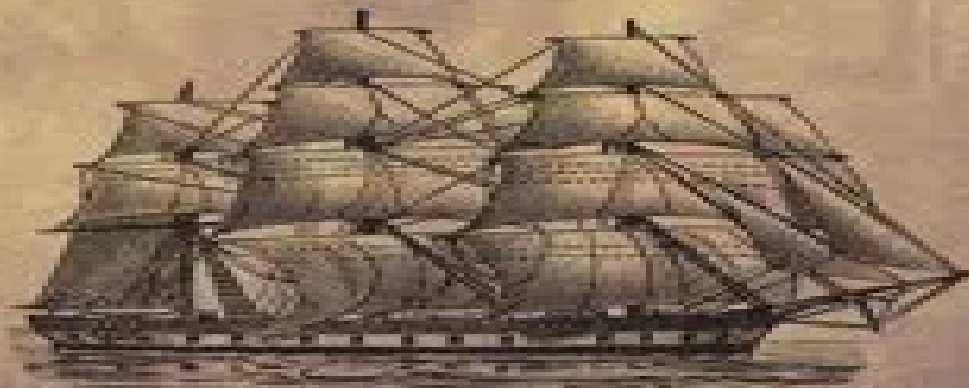


The Transatlantic Constitution

Colonial Legal Culture
and the Empire



MARY SARAH BILDER

The Transatlantic Constitution The Transatlantic Constitution

**Patrick T. Conley, Robert G. Flanders
Jr.**



The Transatlantic Constitution The Transatlantic Constitution:

The Transatlantic Constitution Mary Sarah Bilder, 2008-03-31 One of the more significant recent pieces of scholarship in this area essential reading for all students of early America *Journal of American History* Departing from traditional approaches to colonial legal history Mary Sarah Bilder argues that American law and legal culture developed within the framework of an evolving unwritten transatlantic constitution that lawyers legislators and litigants on both sides of the Atlantic understood The central tenet of this constitution that colonial laws and customs could not be repugnant to the laws of England but could diverge for local circumstances shaped the legal development of the colonial world Focusing on practices rather than doctrines Bilder describes how the pragmatic and flexible conversation about this constitution shaped colonial law the development of the legal profession the place of English law in the colonies the existence of equity courts and legislative equitable relief property rights for women and inheritance laws commercial law and currency reform and laws governing religious establishment Using as a case study the corporate colony of Rhode Island which had the largest number of appeals of any mainland colony to the English Privy Council she reconstructs a largely unknown world of pre Constitutional legal culture The book is rich in social history as well with the evolving status of women and institutional religion providing much of the legal grist Choice *The Atlantic Imperial Constitution* K. MacMillan, 2011-11-07 Drawing on recent trends in both Atlantic and center periphery literature this book examines the relationship between the English crown monarch privy council and ancillary bodies and its Atlantic colonies under the early Stuart monarchs James I and Charles I circa 1603 1642 [Transatlantic Revolutionary Cultures, 1789-1861](#) Charlotte A. Lerg, Heléna Tóth, 2017-11-06 *Transatlantic Revolutionary Cultures 1789 1861* argues that the revolutionary era constituted a coherent chapter in transatlantic history and that individual revolutions were connected to a broader transatlantic and transnational frame As a composite the essays place instances of political upheaval during the long nineteenth century in Europe and the Americas in a common narrative and offer a new interpretation on their seeming asynchrony In the age of revolutions the formation of political communities and cultural interactions were closely connected over time and space Reciprocal connections arose from discussions on the nature of history deliberations about constitutional models as well as the reception of revolutions in popular culture These various levels of cultural and intellectual interchange we term transatlantic revolutionary cultures Contributors are Ulrike Bock Anne Bruch Peter Fischer Mischa Honeck Raphael H rmann Charlotte A Lerg Marc H Lerner Michael L Miller Timothy Mason Roberts and Hel na T th **The Revolutionary Constitution** David J. Bodenhamer, 2012-08-15 The framers of the Constitution chose their words carefully when they wrote of a more perfect union not absolutely perfect but with room for improvement Indeed we no longer operate under the same Constitution as that ratified in 1788 or even the one completed by the Bill of Rights in 1791 because we are no longer the same nation In *The Revolutionary Constitution* David J Bodenhamer provides a comprehensive new look at America s basic law integrating the

latest legal scholarship with historical context to highlight how it has evolved over time The Constitution he notes was the product of the first modern revolution and revolutions are by definition moments when the past shifts toward an unfamiliar future one radically different from what was foreseen only a brief time earlier In seeking to balance power and liberty the framers established a structure that would allow future generations to continually readjust the scale Bodenhamer explores this dynamic through seven major constitutional themes federalism balance of powers property representation equality rights and security With each he takes a historical approach following their changes over time For example the framers wrote multiple protections for property rights into the Constitution in response to actions by state governments after the Revolution But twentieth century courts and Congress redefined property rights through measures such as zoning and the designation of historical landmarks diminishing their commercial value in response to the needs of a modern economy The framers anticipated just such a future reworking of their own compromises between liberty and power With up to the minute legal expertise and a broad grasp of the social and political context this book is a tour de force of Constitutional history and analysis

The New York State Constitution, Second Edition Peter J. Galie, Christopher Bopst, 2012-06-01 This fully updated new edition of The New York State Constitution provides an outstanding constitutional and historical account of the state s governing charter In addition to an overview of New York s constitutional history it provides an in depth section by section analysis of the entire constitution detailing the many significant changes that have been made since its initial drafting This treatment along with a table of cases index and bibliography provides an unsurpassed reference guide for students scholars and practitioners of New York s constitution The New York State Constitution provides ready access to material that will help scholars judges lawyers students and the general public to understand the historical background to the New York Constitution the intent of the framers and the evolution and current meaning of its provisions The Oxford Commentaries on the State Constitutions of the United States is an important series that reflects a renewed international interest in constitutional history and provides expert insight into each of the 50 state constitutions Each volume in this innovative series contains a historical overview of the state s constitutional development a section by section analysis of its current constitution and a comprehensive guide to further research Under the expert editorship of Professor G Alan Tarr Director of the Center on State Constitutional Studies at Rutgers University this series provides essential reference tools for understanding state constitutional law Books in the series can be purchased individually or as part of a complete set giving readers unmatched access to these important political documents

Sovereignty and Possession in the English New World Ken MacMillan, 2006-11-23 How did English notions of sovereignty empire and law impact their methods of settlement in the Americas

The Cambridge Constitutional History of the United Kingdom: Volume 2, The Changing Constitution Peter Cane, H. Kumarasingham, 2023-08-17 Featuring contributions from leading scholars of history law and politics this path breaking work traces the development of the United Kingdom s constitution from Anglo Saxon times and

explores its role in the creation exercise and control of public power Essays in Volume Two entitled *The Changing Constitution* examine the development of the constitution from the departure of the Romans up to the present day and beyond Together the two volumes form the first wide ranging history of the constitution to be published for more than 50 years By its cross disciplinary approach taking account of the latest legal political and historical scholarship on the constitution it fills a large gap in the literature of the constitution and in political thought and British history

The Cosmopolitan State H Patrick Glenn, 2013-05-23 For more than two centuries the idea of the nation state has been widespread The expression is now widely used and is even to be unavoidable The nation state implies that the population of a state should be homogenous in terms of language religion and ethnicity the nation and the state should coincide However history demonstrates that there never has been and there never will be a nation state Human diversity is manifest in states of all sizes locations and origins This wide ranging book argues that there should be no regret in the recognition of this empirical reality since the notion of a nation state has been the justification for some of the worst atrocities in human history Since the nation state is impossible all states are cosmopolitan in character They are cosmopolitan regardless of the language of their constitutions or official teaching and regardless of the extent to which they officially recognize their own diversity The most successful states are those which are most successful in their own forms of cosmopolitanism Cosmopolitan ways are infinitely varied however and must be sought in the intricate workings of individual states The cosmopolitan character of states is necessarily reflected in their law The main instruments of legal cosmopolitanism have been those of common laws constitutionalism and what is best described as institutional cosmopolitanism The relative importance of these legal instruments has changed over time but all three have been constantly operative even in times of attempted national and territorial closure All three remain present in the contemporary cosmopolitan state understood in terms of cosmopolitan citizens cosmopolitan sources and cosmopolitan thought The cosmopolitan state is moreover the only appropriate conceptualization of the state in a time of globalization This book outlines the subtlety of the law of cosmopolitan states law which has survived through periods of nationalism and which provides the working methods for the reconciliation of diverse populations Combining law history political science political philosophy international relations and the new logics it demonstrates that the idea of the nation state has failed and should yield to an understanding of the state as necessarily cosmopolitan in character This will be invaluable reading to all those interested in constitutional law international law and political theory

The American Constitutional Tradition H. Lowell Brown, 2017-05-24 The book is a work of non fiction The book is a historical analysis of the evolution of a uniquely American constitutionalism that began with the original English royal charters for the exploration and exploitation of North America When the U S Constitution was written in 1787 the accepted conception of a constitution was that of the British constitution upon which the colonists had relied in asserting their rights with respect to the imperium comprised of ancient documents parliamentary enactments administrative

regulations judicial pronouncements and established custom Of equal significance the laws comprising the constitution did not differ from other statutes and as a consequence there was no law endowed with greater sanctity than other legislative enactments In framing the revolutionary state constitutions following the retreat of the crown governments in the colonies as well as the later federal Constitution the Revolutionaries fundamentally reconceived a constitution as being the single authoritative source of fundamental law that was superior to all other statutes regulations and judicial decisions that was ratified by the states and that was subject to revision only through a formal amendment process This new constitutional conception has been hailed as the great innovation of the revolutionary period and deservedly so This American constitutionalism had its origins in the now largely overlooked royal charters for the exploration of North America beginning with the charter granted to Sir Humphrey Gilbert by Elizabeth I in 1578 The book follows the development of this constitutional tradition from the early charters of the Virginia Companies and the covenants entered of the New England colonies through the proprietary charters of the Middle Atlantic colonies On the basis of those foundational documents the colonists fashioned governments that came to be comprised not only of an executive but an elected legislature and a judiciary In those foundational documents and in the acts of the colonial legislatures the settlers sought to harmonize their aspirations for just institutions and individual rights with the exigencies and imperatives of an alien and often hostile environment When the colonies faced the withdrawal of the crown governments in 1775 they drew on their experience which they formalized in written constitutions This uniquely American constitutional tradition of the charters covenants and state constitutions was the foundation of the federal Constitution and of the process by which the Constitution was written and ratified a decade later

Constitutions Judith Pryor, 2007-08-09 Bringing a postcolonial perspective to UK constitutional debates and including a detailed and comparative engagement with the constitutions of Britain's ex colonies this book is an original reflection upon the relationship between the written and the unwritten constitution Can a nation have an unwritten constitution While written constitutions both found and define modern nations Britain is commonly regarded as one of the very few exceptions to this rule Drawing on a range of theories concerning writing law and violence from Robert Cover to Jacques Derrida *Constitutions* makes a theoretical intervention into conventional constitutional analyses by problematizing the notion of a written constitution on which they are based Situated within the frame of the former British empire this book deconstructs the conventional opposition between the margins and the centre as well as between the written and unwritten by paying very close detailed attention to the constitutional texts under consideration Pryor argues that Britain's unwritten constitution and immemorial common law only take on meaning in a relation of difference with the written constitutions of its former colonies These texts in turn draw on this pre literate origin in order to legitimize themselves The unwritten constitution of Britain can therefore be located and dislocated in postcolonial written constitutions *Constitutions* is an excellent addition to the bookshelves of all students of the philosophy of law political theory constitutional and administrative

law and jurisprudence Against Constitutional Originalism Jonathan Gienapp,2024-09-03 A detailed and compelling examination of how the legal theory of originalism ignores and distorts the very constitutional history from which it derives interpretive authority Constitutional originalism stakes law to history The theory s core tenet that the U S Constitution should be interpreted according to its original meaning has us decide questions of modern constitutional law by consulting the distant constitutional past Yet originalist engagement with history is often deeply problematic And now that a majority of justices on the U S Supreme Court champion originalism the task of scrutinizing originalists use and abuse of history has never been more urgent In this comprehensive and novel critique of originalism Jonathan Gienapp targets originalists unspoken assumptions about the Constitution and its history Originalists are committed to recovering the Constitution laid down at the American Founding yet they often assume that the Constitution is fundamentally modern Rather than recovering the original Constitution they project their own understandings onto it assuming that eighteenth century constitutional thinking was no different than their own They take for granted what it meant to write a constitution down what law was how it worked and where it came from and how a constitution s meaning was fixed In the process they erase the Constitution that eighteenth century Americans in fact created By understanding how originalism fails we can better understand the Constitution that we have **The American Revolution, State Sovereignty, and the American Constitutional Settlement, 1765-1800** Aaron N. Coleman,2016-03-04 Tracing the political ideological and constitutional arguments from the imperial crisis with Britain and the drafting of the Articles of Confederation to the ratification of the Constitution and the political conflict between Federalists and Jeffersonians The American Revolution State Sovereignty and the American Constitutional Settlement 1765 1800 reveals the largely forgotten importance of state sovereignty to American constitutionalism Contrary to modern popular perceptions and works by other academics the Founding Fathers did not establish a constitutional system based upon a national popular sovereignty nor a powerful national government designed to fulfill a grand philosophical purpose Instead most Americans throughout the period maintained that a constitutional order based upon the sovereignty of states best protected and preserved liberty Enshrining their preference for state sovereignty in Article II of the Articles of Confederation and in the Tenth and Eleventh Amendments to the federal constitution Americans also claimed that state interposition the idea that the states should intervene against any perceived threats to liberty posed by centralization was an established and accepted element of state sovereignty The Rhode Island State Constitution

Patrick T. Conley,Robert G. Flanders Jr.,2011-04-11 Rhode Island has a long history of constitutional governance Beginning in 1636 Rhode Island s constitution has been shaped by revolution nation building tumult and further changes wrought by everything from neo liberalism to gay rights The result has been a living document reflecting conflicting and changing values making the Rhode Island constitution an essential resource for understanding the cultural history of this state In The Rhode Island State Constitution Patrick T Conley and Robert J Flanders provide an outstanding constitutional and historical account

of the state's governing charter. In addition to an overview of Rhode Island's constitutional history, it provides an in-depth section by section analysis of the entire constitution detailing the many significant changes that have been made since its initial drafting. This treatment, along with a table of cases, index, and bibliography, provides an unsurpassed reference guide for students, scholars, and practitioners of Rhode Island's constitution. Previously published by Greenwood, this title has been brought back in to circulation by Oxford University Press with new verve. Reprinted with standardization of content organization in order to facilitate research across the series, this title, as with all titles in the series, is set to join the dynamic revision cycle of *The Oxford Commentaries on the State Constitutions of the United States*. The *Oxford Commentaries on the State Constitutions of the United States* is an important series that reflects a renewed international interest in constitutional history and provides expert insight into each of the 50 state constitutions. Each volume in this innovative series contains a historical overview of the state's constitutional development, a section by section analysis of its current constitution, and a comprehensive guide to further research. Under the expert editorship of Professor G. Alan Tarr, Director of the Center on State Constitutional Studies at Rutgers University, this series provides essential reference tools for understanding state constitutional law. Books in the series can be purchased individually or as part of a complete set, giving readers unmatched access to these important political documents.

Treason and Rebellion in the British Atlantic, 1685-1800 Peter Rushton, Gwenda Morgan, 2020-07-23. This book examines internal political conflicts in the British Empire within the legal framework of treason and sedition. The threat of treason and rebellion pervaded the British Atlantic in the 17th and 18th centuries. Britain's control of its territories was continually threatened by rebellion and war, both at home and in North America. Even after American independence, Britain and its former colony continued to be fearful that opposition and revolution might follow the French example, and both took legal measures to control both speech and political action. This study places these conflicts within a political and legal framework of the laws of treason and sedition as they developed in the British Atlantic. The treason laws originated in the reign of Edward III and were adapted and modified in the 16th and 17th centuries. They were exported to the colonies where they underwent both adaptation and elaboration in application in the slave societies as well as those dominated by free settlers. Relationships with natives and European rivals in the Americas affected the definitions of treason in practice, and the divided loyalties of the American revolutionary war added further problems of defining loyalty and treachery. *Treason and Rebellion in the British Atlantic, 1685-1800* offers a new study of treason and sedition in the period by placing them in a truly transatlantic perspective, making it a valuable study for those interested in the legal and political of Britain's empire and 18th century revolutions.

National Constitutions and EU Integration Stefan Griller, Lina Papadopoulou, Roman Puff, 2022-08-25. Do individual constitutions and the legal cultures underlying them pose an obstacle to future EU integration? This ambitious collection brings together reports from all the European Member States systematically setting out their individual constitutional guarantees. In doing so, it tracks possible

roadblocks to the future evolution of European integration Written by recognised authorities in each Member State it offers an authoritative and rigorous overview of the European Union's constitutional landscape Its single structure approach allows for comparison while maintaining consistency It will become the standard reference work for academics students and practitioners in the field of European Union law and integration **The Second Creation** Jonathan Gienapp, 2018-10-09 Americans widely believe that the U S Constitution was almost wholly created when it was drafted in 1787 and ratified in 1788 Jonathan Gienapp recovers the unknown story of the Constitution's second creation in the decade after its adoption a story with explosive implications for current debates over constitutional originalism and interpretation **Law and Sexual Misconduct in New England, 1650-1750** Abby Chandler, 2016-04-15 Having arriving in the Province of Maine in 1641 with a brief to create both government and law for the fledgling colony Thomas Gorges later recorded his policy as having steered as near as we could to the course of England Over the course of the next century the various colonial administrations all consciously measured their laws against that of England whether their intention was imitation of or conscious opposition to established English legal system In order to trace the shifting and contested relationships between colonial laws and English laws this book focuses on the prosecution of sexual misconduct All crimes can threaten orderly society but no other crime posed quite the same long term implications as illicit sex resulting in the birth of illegitimate children who became their own social challenges Sexual misconduct was consequently a major concern for early modern leaders making it a particularly fruitful subject for studying the complex relationship between laws in England and laws in the English colonies Political and ecclesiastical leaders create laws to coerce people to behave in a certain fashion and to convey wider messages about the societies they govern When those same laws are broken lawbreakers must be tried and punished by a means intended to serve as a warning to others would be lawbreakers In this book the two part analysis of changing sexual misconduct laws and the resulting trial depositions highlights the ways in which ordinary New England colonists across New England both interacted with and responded to the growing Anglicization of their legal systems and makes the argument that these men and women saw themselves as taking part in a much larger process *A Constitutional Culture* Adrian Chastain Weimer, 2023-04-12 In *A Constitutional Culture* Adrian Chastain Weimer uncovers the story of how more than a hundred years before the American Revolution colonists pledged their lives and livelihoods to the defense of local political institutions against arbitrary rule With the return of Charles II to the English throne in 1660 the puritan led colonies faced enormous pressure to conform to the crown's priorities Charles demanded that puritans change voting practices baptismal policies and laws and he also cast an eye on local resources such as forests a valuable source of masts for the English navy Moreover to enforce these demands the king sent four royal commissioners on warships ostensibly headed for New Netherland but easily redirected toward Boston In the face of this threat to local rule colonists had to decide whether they would submit to the commissioners authority which they viewed as arbitrary because it was not accountable to the people or whether they would

mobilize to defy the crown Those resisting the crown included not just freemen voters but also people often seen as excluded or marginalized such as non freemen indentured servants and women Together they crafted a potent regional constitutional culture in defiance of Charles II that was characterized by a skepticism of metropolitan ambition a defense of civil and religious liberties and a conviction that self government was divinely sanctioned Weimer shows how they expressed this constitutional culture through a set of well rehearsed practices including fast days debates committee work and petitions Equipped with a ready vocabulary for criticizing arbitrary rule with a providentially informed capacity for risk taking and with a set of intellectual frameworks for divided sovereignty the constitutional culture that New Englanders forged would not easily succumb to an imperial authority intent on consolidating its power *Media Guide to the Bicentennial of the U.S. Constitution* ,1987 A Sociology of Transnational Constitutions Chris Thornhill,2019-10-24 This volume focuses on the rise of transnational constitutional laws primarily created by the interaction between national and international courts and by the domestic transformation of international law Through detailed analysis of patterns of institutional formation at key historical junctures in a number of national societies it examines the social processes that have locked national states into an increasingly transnational constitutional order and it explains how the growth of global constitutional norms has provided a stabilizing framework for the functions of state institutions The book adopts a distinctive historical sociological approach to these questions examining the deep continuities between national constitutional law and contemporary models of global law The volume makes an important contribution to the sociology of constitutional law to the sociology of post national legal processes and to the sociology of human rights law This title is also available as Open Access

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