can legal rules be represented by means of formal calculi and visualization techniques? Does the structure of statutes or of legal systems resemble the structure of deductive systems? What are the logical relations between the basic concepts of jurisprudence that constitute the system of law? How are theories of legal interpretation relevant to the process of legislation? How might the statutory text be analysed by means of contemporary computer programs? These and other questions, ranging from the theoretical to the immediately practical, are addressed in this definitive collection.

Legal Knowledge and Information Systems Springer

In popularizing the term ‘speaking truth to power’, now widely used throughout the world, Michel Foucault established the basis upon which a new ethics can be constructed. This is the thesis that Mark Olssen advances in Constructing Foucault’s ethics. Olssen not only ‘speaks truth’ to existing moral and ethical theories that have dominated western philosophy since Plato, but also shows how, by using Foucault’s insights, an alternative ethical and moral theory can be established that both avoids the pitfalls of postmodern relativism and simultaneously grounds ethical, moral, and political discourse for the present age. Taking the late ‘ethical turn’ in the philosopher’s thought as its starting point, this ambitious study seeks to construct an ethics beyond anything Foucault ever attempted while remaining consistent with his core postulates. In doing so it advances the concept of ‘life continuance’, which expresses a normative orientation to the future in terms of the quest for survival and well-being, giving rise to irreducible normative values as part of the discursive order of events. This approach is explored in contrast with a range of other, established systems, from the Kantian to the Marxist to contract ethics and utilitarianism.

Reasoning with Rules Springer Science & Business Media

This book presents research in an interdisciplinary field, resulting from the vigorous and fruitful cross-pollination between traditional deontic logic and computer science. AI researchers have used deontic logic as one of the tools in modelling legal reasoning. Computer scientists have discovered that computer systems (including their interaction with other computer systems and with human agents) can often be productively modelled as norm-governed. So, for example, deontic logic has been applied by computer scientists for specifying bureaucratic systems, access and security policies, and soft design or integrity constraints, and for modelling fault tolerance. In turn, computer scientists and AI researchers have also discovered (and made it clear to the rest of us) that various formal tools (e.g. nonmonotonic, temporal and dynamic logics) developed in computer science and artificial intelligence have interesting applications to traditional issues in deontic logic. This volume presents some of the best work done in this area, with the selection at once reflecting the general interdisciplinary (and international) character that this area of research has taken on, as well as

reflecting the more specific recent inter-disciplinary developments between traditional deontic logic and computer science.

Legal Theory and the Inner Workings of a Doctrinal Discipline OUP Oxford

This book offers its readers an overview of recent developments in the theory of legal argumentation written by representatives from various disciplines, including argumentation theory, philosophy of law, logic and artificial intelligence. It presents an overview of contributions representative of different academic and legal cultures, and different continents and countries. The book contains contributions on strategic maneuvering, argumentum ad absurdum, argumentum ad hominem, consequentialist argumentation, weighing and balancing, the relation between legal argumentation and truth, the distinction between the context of discovery and context of justification, and the role of constitutive and regulative rules in legal argumentation. It is based on a selection of papers that were presented in the special workshop on Legal Argumentation organized at the 25th IVR World Congress for Philosophy of Law and Social Philosophy held 15-20 August 2011 in Frankfurt, Germany.

Legal Knowledge and Information Systems Franz Steiner Verlag

Rule-applying legal arguments are traditionally treated as a kind of syllogism. Such a treatment overlooks the fact that legal principles and rules are not statements which describe the world, but rather means by which humans impose structure on the world. Legal rules create legal consequences, they do not describe them. This has consequences for the logic of rule- and principle-applying arguments, the most important of which may be that such arguments are defeasible. This book offers an extensive analysis of the role of rules and principles in legal reasoning, which focuses on the close relationship between rules, principles, and reasons. Moreover, it describes a logical theory which assigns a central place to the notion of reasons for and against a conclusion, and which is especially suited to deal with rules and principles.

Legal Doctrinal Scholarship Oxford University Press, USA

This original collection of jurisprudential essays furthers our understanding of the nature of rights. In Part 1, Halpin considers the value of Hohfeldian neutrality when theorising about law in general, and legal rights in particular, and Kurki focuses on Hohfeld's operative notion of power. In Part 2, Kramer rebuts Wenar's objections to his Interest Theory of rights, and May provides a comparative defence of the Interest Theory against Wenar's Kind-Desire theory of claim-rights. Penner then pursues legal doctrine, focusing on whether judges hold the powers of their office as rights, an issue over which Wenar and Kramer have clashed. Sreenivasan, utilising a novel test case involving pure public goods, argues that the third party beneficiary objection to the Interest Theory is fatal. McBride builds on Sreenivasan's Hybrid Theory of claim-rights to construct his new Tracking Theory of rights. Cruft then argues that the best extant versions of the Interest and Will Theories of rights cannot avoid a form of circularity, and Van Duffel argues that meeting four adequacy constraints, which he proposes, counts in favour of any theory of rights. In Part 3, Andersson proposes a tie breaking procedure for rights conflicts in the applied realm of

politics, and Steiner concludes by alleging that Kant's principle of right, a standard of corrective justice, has distributive implications. 'A fine collection of cutting-edge essays on the most important normative concept of modernity.' Professor Leif Wenar, King's College London 'This important collection proceeds much beyond the famous 1998 A Debate Over Rights which sets the stage for the debates concerning rights since then. It explores three aspects of rights. First it re-examines the Hohfeldian classification and highlights its importance and relevance. Second it investigates and develops the debates between the interest and the will theory. It includes essays by the main established proponents of these two positions as well as essays by newcomers to this field. The different essays in this part address each other in ways which sharpen and clarify the disagreements and provide new original arguments for the contending views. Last, it provides a new perspective on the debates concerning conflicts of rights and the ways to overcome them. This collection will no doubt dominate the future conceptual discussions concerning the nature of rights and their role in political theory.' Professor Alon Harel, The Hebrew University of Jerusalem

Practical Reason in Legislation Springer Science & Business Media

This book explores relationships between law and legal reasoning, and recent developments in formal logic.

International Criminal Procedure IOS Press

This book establishes legisprudence, in contrast to jurisprudence, as a legal theory of rational law-making. It suggests that by rejecting the common wisdom about the nature of political law-making, legislation could be improved and streamlined. Using the methods, theoretical insights and tools of current legal theory and philosophy of law in a new way, the book suggests the creation of law by legislators rather than government. Raising new questions and problems of the validity of norms, the book opens a new perspective on legitimacy of norms, their meaning and the structure of the legal system. In distinguishing legitimacy and legitimation of law, the book ventures into the philosophical roots of legal theory and suggests the articulation of a new conception of sovereignty. In shifting the emphasis to the position of the legislator and legislation, this book opens a number of new insights into the relationship between legislative problems and legal theory. Its main claim is that legislation should be justified by the legislator.

Facts and Norms in Law Springer

Are the cognitive sciences relevant for law? How do they influence legal theory and practice? Should lawyers become part-time cognitive scientists? The recent advances in the cognitive sciences have reshaped our conceptions of human decision-making and behavior. Many claim, for instance, that we can no longer view ourselves as purely rational agents equipped with free will. This change is vitally important for lawyers, who are forced to rethink the foundations of their theories and the framework of legal practice. Featuring multidisciplinary scholars from around the world, this book offers a comprehensive overview of the emerging field of law and the cognitive sciences. It develops new theories and provides often provocative insights into the relationship between the cognitive sciences and various dimensions of the

law including legal philosophy and methodology, doctrinal issues, and evidence.