“terms that look principled”

Maximilian Steinbeis

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Eine angenehm illusionslose Beschreibung der Funktion und Legitimation der Verfassungsgerichtsbarkeit, gefunden in einem Aufsatz des Stanford-Professors Richard T. Ford in dem demnächst erscheinenden Sammelband “The Constitution in 2020”, online zu finden hier:

> *The federal courts are a political branch of government, one of the purposes of which is to occasionally temper the excesses of representative overnment and even more occasionally to jump-start needed but stalled political reform. The purpose of judicial review is to allow welleducated and (hopefully) civic-minded elites who are relatively insulated from short-term politics to overrule the popular branches on occasion.Provided the elites are good enough at couching their interventions in terms that look principled, maintaining the charisma and mystique of the judiciary (hence no cameras in court or revealing autobiographies—attention Justice Thomas!—and hence the otherwise somewhat quaint attachment to archaic props like black robes, gavels, etc.), and limiting their interventions to those that most people will eventually accept, the system, such as it is, will “work.”*

Zum Thema Constitution 2020 (die Konferenz dazu beginnt am 2. Oktober in Yale) hat übrigens David Law im Balkanization-Blog einen flammenden Appell für Konstitutionalisierung als offenen Prozess des institutional design veröffentlicht – unbedingt lesen, toller Text.

Ach ja, und alles Gute zum Constitution Day!

ABOUT THE AUTHOR

Maximilian Steinbeis

Maximilian Steinbeis is a legal journalist and writer and the founder and director of Verfassungsblog.

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