

Contents

Part I Judicial Activism, Legal Reasoning and the Concept of Law

1	Between Nightmare and Noble Dream: Judicial Activism and Legal Theory	3
	Massimo La Torre	
2	Judicial Activism: Clearing the Air and the Head	15
	Lawrence A. Alexander	
3	Judicial Activism and “Reason”	21
	Steven D. Smith	
4	Judicial Activism and Fidelity to Law	31
	Gonçalo de Almeida Ribeiro	
5	Adjudication as Grammatication: The Case of French Judicial Politics	47
	Pierre Legrand	

Part II Judicial Activism in Perspective

6	The Activist Judge—Vanity of Vanities	71
	James Allan	
7	Schmitt’s Spectre and Kelsen’s Promise: The Polemics on the Guardian of the Constitution	89
	Miguel Nogueira de Brito	

8	Theories of Judicial Behavior and the Law: Taking Stock and Looking Ahead	105
	Tiago Fidalgo de Freitas	
9	The Passive Sovereignty of the Constitutional Judge a State Theory Approach	119
	Luís Pereira Coutinho	
Part III Judicial Activism in Context		
10	The Contextual Nature of Proportionality and Its Relation with the Intensity of Judicial Review	137
	Jorge Silva Sampaio	
11	Politics and the Judiciary: A Naïve Step Towards the End of Judicial Policy-Making	161
	Maria Benedita Urbano	
12	The Judicial Activism of the European Court of Justice	173
	Lourenço Vilhena de Freitas	
13	Courts and European Integration	181
	Francisco Pereira Coutinho	
14	Judicial Activism, Judicial Independence and Judicial Hubris: The Case of International Courts	197
	Maimon Schwarzschild	