

Legality And Legitimacy Carl Schmitt Hans Kelsen And Hermann Heller In Weimar

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hermann heller was one of the leading public lawyers and legal and political theorists of the weimar era whose main interlocutors were two of the giants of twentieth century legal and political thought hans kelsen and carl schmitt in this 1927 work hermann heller addresses the paradox of sovereignty that is how the sovereign can be both the highest authority and subject to law unlike kelsen and schmitt who seek to dissolve the paradox heller sees that the tensions the paradox highlights are an essential part of a society ruled by law sovereignty in the sense of national and popular sovereignty is often perceived today as being under threat as power devolves from nation states to international bodies and important decisions seem increasingly made by elite dominated institutions hermann heller wrote sovereignty in 1927 amidst the very similar tensions of the weimar republic in an exploration of history constitutional and political theory and international law heller speaks clearly to our contemporary concerns and shows that democrats must defend a legal idea of sovereignty suitable for a pluralistic world

a path breaking critical analysis of the meaning and interpretation of the german constitution in the weimar years 1919 1933

this book is an intellectual history of ernst fraenkel s the dual state 1941 reissued 2017

one of the most erudite books on the theory of dictatorship ever written fraenkel s was the first comprehensive analysis of the rise and nature of nazism and the only such analysis written from within hitler s germany his sophisticated not to mention courageous analysis amounted to an ethnography of nazi law as a result of its clandestine origins the dual state has been hailed as the ultimate piece of intellectual resistance to the nazi regime in this book jens meierhenrich revives fraenkel s innovative concept of the dual state restoring it to its rightful place in the annals of public law scholarship blending insights from legal theory and legal history he tells in an accessible manner the remarkable gestation of fraenkel s ethnography of law from inside the belly of the behemoth in addition to questioning the conventional wisdom about the law of the third reich meierhenrich explores the legal origins of dictatorship elsewhere then and now the book sets the parameters for a theory of the authoritarian rule of law a cutting edge topic in law and society scholarship with immediate policy implications

in this comprehensive edition of ernst wolfgang böckenförde s definitive work in constitutionalism law and politics readers have access to the legal discourse of one of germany s leading contemporary theorists and former judge of the federal constitutional court available in the english language for the first time

this selection of the major works of constitutional theory during the weimar period reflects the reactions of legal scholars to a state in permanent crisis a society in which all bets were off yet the weimar republic s brief experiment in constitutionalism laid the groundwork for the postwar federal republic and today its lessons can be of use to states throughout the world weimar legal theory is a key to understanding the experience of nations turning from traditional religious or command and control forms of legitimization to the rule of law only two of these authors hans kelsen and carl schmitt have been published to any extent in english but they and the others whose writings are translated here played key roles in the

political and constitutional struggles of the weimar republic critical introductions to all the theorists and commentaries on their works have been provided by experts from austria canada germany and the united states in their general introduction the editors place the weimar debate in the context of the history and politics of the weimar republic and the struggle for constitutionalism in germany this critical scrutiny of the weimar jurisprudence of crisis offers an invaluable overview of the perils and promise of constitutional development in states that lack an entrenched tradition of constitutionalism

each number includes reviews and book notices

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