



TO SECURE THESE RIGHTS



*The Declaration of Independence
and Constitutional Interpretation*



Scott Douglas Gerber

WITH A FOREWORD BY
Henry J. Abraham



To Secure These Rights The Declaration Of Independence And Constitutional Interpretation

Scott Douglas Gerber



To Secure These Rights The Declaration Of Independence And Constitutional Interpretation:

To Secure These Rights Scott Douglas Gerber,1995-06 Importantly the theory advanced in this book what Gerber calls liberal originalism is neither consistently liberal nor consistently conservative in the modern conception of those terms Rather the theory is liberal in the classic sense of viewing the basic purpose of government to be safeguarding the natural rights of individuals

To Secure These Rights Scott Douglas Gerber,1995-06-01 A legal scholar puts forward a rigorous and provocative theory of constitutional interpretation that cuts across today s partisan divide To Secure These Rights enters the fascinating and often contentious debate over constitutional interpretation Scott Douglas Gerber argues that the Constitution of the United States should be interpreted in light of the natural rights political philosophy of the Declaration of Independence and that the Supreme Court is the institution of American government that should be primarily responsible for identifying and applying that philosophy in American life Importantly the theory advanced in this book what Gerber calls liberal originalism is neither consistently liberal nor consistently conservative in the modern conception of those terms Rather the theory is liberal in the classic sense of viewing the basic purpose of government to be safeguarding the natural rights of individuals As Thomas Jefferson wrote in the Declaration of Independence to secure these rights governments are instituted among men In essence Gerber maintains that the Declaration articulates the philosophical ends of our nation and that the Constitution embodies the means to effectuate those ends Gerber s analysis reveals that the Constitution cannot be properly understood without recourse to history political philosophy and law

The Invisible Constitution in Comparative Perspective Rosalind Dixon,Adrienne Stone,2018-11-08 Constitutions worldwide inevitably have invisible features they have silences and lacunae unwritten or conventional underpinnings and social and political dimensions not apparent to certain observers The Invisible Constitution in Comparative Perspective helps us understand these dimensions to contemporary constitutions and their role in the interpretation legitimacy and stability of different constitutional systems This volume provides a nuanced theoretical discussion of the idea of invisibility in a constitutional context and its relationship to more traditional understandings of written versus unwritten constitutionalism Containing a rich array of case studies including discussions of constitutional practice in Australia Canada China Germany Hong Kong Israel Italy Indonesia Ireland and Malaysia this book will look at how this aspect of invisible constitutions is manifested across different jurisdictions

First Principles Scott Douglas Gerber,1999 Clarence Thomas is one of the most vilified public figures of our day To date however his legal philosophy has received only cursory treatment First Principles provides a portrait of Thomas based not on the justice s caricatured reputation but on his judicial opinions and votes his scholarly writings and his public speeches The paperback edition includes a provocative new Afterword by the author bringing the book up to date by assessing Justice Thomas s performance and the reaction to his decisions during the last five years

Powers Reserved for the People and the States Jay S. Bybee,A. Christo Bryant,Thomas B. McAfee,2006-08-30 American judges and legal scholars have long

misunderstood the intended meaning of the Ninth Amendment and its relationship to the Tenth. Because of misinterpretation the Ninth and Tenth Amendments have not been used to fulfill their original purposes. The limited and unlimited powers of the federal government have been shaped greatly by that error. In this book the authors clarify the actual meaning of the Ninth Amendment and its connection to the Tenth Amendment in order to provide a clear understanding of the full potential of the two amendments. Historical and contemporary details are included to provide an appreciation of the intended purpose of the amendments.

American Government, Second Edition Timothy O. Lenz, Mirya Holman, 2018-03-21 This exciting new book explores the role of government politics and policy in American lives. Full of real life applications and scenarios, this text encourages and enables political thinking. The second edition has been updated to include recent developments in U.S. politics and government. This includes the description and analysis of the 2016 elections as well as the early Trump administration. Chapters have expanded coverage of immigration policy, environmental policy, economic policy, and global affairs including counterterrorism policy. The text also includes analysis of racial issues in contemporary American politics and law. It also addresses questions about the state of the economy, jobs, and wages. Hyperlinks and URLs provide deeper dives into various topics and examples of comparative politics.

Judicial Review in an Objective Legal System Tara Smith, 2015-08-07 How should courts interpret the law? While all agree that courts must be objective, people differ sharply over what this demands in practice: fidelity to the text, to the will of the people, to certain moral ideals. In *Judicial Review in an Objective Legal System*, Tara Smith breaks through the false dichotomies inherent in dominant theories: originalism, living constitutionalism, and minimalism, to present a new approach to judicial review. She contends that we cannot assess judicial review in isolation from the larger enterprise of which it is a part. By providing careful clarification of both the function of the legal system as well as of objectivity itself, she produces a compelling, firmly grounded account of genuinely objective judicial review. Smith's innovative approach marks a welcome advance for anyone interested in legal objectivity and individual rights.

A Distinct Judicial Power Scott Douglas Gerber, 2011-01-10 *A Distinct Judicial Power: The Origins of an Independent Judiciary, 1606-1787* by Scott Douglas Gerber provides the first comprehensive critical analysis of the origins of judicial independence in the United States. Part I examines the political theory of an independent judiciary. Gerber begins chapter 1 by tracing the intellectual origins of a distinct judicial power from Aristotle's theory of a mixed constitution to John Adams's modifications of Montesquieu. Chapter 2 describes the debates during the framing and ratification of the federal Constitution regarding the independence of the federal judiciary. Part II, the bulk of the book, chronicles how each of the original thirteen states and their colonial antecedents treated their respective judiciaries. This portion, presented in thirteen separate chapters, brings together a wealth of information: charters, instructions, statutes, etc., about the judicial power between 1606 and 1787, and sometimes beyond. Part III, the concluding segment, explores the influence the colonial and early state experiences had on the federal model that followed and on the nature of the regime.

itself It explains how the political theory of an independent judiciary examined in Part I and the various experiences of the original thirteen states and their colonial antecedents chronicled in Part II culminated in Article III of the U S Constitution It also explains how the principle of judicial independence embodied by Article III made the doctrine of judicial review possible and committed that doctrine to the protection of individual rights Encyclopedia of Constitutional Amendments, Proposed Amendments, and Amending Issues, 1789-2023 John R. Vile, 2023-10-19 Written by a leading scholar of the constitutional amending process this two volume encyclopedia now in its fifth edition is an indispensable resource for students legal historians and high school and college librarians This authoritative reference resource provides a history and analysis of all 27 ratified amendments to the Constitution as well as insights and information on thousands of other amendments that have been proposed but never ratified from America s birth until the present day The set also includes a rich bibliography of informative books articles and other media related to constitutional amendments and the amending process Appealing to Scripture in Moral Debate Charles H. Cosgrove, 2002 Arguing from scripture is one of the ways that Christians test their moral judgments But are all methods of appealing to the Bible equally valid and effective In this book Charles Cosgrove looks at the church s long tradition of moral debate and analyzes five important hermeneutical rules that guide contemporary use of scripture in ethical argument After introducing the nature of moral arguments generally Cosgrove devotes one chapter to each of the five rules of biblical interpretation that make ethical appeals to scripture persuasive He sets forth each rule s rationale provides examples of its operation and subjects it to critique Based not only on the work of biblical scholars and Christian ethicists but also on Cosgrove s own experience with debates in classrooms churches and other Christian contexts this volume is a valuable aid to readers who employ moral reasoning in real life settings

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