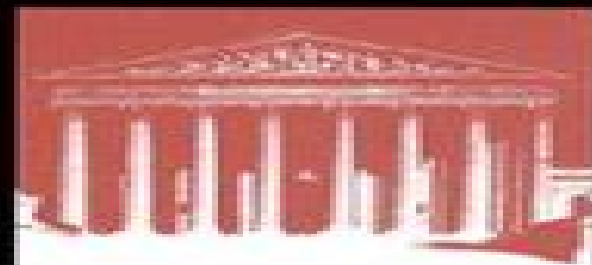


POPULAR GOVERNMENT AND THE SUPREME COURT



Securing the Public Good and Private Rights

LANE V. SUNDERLAND

Popular Government And The Supreme Court Securing The Public Good And Private Rights

Suzanne U. Samuels



Popular Government And The Supreme Court Securing The Public Good And Private Rights:

Popular Government and the Supreme Court Lane V. Sunderland, 1996 With quiet eloquence Lane Sunderland argues that we must reclaim the fundamental principles of the Constitution if we are to restore democratic government to its proper role in American life For far too long he contends the popular will has been held in check by an overly powerful Supreme Court using non constitutional principles to make policy and promote its own political agendas His work shows why this has diminished American democracy and what we can do to revive it Sunderland presents a strong thoughtful challenge to the constitutional theories promoted by Ronald Dworkin Archibald Cox Richard Epstein Michael Perry John Hart Ely Robert Bork Philip Kurland Laurence Tribe Mark Tushnet and Catharine MacKinnon an enormously diverse group united by an apparent belief in judicial supremacy Their theories he demonstrates undermine the democratic foundations of the Constitution and the power of the majority to resolve for itself important questions of justice Central to this enterprise is Sunderland's reconsideration of *The Federalist* as the first most reliable and most profound commentary on the Constitution *The Federalist* he states is crucial because it explains the underlying theory of the Constitution as a whole a theory that gives meaning to its particular provisions In addition Sunderland reexamines the Declaration of Independence and the work of Hobbes Locke and Montesquieu in order to better define the nature and limits of their influence on the Framers His reading of these works in conjunction with *The Federalist* shows just how far afield contemporary commentators have strayed Sunderland deliberately echoes and amplifies Madison's wisdom in *Federalist* No 10 that the object of the Constitution is to secure the public good and private rights and at the same time to preserve the spirit and form of popular government To attain that object he persuasively argues requires that the judiciary acknowledge and enforce the constitutional limitations upon its own powers In an era loudly proclaiming the return of popular government majority rule and the will of the people that argument is especially relevant and appealing

The Ninth Amendment and the Politics of Creative Jurisprudence Marshall DeRosa, 2017-11-30 The Ninth Amendment holds that every right not explicitly granted to the federal government by the Constitution belongs to the states or to the individual Further those rights held by the government should not be construed to deny or disparage other rights held by the people As in other areas of contention between federal power and states rights the Ninth Amendment has become subject to activist Supreme Court interpretation whereby the traditional model of federalism in which states had meaningful public policy prerogatives has given way to a model in which states become mere extensions of the U S government In this volume Marshall DeRosa provides a thorough analysis of Supreme Court unenumerated rights policy and offers suggestions toward reestablishing American federalism as envisioned by the framers of the Constitution The book opens with a review and analysis of current debates over Ninth Amendment rights and then utilizes the privileges and immunities clauses as demonstrative of the traditional relationship between the states police powers and unenumerated fundamental rights DeRosa then considers the critical role of academia in shifting public policy away from popular control

and toward the judiciary Later chapters include national and state case studies as instances of judicial creativity an examination of the effects of Ninth Amendment jurisprudence on the Second Amendment as it bears on the gun control debate and a comparative analysis of contrasting theories on the status of unenumerated rights In his conclusion DeRosa offers some prescriptive thoughts on how to restore the original constitutional concept of popular consent as a remedy to an increasingly unaccountable federal judiciary By restoring the Ninth Amendment to the context of American federalism this volume constitutes a major contribution to contemporary scholarship challenging a corpus of commentary that either ignores misunderstands or misrepresents the relevance of popular control in the articulation of unenumerated rights The Ninth Amendment and the Politics of Creative Jurisprudence will be of interest to political scientists historians legal theorists and political practitioners

Conservative Thought and American Constitutionalism since the New Deal Johnathan O'Neill, 2022-11-29 An intellectual history of American conservatism since the New Deal The New Deal fundamentally changed the institutions of American constitutional government and in turn the relationship of Americans to their government Johnathan O'Neill's *Conservative Thought and American Constitutionalism since the New Deal* examines how various types of conservative thinkers responded to this significant turning point in the second half of the twentieth century O'Neill identifies four fundamental transformations engendered by the New Deal the rise of the administrative state the erosion of federalism the ascendance of the modern presidency and the development of modern judicial review He then considers how various schools of conservative thought traditionalists neoconservatives libertarians Straussians responded to these major changes in American politics and culture Conservatives frequently argued among themselves and their responses to the New Deal ranged from adaptation to condemnation to political mobilization Ultimately the New Deal pulled American governance and society permanently leftward Although some of the New Deal's liberal gains have been eroded a true conservative counterrevolution was never O'Neill argues a realistic possibility He concludes with a plea for conservative thinkers to seriously reconsider the role of Congress a body that is relatively ignored by conservative intellectuals in favor of the courts and the presidency in America's constitutional order *Conservative Thought and American Constitutionalism since the New Deal* explores the scope and significance of conservative constitutional analysis amid the broader field of American political thought

Leo Strauss and His Legacy John Albert Murley, 2005-01-01 With over 10 000 entries identifying work of hundreds of Strauss's students and their students students this bibliography is the most indeed the only comprehensive guide to published writing in the tradition of Leo Strauss Murley includes Strauss's own complete bibliography and that of one of his most revered students George Anastaplo

Federalism, the Supreme Court, and the Seventeenth Amendment Ralph A. Rossum, 2001-09-12 Abraham Lincoln worried that the walls of the constitution would ultimately be leveled by the silent artillery of time His fears materialized with the 1913 ratification of the Seventeenth Amendment which by eliminating federalism's structural protection altered the very nature and meaning of federalism Ralph A. Rossum's

provocative new book considers the forces unleashed by an amendment to install the direct election of U S Senators Far from expecting federalism to be protected by an activist court the Framers Rossum argues expected the constitutional structure particularly the election of the Senate by state legislatures to sustain it In Federalism the Supreme Court and the Seventeenth Amendment Rossum challenges the fundamental jurisprudential assumptions about federalism He also provides a powerful indictment of the controversial federalist decisions recently handed down by an activist U S Supreme Court seeking to fill the gap created by the Seventeenth Amendment s ratification and protect the original federal design Rossum s masterful handling of the development of federalism restores the true significance to an amendment previously consigned to the footnotes of history It demonstrates how the original federal design has been amended out of existence the interests of states as states abandoned and federalism left unprotected both structurally and democratically It highlights the ultimate irony of constitutional democracy that an amendment intended to promote democracy even at the expense of federalism has been undermined by an activist court intent on protecting federalism at the expense of democracy God and Man in the Law Robert Lowry Clinton,1997 In a wide ranging study based on legal history political theory and philosophical ideas going all the way back to Plato and Roman law Robert Clinton challenges current faith in an activist judiciary Claiming that a human centered Constitution leads to government by reductive moral theory and illegitimate judicial review he advocates a return to traditional jurisprudence and a God centered Constitution grounded in English common law and its precedents

American Constitutional Law 8E, 2-VOL SET Ralph A. Rossum,2021-11-19 American Constitutional Law provides a comprehensive account of the nation s defining document Based on the premise that the study of the Constitution and constitutional law is of fundamental importance to understanding the principles prospects and problems of America the volumes in this set put current events in terms of what those who initially drafted and ratified the Constitution sought to accomplish 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 Volume I focuses on federal rights and powers and volume II focuses on individuals rights and responsibilities Available individually or as a two volume set they are perfect for a one or two semester course on constitutional law and civil liberties **Keeping the People's Liberties** John J. Dinan,2021-10-08 Which branch of government should be entrusted with safeguarding individual rights Conventional wisdom assigns this responsibility to the courts on the grounds that liberty can only be protected through judicial interpretation of bills of rights In fact it is difficult for many people even to conceive of any other way that rights might be protected John Dinan challenges this understanding by tracing and evaluating the different methods that have been used to protect rights in the United States from the founding until the present era By examining legislative statutes judicial decisions convention proceedings and popular initiatives in four representative states Massachusetts Virginia Michigan and Oregon Dinan shows that rights have been secured in the American polity in three principal ways Throughout the eighteenth and nineteenth

centuries rights were protected primarily through representative institutions Then in the early twentieth century citizens began to turn to direct democratic institutions to secure their rights It was not until the mid twentieth century that judges came to be seen as the chief protectors of liberties By analyzing the relative ability of legislators citizens and judges to serve as guardians of rights Dinan s study demonstrates that each is capable of securing certain rights in certain situations Elected representatives are generally capable of protecting most rights but popular initiatives provide an effective mechanism for securing rights in the face of legislative intransigence and judicial decisions offer a superior means of protecting liberties in crisis times Accordingly rather than viewing rights protection as the peculiar province of any single institution this task ought to be considered the proper responsibility of all these institutions By undertaking a comparison of these institutional methods across such a wide expanse of time Keeping the People s Liberties makes a highly original contribution to the literature on rights protection and provides a new perspective on debates about the contemporary role of representative populist and judicial institutions

Congress and the Fourteenth Amendment William B. Glidden, 2013-08-29 The discrepancy between the fourteenth amendment s true meaning as originally understood and the Supreme Court s interpretation of its meaning over time has been dramatic and unfortunate The amendment was intended to be a constitutional rule for the promotion and protection of people s rights administered by the states as front line regulators of life liberty and property to be overseen by Congress and supported by federal legislation as necessary In this book William B Glidden makes the case that instead the amendment has operated as a judge dominated negative rights against government regime supervised by the Supreme Court Whenever Congress has enacted legislation to protect life liberty or property rights of people in the states the laws were often overturned narrowly construed or forced to rely on the power of Congress to regulate interstate commerce under the Supreme Court s constraining interpretations Glidden proposes that Congress must recover for itself or be restored to its proper role as the designated federal enforcement agency for the fourteenth amendment

Popular Government William Howard Taft, William Taft, The modern presidency is increasingly seen as in trouble by all sides of the political spectrum and by people of the most diverse political views Understanding why this is the case requires examining the basic principles of the presidency itself and there is no better place to start than William Howard Taft s *Popular Government* His views on executive power and constitutional interpretation of this power are not rooted in nostalgia Instead Taft describes how and why the Progressive Movement marked one of the major turning points in American political thought Taft wrote out of concern over the nature of the American system itself He sought to describe the founding principles of the country arguing that grasping these is essential for Americans understanding of themselves as a people and for their daily exercise of citizenship The concerns he addressed remain central today That is because Taft s quarrels with the liberal progressive tradition in politics have not yet completely played themselves out either in academic life or in the political arena In a brilliant new introduction Sidney Pearson argues that neither Roosevelt nor Wilson should be viewed as enemies of free government by

any serious student of American political thought nor should Taft be so regarded either. The concerns Taft engages remain important for any understanding of the problems that confront the American experiment in popular government. Popular Government is a basic introduction to debate about the nature of the presidency and the larger constitutional context in which such arguments take place. There is no better way to gain perspective on the debate than reading this volume. William Howard Taft served as the twenty-third president of the United States from 1909-1913 and as Chief Justice of the Supreme Court from 1921-1930. He is the only person to have held the highest office in two of the three branches of American government. He wrote numerous books including *Our Chief Magistrate and His Powers*, *The Anti-Trust Act and the Supreme Court*, and *The Covenant*. An American Exposition of the Covenant of the League of Nations. Sidney A. Pearson Jr. is professor emeritus of political science at Radford University. He is also the series editor of *Library of Liberal Thought* at Transaction Publishers.

First among Friends Suzanne U. Samuels, 2004-09-30 In the last several decades there has been an explosion in the number of amicus curiae or friend of the Court briefs filed with the U.S. Supreme Court. Amici are not formal parties to a lawsuit but file to help inform the Justices about the wider repercussions of the case before them. Public law scholars have long discussed whether these briefs have an impact on the Justices. This book is the first study that seeks to assess the extent of amicus influence. This work examines the role of interest groups in the creation and interpretation of the right to privacy, a highly controversial right that derived almost entirely from case law. It looks at amicus participation in abortion, aid in dying, family relationships, and anti-sodomy cases. This volume tracks the influence of amicus arguments and data on the Justices' handling of these cases.

Searching the Law, 3d Edition Frank Bae, Edward Bander, Francis Doyle, Joel Fishman, Paul Richert, 2021-12-13

The Many Faces of Judge Lynch C. Waldrep, 2002-11-08 The U.S. is the most violent industrialized country in the world, and lynching that is murder endorsed by the community may be a key to understanding America's heritage of violence and perhaps point to solutions that can eradicate it. While lynchings are predominantly racial in tone and motive, Christopher Waldrep's sweeping study of the meaning and uses of lynching from the colonial period to the present reveals that the definition of the term has shifted dramatically over time and that the victims and perpetrators of lynching were as diverse as its many meanings. By examining lynching from a comparative and temporal perspective, Waldrep teaches us important lessons not only about racial violence in America but about the ways in which communities define and justify crime and the punishment of its criminals.

Land of the Free: The Most Important Legal Documents That Built America We Know Today U.S. Supreme Court, U.S. Government, U.S. Congress, 2023-11-16

Land of the Free: The Most Important Legal Documents That Built America We Know Today is a profound compilation capturing the essence of America's legal and cultural evolution through essential documents that have defined the nation's constitutional landscape. This anthology traverses a tapestry of political ideologies and legal doctrines, offering a panoramic view of the principles and amendments that govern modern America. The collection presents a rich amalgam of legislative

frameworks judicial decisions and statutory enactments with each document serving as both a historical artifact and a living testament to America's evolving ethos. The contributors include pivotal bodies such as the U.S. Supreme Court, the U.S. Government, and the U.S. Congress whose collective efforts have indelibly shaped America's legal discourse. Embodying a confluence of historical and legal narratives, the contributors have been influential in steering the judicial and legislative progress of the nation. The anthology aligns with significant constitutional movements echoing the spirit of liberty and justice that pervades American civic life, thus enriching readers' understanding of the legal scaffolding that supports American democracy. This compelling volume invites readers to engage with the foundational texts that underpin American law and governance. By exploring this collection, readers gain unparalleled insight into the myriad perspectives and interpretations of American legal ideology. Whether for educational purposes or for a deeper appreciation of American legal history, *Land of the Free* offers readers a unique opportunity to witness the intricate dialogue between legislation and societal values, encouraging reflection on the enduring impact of these documents in shaping contemporary American society.

The Pursuit of Justice Kermit L. Hall, John J. Patrick, 2006-12. Reviews and discusses landmark cases heard by the United States Supreme Court from 1803 through 2000.

Popular Government William Howard Taft, 2017-07-12. The modern presidency is increasingly seen as in trouble by all sides of the political spectrum and by people of the most diverse political views. Understanding why this is the case requires examining the basic principles of the presidency itself, and there is no better place to start than William Howard Taft's *Popular Government*. His views on executive power and constitutional interpretation of this power are not rooted in nostalgia. Instead, Taft describes how and why the Progressive Movement marked one of the major turning points in American political thought. Taft wrote out of concern over the nature of the American system itself. He sought to describe the founding principles of the country, arguing that grasping these is essential for Americans' understanding of themselves as a people and for their daily exercise of citizenship. The concerns he addressed remain central today. That is because Taft's quarrels with the liberal progressive tradition in politics have not yet completely played themselves out, either in academic life or in the political arena. In a brilliant new introduction, Sidney Pearson argues that neither Roosevelt nor Wilson should be viewed as enemies of free government by any serious student of American political thought, nor should Taft be so regarded either. The concerns Taft engages remain important for any understanding of the problems that confront the American experiment in popular government. *Popular Government* is a basic introduction to debate about the nature of the presidency and the larger constitutional context in which such arguments take place. There is no better way to gain perspective on the debate than reading this volume.

The Supreme Court from Taft to Burger Alpheus Thomas Mason, 1980-09-01. During the past half century, the Supreme Court has been a storm center of controversy. Since 1920, the Court has shattered precedent after precedent and has leveled a number of social, political, and economic landmarks. This perceptive study of the Court during that period received much critical acclaim when it was published in

1958 and revised ten years later In this third edition Alpheus Thomas Mason one of the country s leading authorities on the Court updates his survey to include some of the most dramatic events in its history In a new preface Mason sets the tone for his treatment of the Burger Court saying One thing seems certain never before has the Supreme Court put its constitutional fingers in so many social cultural and political pies The irony is that four of its present members were elected as strict constructionist Mason examines the dicta of various justices against the background of the times and the issues with which they were concerned the judicial slaughter of legislation in the early thirties and Roosevelt s retaliatory courtpacking attempt in 1937 judicially sanctioned federal interference in economic affairs the bitterly contested integration decisions in 1954 and the explosive rulings of the 1960s supporting federal intervention in the fields of education representation and criminal justice Mason also covers Earl Warren s resignation as Chief Justice the Senate s refusal to confirm Johnson s nomination of Abe Fortas for Chief Justice and Fortas later resignation under political pressure the failure of two Nixon nominees Haynesworth and Carswell to receive Senate endorsement the impeachment proceedings initiated against William O Douglas Nixon s avowal to reverse the Warren Court s protection of civil rights and liberties by appointing a law and order Court and the implications of the Stanford Daily and Bakke cases Professor Mason s insight into the peculiar nature of the judicial function brings a deeper understanding of the Court as a creative force in American life The Legacy of Law U.S.

Government,U.S. Supreme Court,U.S. Congress,2020-12-17 The Legacy of Law is a meticulously edited collection of U S Government legal documents that shaped and built the American democracy From the Declaration of Independence to the Civil Rights Act of 1968 this collection contains 40 most important acts and decisions which forged the legal system and democratic principles of USA Declaration of Independence 1776 U S Constitution 1787 Bill of Rights 1791 Amendments 1792 1991 The Federalist Papers 1787 1788 Marbury v Madison 1803 The Louisiana Purchase Treaty 1803 Treaty of Ghent 1814 Monroe Doctrine 1823 Treaty of Guadalupe Hidalgo 1848 Emancipation Proclamation 1863 Gettysburg Address 1863 The Civil Rights Act of 1866 Treaty of Fort Laramie Sioux Treaty 1868 The Enforcement Act of 1870 The Second Enforcement Act of 1871 Ku Klux Klan Act of 1871 Civil Rights Act of 1875 Interstate Commerce Act 1887 Dawes Act 1887 Sherman Anti Trust Act 1890 Plessy v Ferguson 1896 Keating Owen Child Labor Act of 1916 1916 President Woodrow Wilson s 14 Point Program 1918 National Industrial Recovery Act 1933 Social Security Act 1935 Lend Lease Act 1941 Brown v Board of Education 1954 Civil Rights Act of 1957 Civil Rights Act of 1960 Establishment of the Peace Corps 1961 Test Ban Treaty 1963 Equal Pay Act of 1963 Civil Rights Act of 1964 Tonkin Gulf Resolution 1964 Heart of Atlanta Motel Inc v United States 1964 Voting Rights Act 1965 Loving v Virginia 1967 Civil Rights Act of 1968 Rehabilitation Act of 1973 Pregnancy Discrimination Act of 1978

The Chicago Daily News Reprints ,1923 Cyclopedia of American Government Andrew Cunningham McLaughlin,Albert Bushnell Hart,1914

Popular Government And The Supreme Court Securing The Public Good And Private Rights Book Review: Unveiling the Power of Words

In a global driven by information and connectivity, the energy of words has be more evident than ever. They have the capability to inspire, provoke, and ignite change. Such is the essence of the book **Popular Government And The Supreme Court Securing The Public Good And Private Rights**, a literary masterpiece that delves deep into the significance of words and their affect our lives. Compiled by a renowned author, this captivating work takes readers on a transformative journey, unraveling the secrets and potential behind every word. In this review, we shall explore the book is key themes, examine its writing style, and analyze its overall impact on readers.

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