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In 1997, a Mexican national named Jose Ernesto Medellin was sentenced to death for raping and murdering two teenage girls in Texas. In 2004, the International Court of Justice ruled that he was entitled to appellate review of his sentence, since the arresting officers had not informed him of his right to seek assistance from the Mexican consulate prior to trial, as prescribed by a treaty ratified by Congress in 1963. In 2008, amid fierce controversy, the U.S. Supreme Court declared that the international ruling had no weight. Medellin subsequently was executed. As Julian Ku and John Yoo show in Taming Globalization, the Medellin case only hints at the legal complications that will embroil American courts in the twenty-first century. Like Medellin, tens of millions of foreign citizens live in the United States; and like the International Court of Justice, dozens of international institutions cast a legal net across the globe, from border commissions to the World Trade Organization. Ku and Yoo argue that all this presents an unavoidable challenge to American constitutional law, particularly the separation of powers between the branches of federal government and between Washington and the states. To reconcile the demands of globalization with a traditional, formal constitutional structure, they write, we must re-conceptualize

the Constitution, as Americans did in the early twentieth century, when faced with nationalization. They identify three "mediating devices" we must embrace: non-self-execution of treaties, recognition of the President's power to terminate international agreements and interpret international law, and a reliance on state implementation of international law and agreements. These devices will help us avoid constitutional difficulties while still gaining the benefits of international cooperation. Written by a leading advocate of executive power and a fellow Constitutional scholar, Taming Globalization promises to spark widespread debate. The article represents an initial attempt to articulate the relational federalism framework in the context of evaluating and criticizing the Supreme Court's sovereign immunity case law. The project argued that the seminal decision in Ex parte Young deserves a more prominent place in our thinking about the nature of American federalism. It argued that the decision might be valuably interpreted as an example of the relational dimension of federalism because it accepted both the constitutional legitimacy of state governments as alternative political communities, and its enforcement of a post-Civil War vindication of the supremacy of federal law, which conditions the recognition of states as sovereign on their status as legitimate political communities. Based upon the conception of conditional state sovereignty, the Article argued that arguments and decisions depicting federalism as protecting state autonomy from relationship with national norms are incorrect. State autonomy (understood as political community) can only be understood as autonomy for relationship with citizens, which must be consistent with the rights protections of federal law. This understanding, the article argues, undermines the Court's sovereign immunity case law to the extent that the Court's case law fails to recognize the legitimacy of the national political community as a site of normative

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meaning binding on the union, including state governments. The study of the Constitution and constitutional law is of fundamental importance to understanding the principles, prospects, and problems of America. American Constitutional Law, Volume I provides a comprehensive account of the nation's defining document, comparing how its provisions were originally understood by those who drafted and ratified it with contemporary constructions. The authors examine the constitutional thought of the founders, as well as interpretations of the Constitution by the Supreme Court, Congress, the President, lower federal courts, and state judiciaries to provide students with a sense of how the law has been interpreted over the years. Now fully updated, the ninth edition of this classic volume features several new cases including National Federation of Independent Business v. Sebelius, Arizona v. United States, and Caperton v. A. T. Massey Coal Company Visit westviewconlaw.com for instructor resources, including recently decided cases, material from prior editions, and a glossary. This supplement brings the principal text current with recent developments in the law. Over the last forty years modern constitutional scholarship has concentrated on an analysis of rights, while principles of constitutional law concerning the structure of government have been largely down-played. The irony of this interpretive emphasis is that the body of the Constitution contains relatively little dealing directly with rights. Rather, it is primarily a blueprint for the establishment of a complex form of federal-democratic structure. The Constitution as Political Structure emphasizes the central role served by the structural portions of the Constitution. Redish argues that these structural values were designed to provide the framework in which our rights-based system may flourish, and that judicial abandonment of these structural values threatens the very foundations of American political theory. In its

exposition of the textual and theoretical rationales for judicial enforcement of the structural values embodied in the Constitution, this book presents a principled alternative to the extremes of judicial abdication articulated by certain scholars and Justices on the one hand, and the result-oriented ideological involvement advocated in some quarters on the other. This work will be of great interest to scholars of law and political science. In this lively historical examination of American federalism, a leading scholar in the field refutes the widely accepted notion that the founding fathers carefully crafted a constitutional balance of power between the states and the federal government. Edward A. Purcell Jr. bases his argument on close analysis of the Constitution’s original structure and the ways that structure both induced and accommodated changes over the centuries. There was no clear agreement among the founding fathers regarding the "true” nature of American federalism, Purcell contends, nor was there a consensus on "correct” lines dividing state and national authority. Furthermore, even had there been some true "original” understanding, the elastic and dynamic nature of the constitutional structure would have made it impossible for subsequent generations to maintain any "original” or permanent balance. The author traces the evolution of federalism through the centuries, focusing particularly on shifting interpretations founded on political interests. He concludes with insights into current issues of federal power and a discussion of the grounds on which legitimate decisions about federal and state power should rest. This casebook is designed to reflect more accurately the way that Constitutional Law is generally taught in contemporary law schools. Most schools no longer attempt to offer a comprehensive survey course; rather, they offer an introduction to the subject that omits topics like the First Amendment and frequently focuses on issues of constitutional structure. The basic

idea of this book is to conform the casebook more closely to the subjects actually covered in most introductory constitutional law courses. The book also tries to capture the best of both topical and historical arrangements. This book makes no attempt at comprehensive coverage. It combines a historical approach in the first half of the book with a very thorough doctrinal treatment of structural questions in the second. The book departs from most other casebooks in the field by offering longer cuts of fewer key cases, rather than trying to treat every significant case. The underlying theory is that the justices are considerably less cryptic when one includes a greater proportion of their explanations, and that the extra reading load is more than offset by the decrease in confusion. This book is divided into two principal parts. The first offers a general survey of judicial review, arranged as a history of the U.S. Supreme Court from Marbury to Bush v. Gore. This history accomplishes several goals: It presents an overall picture of the institution of judicial review as it has evolved over our history; it introduces the basics of a number of rights issues (e.g., equal protection and race, due process and privacy) not covered elsewhere in the course; and it exposes students to different theoretical approaches to constitutional interpretation. The second half of the book presents an in-depth doctrinal study of federalism and separation of powers, Proportionality is one of the most important principles in constitutional law, relevant throughout the law and in jurisdictions worldwide. Setting out the 'state of the art' in proportionality doctrine, this book combines theoretical reconstruction with case-law examples, defending and developing the dominant model of proportionality. In this intellectual history of America's two-party system, Donald V. Weatherman grapples with the central issue confronting political parties: What role should they play within a

constitutional government?: By examining three major efforts at party reform-the Progressive movement, efforts to develop a responsible party system in the 1950s and 1960s, and Democratic nominating system reforms between 1968 and 1988-Weatherman shows how we have lost sight of the founders' original intentions to create a party system that would enhance the democratic tendencies of our political system while strengthening our constitutional structure. The extent to which electoral rules encourage voters to focus on individual candidates versus broad party labels influences how politicians and their parties allocate resources. We argue that the constitutional structures that define territorial organization also should be reflected in party platforms in predictable ways. Territorial organization that makes controlling subnational government and policy making attractive should encourage parties to tailor their platforms to appeal to relatively narrow, regionally based electorates, while parties in more unitary states should seek to appeal to a broader, cross-constituency electorate. In effect, the value of doing well in any given region increases with the value of controlling regional government, approximating even in highly proportional systems the incentives for candidates to differentiate themselves locally under candidate-centered SMD electoral rules. This effect should be most pronounced where subnational parties compete for office (as in Catalonia and the Basque Country in Spain, or Scotland in the UK), thus forcing their national counterparts to adapt in order to remain locally competitive. We develop this argument and examine its implications using new data on party positions in Spain and the UK. Providing examples of diverse forms of federalism, including new and mature, developed and developing, parliamentary and presidential, and common-law and civil law, the comparative studies in this volume analyse government in Australia, Belgium, Brazil, Canada, Germany, India, Mexico, Nigeria,

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Russia, South Africa, Switzerland, and the United States. Each chapter describes the provisions of a constitution, explains the political, social, and historical factors that influenced its creation, and explores its practical application, how it has changed, and future challenges, offering valuable ideas and lessons for federal constitution-making and reform.Contributors include Ignatius Ayua Akaayar (Nigeria), Raoul Blindenbacher (Switzerland), Dakas C.J. Dakas (Nigeria), Kris Deschouwer (Belgium), Juan Marcos Gutiérrez González (Mexico), John Kincaid (USA), Rainer Knopff (Canada), Jutta Kramer (Germany), Akhtar Majeed (India), Marat S. Salikov (Russia), Cheryl Saunders (Australia), Anthony M. Sayers (Canada), Nicolas Schmitt (Switzerland), Celina Sousa (Brazil), Nico Steytler (South Africa), and G. Alan Tarr (USA).The Frech edition is Forthcoming in the Fall 2005 as Les origines, structure, et changements constitutionnels dans les pays fédéraux For years the public has become increasingly disillusioned and cynical about its governmental institutions. In the face of alarming problems-most notably the $400 billion budget deficit-the government seems deadlocked, reduced to partisan posturing and bickering, with the president and Congress blaming each other for failure. And neither party can be held accountable. The public tendency is to blame individual leaders- or politicians as a class-but an insistent and growing number of experienced statesmen and political scientists believe that much of the difficulty can be traced to the governmental structure itself, designed in the eighteenth century and essentially unchanged since then. Is that inherited constitutional system adequate to meet the challenges of the twenty-first century, or has the time come for fundamental change? Should we adopt an electoral system that encourages unified control of the presidency, the Senate and the House? Lengthen terms of office? Limit congressional terms? Abolish or modify the

electoral college? Introduce a mechanism for calling special elections? Permit legislators to hold executive offices? Redistribute the balance of powers within the governmental system? In this revised edition of his highly acclaimed 1986 volume, James Sundquist reviews the origins and rationale of the constitutional structure and the current debate about whether reform is needed, then raises practical questions about what changes might work best if a consensus should emerge that the national government is too prone to stalemate to meet its responsibilities. Analyzing the main proposals advanced to adapt the Constitution to current conditions, he attempts to separate the workable ideas from the unworkable, the effective from the ineffective, the possibly feasible from the wholly infeasible, and finally arrives at a set of recommendations of his own. "This book offers an overview of federalism, the separation of powers, and related matters of constitutional structure. It covers such topics as: the lawmaking powers of the national government (including those powers conferred by the Commerce Clause, the Taxing and Spending Clause, the Necessary and Proper Clause, the Enforcement Clauses of the Reconstruction Amendments, and other sources of federal legislative authority); federalism-based "external" constraints on congressional power (including those provided by the anti-commandeering principle, the "equal sovereignty" principle, and principles of state-sovereign immunity); federalism-based limits on state authority (including those imposed by the dormant Commerce Clause, the Article IV Privileges and Immunities Clause, and statutory preemption doctrine); structural constitutional principles concerning governmental entities other than the states (including Native nations, overseas territories, and the District of Columbia); and the horizontal allocation of power across the three branches of the federal government (including with respect to foreign

and military affairs, the federal administrative state, the appointment and removal of executive-branch officials, impeachment, presidential and legislative immunities from judicial process, and the powers of the federal courts)."--Publisher. When we think of constitutional law, we invariably think of the United States Supreme Court and the federal court system. Yet much of our constitutional law is not made at the federal level. In 51 Imperfect Solutions, U.S. Court of Appeals Judge Jeffrey S. Sutton argues that American Constitutional Law should account for the role of the state courts and state constitutions, together with the federal courts and the federal constitution, in protecting individual liberties. The book tells four stories that arise in four different areas of constitutional law: equal protection; criminal procedure; privacy; and free speech and free exercise of religion. Traditional accounts of these bedrock debates about the relationship of the individual to the state focus on decisions of the United States Supreme Court. But these explanations tell just part of the story. The book corrects this omission by looking at each issue-and some others as well-through the lens of many constitutions, not one constitution; of many courts, not one court; and of all American judges, not federal or state judges. Taken together, the stories reveal a remarkably complex, nuanced, ever-changing federalist system, one that ought to make lawyers and litigants pause before reflexively assuming that the United States Supreme Court alone has all of the answers to the most vexing constitutional questions. If there is a central conviction of the book, it's that an underappreciation of state constitutional law has hurt state and federal law and has undermined the appropriate balance between state and federal courts in protecting individual liberty. In trying to correct this imbalance, the book also offers several ideas for reform. This work has been selected by scholars as being culturally important and is part of the

knowledge base of civilization as we know it. This work is in the public domain in the United States of America, and possibly other nations. Within the United States, you may freely copy and distribute this work, as no entity (individual or corporate) has a copyright on the body of the work. Scholars believe, and we concur, that this work is important enough to be preserved, reproduced, and made generally available to the public. To ensure a quality reading experience, this work has been proofread and republished using a format that seamlessly blends the original graphical elements with text in an easy-to-read typeface. We appreciate your support of the preservation process, and thank you for being an important part of keeping this knowledge alive and relevant. The classic study of historical and then-emerging ways in which the U.S. Constitution has been interpreted and applied, especially as regards judicial power to review congressional acts, sharing of power between states and the federal government, Lochnerism, changes to the Supreme Court during the Roosevelt years, taxing power, and interstate commerce. Quid Pro's new presentation makes the work accessible. Thomas Reed Powell presented these insights first as lectures at Columbia Law School. Their enduring nature and historical insider-ness makes them of continuing interest to law professors and students, historians, and political scientists who see constitutional structure-and not only rights and liberties-as crucial to understanding politics, the federal-state balance, and the infusion of government into economic life. Powell was valued not only in law but also taught political science; he edited political journals, seeing pragmatic approaches to constitutional questions that went beyond legal doctrine. His writing style is pithy, witty, and straightforward. Summing up a career of constitutional scholarship in six insightful lectures, Powell turned the resulting book into his legacy. The Legal Legends edition from Quid Pro Books

features modern formatting and presentation-but also embeds the original book's pagination, for continuity and proper referencing. It includes new Notes of the Series Editor by Steven Alan Childress, J.D., Ph.D., a senior law professor at Tulane University. An Introduction to Constitutional Law teaches the narrative of constitutional law as it has developed historically and provides the essential background to understand how this foundational body of law has come to be what it is today. This multimedia experience combines a book and video series to engage students more directly in the study of constitutional law. All students—even those unfamiliar with American history—will garner a firm understanding of how constitutional law has evolved. An eleven-hour online video library brings the Supreme Court's most important decisions to life. Videos are enriched by photographs, maps, and audio from the Supreme Court. The book and videos are accessible for all levels: law school, college, high school, home school, and independent study. Students can read and watch these materials before class to prepare for lectures or study after class to fill in any gaps in their notes. And, come exam time, students can binge-watch the entire canon of constitutional law in about twelve hours. The purchase of this ebook edition does not entitle you to receive access to the Connected eBook with Study Center on CasebookConnect. You will need to purchase a new print book to get access to the full experience, including: lifetime access to the online ebook with highlight, annotation, and search capabilities; practice questions from your favorite study aids; an outline tool and other helpful resources. Constitutional Structure: Cases in Context, Second Edition places primary emphasis on how constitutional law has developed since the Founding, its key foundational principles, and recurring debates. By providing both cases and context, it conveys the competing narratives that all lawyers ought to know and all constitutional practitioners need

to know. Teachable, manageable, class-sized chunks of material are suited to one-semester courses or reduced credit configurations. Generous case excerpts make the text flexible for most courses. Cases are judiciously supplemented with background readings from various sources. Innovative study guide questions presented before each case help students focus on the salient issues, challenging them to consider the court's opinions from various perspectives, and suggesting comparisons or connections with other cases. Key Benefits: Revised doctrinal areas with newer cases. Updated background contextual material to reflect current scholarship. A highly accessible and engaging structure that examines the competing narratives that pervade the development of American constitutional law since the founding. Related cases are grouped together into "assignments" and make for a reasonable amount of reading for each topic. A wealth of photographs, maps, and primary documents to bring the cases to life. This volume presents a succinct account of the legal and constitutional structure of New Zealand and illustrates the fact that New Zealand, like the other members of the Commonwealth, has its own individuality as a state and stands, in spite of all that it may have derived in law from Britain, as an independent nation working out its own political and legal life along its own lines. What is apparent, twoo, is that it is at one with the United Kingdom in believing that the fundamental principle of its legal life must be the rule of law. In the mid-summer of 1989 the German Democratic Republic-- known as the GDR or East Germany--was an autocratic state led by an entrenched Communist Party. A loyal member of the Warsaw Pact, it was a counterpart of the Federal Republic of Germany (West Germany), which it confronted with a mixture of hostility and grudging accommodation across the divide created by the Cold War. Over the following year and a half,

dramatic changes occurred in the political system of East Germany and culminated in the GDR's "accession" to the Federal Republic itself. Yet the end of Germany's division evoked its own new and very bitter constitutional problems. The Imperfect Union discusses these issues and shows that they are at the core of a great event of political, economic, and social history. Part I analyzes the constitutional history of eastern Germany from 1945 through the constitutional changes of 1989-1990 and beyond to the constitutions of the re-created east German states. Part II analyzes the Unification Treaty and the numerous problems arising from it: the fate of expropriated property on unification; the unification of the disparate eastern and western abortion regimes; the transformation of East German institutions, such as the civil service, the universities, and the judiciary; prosecution of former GDR leaders and officials; the "rehabilitation" and compensation of GDR victims; and the issues raised by the fateful legacy of the files of the East German secret police. Part III examines the external aspects of unification. In the United States, commentators often contend that our constitutional structure of government can be reformed to promote the general welfare at the expense of special interest groups. Supposedly, one such constitutional innovation -- touted widely in the literature -- is the long standing practice in which Congress delegates significant international trade authority to the President. In the now familiar tale of institutional beneficence, starting in 1934 Congress agreed to sacrifice some portion of its constitutional authority for the greater good. By doing so, Congress was able to disempower narrow interest groups and enable the President to pursue trade policies that benefit the general welfare. There is one problem with this account: it is not quite true. Neither reciprocity nor the delegation of trade authority to the President were efforts to transcend interest group pressure; on the

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contrary, they were very much the products of interest group politics. Moreover, they were not particularly novel. Both delegation and reciprocity had been deployed by politicians to secure protectionist policy goals in the latter part of the nineteenth and early twentieth century. In the end, there are likely no set of constitutional structures that will continually guarantee a path to free trade; instead, the relationship between free trade and constitutional institutions is largely contingent and dependent on interest group politics. The 2022 Supplement contains excerpts from cases decided during the October 2021 Term. New to the 2022 Edition: City of Austin, Texas v. Reagan National Advertising of Austin, LLC Shurtleff v. Boston United States v. Jose Luis Vaello Madero New York State Rifle & Pistol Association Inc v. Bruen Dobbs v. Jackson Women's Health Organization Kennedy v. Bremerton School District In this timely book, Randy J. Kozel develops a theory of precedent designed to enhance the stability and impersonality of constitutional law. Kozel contends that the prevailing approach to precedent in American law is undermined by principled disagreements among judges over the proper means and ends of constitutional interpretation. The structure and composition of the doctrine all but guarantee that conclusions about the durability of precedent will track individual views about whether decisions are right or wrong, and whether mistakes are harmful or benign. This is a serious challenge, but it also reveals a path toward maintaining legal continuity even as judges come and go. Kozel's account of precedent should be read by anyone interested in the nature of the judicial role and the trajectory of constitutional law. US constitutional jurisprudence often conflates two distinct enquiries: how to interpret the Constitution and how to allocate interpretive authority. This book explains the distinct role of judgements about interpretive authority in

constitutional practice. It argues that these judgements do not determine what qualifies as good constitutional argument, and cannot substitute for it. Rather, they specify the division of labour between the political branches and the judiciary in forming applicable constitutional determinations. This explanation of the structure of constitutional reasoning sets the stage for the development of a normative theory about each enquiry. The book advances a theory of substantive constitutional argument. It argues that constitutional interpretation is a special kind of practical reasoning, aiming to construct and specify morally sound accounts of the Constitution and surrounding constitutional practice. Yet, this task is entrusted to a scheme of institutions, as agents of free and equal citizens. The standard of review is an interlocking component of that scheme, regulating the judicial assignment. As such, it should aim to facilitate best performance of the overall interpretive task, so that the judicial process settles on appropriate constitutional determinations; grounded on morally sound reasons that reach all citizens and uphold the fundamental commitments to freedom and equal citizenship. This study uses basic economic analysis as a technique to comment critically on the original meaning and the interpretation of those clauses of the Constitution that have particular bearing on the economy. Many new conclusions are markedly different from those of the Supreme Court and earlier commentators. Conant's view is that the commerce clause and the equal protection clause, if they had been construed consistently with their comprehensive original meanings, would have given much greater federal protection against state laws that impaire free markets. Economic policy for the nation was vested in Congress. To the extent that special interests could buy congressional favor for their anticompetitive activities, free markets were impaired within constraints as interpreted by the court. These decisions have

been criticized for their failure to incorporate the antimonopoly tradition in the Ninth Amendment and their failure to recognize equal protection of laws incorporated into the Fifth Amendment. Conant holds that statutory controls of the economy are justifiable in economic theory if they are designed to remedy market failures and thereby increase efficiency. If statutes are passed to interfere with markets and create market inefficiencies for the benefit of special interest groups, they should be condemned under the standards of normative microeconomics. There are four main classes of market failure: monopoly, externalities, public goods, and informational asymmetry. This masterful analysis examines all four reasons for market failure in depth. Litigation costs are analogous to transaction costs. If legal principles and rules are clearly and precisely defined by the Supreme Court when they are first appealed, litigation and its costs should be minimized. Conant claims that if legal principles or rules are uncertain because they lack definable standards, the number of legal actions filed and litigation costs will be much greater. This promotes additional litigation challenging the many statutes enacted to remedy asserted market failures in an expanding industrial economy. This work brilliantly addresses the danger to the economy in court rulings seeking to legislate standards of reasonableness. This book explores the implications of freedom as a non-domination-oriented view for understanding EU security regulation and its constitutional implications. At a time when the European borders are under pressure and with the refugee and migration crisis, which escalated in 2015, the idea of exploring a constitutional theory for the 'Area of Freedom, Security and Justice' (AFSJ) might seem to be a utopian project. This appears especially true in the light of the increased threat of terrorism in Europe (and on a global scale) and where the expanding EU security agenda is often advanced through the

administrative law path, in contrast to the constitutional trajectory. Add to this the prolonged financial crisis, which continues to cast a long shadow on the future development of EU integration, and which suggests that Europe needs to 're-invent itself' beyond the sphere of economics. Therefore, it is precisely because of the current uncertainties regarding the progress of the EU and the constitutional law project that a constitutional take on the AFSJ is of particular importance. The book investigates the meaning of non-domination and the idea of justice and justification in the area of EU security regulation. In doing so, it focuses on the development of an AFSJ, what it means, and why it represents a fascinating example of contemporary constitutional law with interacting layers of security regulation, human rights law and transnational legal theory at its core. This is the second edition of Professor Tushnet's short critical introduction to the history and current meaning of the United States' Constitution. It is organised around wo themes: first, the US Constitution is old, short, and difficult to amend. Second, the Constitution creates a structure of political opportunities that allows political actors, icluding political parties, to pursue the preferred policy goals even to the point of altering the very structure of politics. Deploying these themes to examine the structure f the national government, federalism, judicial review, and individual rights, the book provides basic information about, and deeper insights into, the way he US constitutional system has developed and what it means today. The decision made by the United Kingdom in 2016 to leave the European Union has produced shock waves across Europe and the world. Brexit calls into question consolidated assumptions on the finality of the EU, and simultaneously sparks new challenges. These new challenges are not only in regard of the constitutional settlements reached in the UK, notably in Scotland and Northern Ireland, but also on the future of

European integration. Now that Article 50 of the Treaty on the European Union has been invoked, and the path towards full withdrawal by the UK from the EU remains clouded in uncertainties, a comprehensive legal and political analysis of how Brexit impacts on UK and the EU appears of the utmost importance. This book brings together leading lawyers, economists and political scientists to discuss the constitutional implications of Brexit and propose possible solutions for the way forward. The book is structured around four main themes. First, it considers how Brexit will be implemented legally and politically, in terms of the withdrawal and the possible new relations between the UK and the EU. Second, it examines the implications of Brexit on the constitutional structure of the UK, as well as on the status of Northern Ireland and the relations with the Republic of Ireland. Third, it examines the implications of Brexit on the constitutional structure of the EU, focusing on a number of key areas of EU policy-making, notably the Area of Freedom Security and Justice, the Single Market, and Economic and Monetary Union. Finally, the book looks to the mid to long-term future, and discusses the prospects for relaunching the EU after Brexit.

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