

THE CONSTITUTION BESIEGED

THE RISE AND DEMISE OF LOCHNER
ERA POLICE POWERS JURISPRUDENCE



BY HOWARD GILLMAN

The Constitution Besieged The Rise And Demise Of Lochner Era Police Powers Jurisprudence

David N. Mayer



The Constitution Besieged The Rise And Demise Of Lochner Era Police Powers Jurisprudence:

The Constitution Besieged Howard Gillman, 1993 *The Constitution Besieged* offers a compelling reinterpretation of one of the most notorious periods in American constitutional history. In the decades following the Civil War, federal and state judges struck down as unconstitutional a great deal of innovative social and economic legislation. Scholars have traditionally viewed this as the work of a conservative judiciary more interested in promoting laissez faire economics than in interpreting the Constitution. Howard Gillman challenges this scholarly orthodoxy by showing how these judges were in fact observing a long standing constitutional prohibition against class legislation. By reviewing unfamiliar state cases and legal commentary and by providing fresh interpretations of familiar Supreme Court cases, Gillman uncovers a fascinating and long forgotten legal tradition. In this richly textured historical narrative, we see how American judges once worked to insure that legislative power be used only to promote the public good and not to benefit certain classes or burden their market competitors. Beyond shedding new light on this jurisprudence, Gillman also links it to larger debates in the political system, debates traced to concerns about factional politics expressed by the country's founders and to the Jacksonian assault on special privileges. This tradition came under siege with the intensification of class conflict at the turn of the century, and Gillman carefully documents its demise. He details how industrialization undermined assumptions about the fairness of capitalist social relations and how this led increasing numbers of people to question the requirement that the state remain neutral in matters of class conflict, thus leaving it to a stalwart judiciary to protect a Constitution besieged. A major contribution to an understanding of this important period in the history of the Supreme Court, Gillman's work stands as a landmark in revisionist accounts of the Lochner era. Gillman's study represents the kind of paradigm shift that will undoubtedly affect a wide range of scholarly activity for some time to come. The broad scope of this work makes it essential reading for those interested in American political thought, the development of the American state, the relationship between law and social change, and contemporary debates about the original intent of the framers of the Constitution and the proper role of the judiciary in American politics.

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Howard Gillman, 1993
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Paul Kens, 1998 On the case of Joseph Lochner, a baker in Utica, N.Y., charged in 1901 with violating the New York Bakeshop Act of 1895 by requiring an employee to work more than 60 hours in one week.

Gunfight: The Battle Over the Right to Bear Arms in America Adam Winkler, 2011-09-06 *Gunfight* is a timely work examining America's four centuries long political battle over gun control and the right to bear arms. In this definitive and provocative history, Adam Winkler reveals how guns, not abortion, race, or religion, are at the heart of America's cultural divide. Using the landmark 2008 case *District of Columbia v. Heller*, which invalidated a law banning handguns in the nation's capital as a springboard, Winkler brilliantly weaves together the dramatic stories of gun rights advocates and gun control lobbyists, providing often unexpected insights into the venomous debate that now cleaves our nation.

The Second Founding Ilan

Wurman,2020-11-12 In *The Second Founding An Introduction to the Fourteenth Amendment* Ilan Wurman provides an illuminating introduction to the original meaning of the Fourteenth Amendment s famous provisions due process of law equal protection of the laws and the privileges or immunities of citizenship He begins by exploring the antebellum legal meanings of these concepts starting from Magna Carta the Statutes of Edward III and the Petition of Right to William Blackstone and antebellum state court cases The book then traces how these concepts solved historical problems confronting framers of the Fourteenth Amendment including the comity rights of free blacks private violence and the denial of the protection of the laws and the notorious abridgment of freedmen s rights in the Black Codes Wurman makes a compelling case that if the modern originalist Supreme Court interpreted the Amendment in the language of the law it would lead to surprising and desirable results today

Liberty of Contract David N. Mayer,2011-01-16 Examines the history of the liberty of contract and shows how this right has been continuously diminished by court decisions and by our country s growing regulatory and welfare state

Public Health Law and Ethics Lindsay F. Wiley, Lawrence O. Gostin,2025-02-25 *Public Health Law and Ethics* defines these fields for a new generation This bold and updated edition probes how the Covid 19 pandemic has fundamentally changed the legal landscape for public health practice Through incisive analysis of public health legislation judicial opinions and scholarly research this accessible primer articulates the scope and limits of governmental powers and duties to protect the public s health builds a case for why social justice must be prioritized as a core value of public health ethics examines the role of the courts in striking down democratically enacted laws and covers today s most pressing health issues such as chronic diseases opioid overdoses gun violence disability rights sexual and reproductive autonomy and racial and gender equity The book creates a framework for ensuring public health interventions are based on sound scientific evidence and consistent with ethical values revealing complex answers to the essential question of what community members owe one another when it comes to health

Constitutional Law for a Changing America Lee Epstein, Kevin T. McGuire, Thomas G. Walker,2020-09-17 Excellent balance of case excerpts and author explanation highly appropriate for undergraduate students Dr Wendy Brame Briar Cliff University Political factors influence judicial decisions Arguments and input from lawyers and interest groups the ebb and flow of public opinion and especially the ideological and behavioral inclinations of the justices all combine to shape the development of constitutional doctrine Drawing on political science as much as from legal studies *Constitutional Law for a Changing America A Short Course* helps students realize that Supreme Court cases are more than just legal names and citations With meticulous revising the authors streamline material while accounting for recent landmark cases and new scholarship Ideal for a one semester course the Eighth Edition of *A Short Course* offers all the hallmarks of the *Rights and Powers* volumes in a more condensed format Students and instructors benefit from the online Con Law Resource Center which houses the supplemental case archive links to CQ Press reference materials a moot court simulation instructor resources and more

Supreme Court A to Z Kenneth Jost,2012-03-14 *The Supreme Court A to Z* offers

accessible information about the Supreme Court including its history traditions organization dynamics and personalities The entries in The Supreme Court A to Z are arranged alphabetically and are extensively cross referenced to related information This volume also has a detailed index reference materials on Supreme Court nominations a seat chart of the justices the U S Constitution online sources of decisions and a bibliography to help simplify research The fifth edition of The Supreme Court A to Z has been thoroughly updated to incorporate coverage of significant new cases and recent changes on the bench and includes more than 350 alphabetized entries Presented in an engaging reader friendly design this edition includes Biographies of recently appointed Associate Justices Elena Kagan and Sonia Sotomayor Updated entries on key issues and concepts including abortion campaigns and elections civil rights class action due process freedom of the press retired justices reapportionment and redistricting school desegregation and war powers New entries on criminal law and media and the court which highlights the Court s online presence This timely resource also includes updated seat charts of the justices online sources for finding decisions and a selected bibliography The Supreme Court A to Z is part of CQ Press s five volume American Government A to Z series

The Encyclopedia of Civil Liberties in America David Schultz, John R. Vile, 2015-04-10

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[The Rights of Women](#) Erika Bachiochi, 2021-07-15 Erika Bachiochi offers an original look at the development of feminism in the United States advancing a vision of rights that rests upon our responsibilities to others In The Rights of Women Erika Bachiochi explores the development of feminist thought in the United States Inspired by the writings of Mary Wollstonecraft Bachiochi presents

the intellectual history of a lost vision of women's rights seamlessly weaving philosophical insight biographical portraits and constitutional law to showcase the once predominant view that our rights properly rest upon our concrete responsibilities to God self family and community Bachiochi proposes a philosophical and legal framework for rights that builds on the communitarian tradition of feminist thought as seen in the work of Elizabeth Fox Genovese and Jean Bethke Elshtain Drawing on the insight of prominent figures such as Sarah Grimké Frances Willard Florence Kelley Betty Friedan Pauli Murray Ruth Bader Ginsburg and Mary Ann Glendon this book is unique in its treatment of the moral roots of women's rights in America and its critique of the movement's current trajectory **The Rights of Women** provides a synthesis of ancient wisdom and modern political insight that locates the family's vital work at the very center of personal and political self government Bachiochi demonstrates that when rights are properly understood as a civil and political apparatus born of the natural duties we owe to one another they make more visible our personal responsibilities and more viable our common life together This smart and sophisticated application of Wollstonecraft's thought will serve as a guide for how we might better value the culturally essential work of the home and thereby promote authentic personal and political freedom **The Rights of Women** will interest students and scholars of political theory gender and women's studies constitutional law and all readers interested in women's rights

The Progressives' Century Stephen Skowronek, Stephen M. Engel, Bruce A. Ackerman, 2016-01-01 Chapter 20 How the Progressives Became the Tea Party's Mortal Enemy Networks Movements and the Political Currency of Ideas Chapter 21 What Is to Be Done A New Progressivism for a New Century List of Contributors Index A B C D E F G H I J K L M N O P R S T U V W Y Z

The Human Body on Trial Lynne Curry, 2002-11-05 A thorough exploration of an individual's right to bodily autonomy versus the state's power to regulate and control the bodies of its citizens **The Human Body on Trial** asks the basic question Who's in charge of your body you or the authorities Four narrative chapters examine key constitutional questions addressed by the U S Supreme Court over the past century concerning the power of the state to regulate the human body placing the issues in historical context and examining the contemporary legal and medical knowledge that informed each decision The book focuses on individual cases such as *Jacobson v Massachusetts* compulsory vaccination *Buck v Bell* forced sterilization and *Roe v Wade* abortion and discusses such controversial issues as AIDS testing and physician assisted suicide A special reference section includes court decisions and other primary documents

The Oxford Companion to American Politics David Coates, 2012-07-12 Provides students and scholars with a valuable reference source in the field of American Politics The Companion will equip readers with a deep understanding of the complex interaction between governmental institutions and processes and the wider American economy and society that they govern

Democracy Against Domination K. Sabeel Rahman, 2017 How do we realize democratic values in a complex deeply unequal modern economy and in the face of unresponsive governmental institutions Drawing on Progressive Era thought and sparked by the real policy challenges of financial regulation **Democracy Against Domination** offers a novel theory of

democracy to answer these pressing questions Rethinking the Law of Private Property Jan G. Laitos, 2025-07-15 In *Rethinking the Law of Private Property* eminent legal scholars consider how private property rights might be transformed and realigned to better cope with modern challenges They rethink current paradigms around private property and natural resource ownership in light of police power regulations health rules and expanded land use regulations **Black and Blue** Paul Frymer, 2011-06-27 In the 1930s fewer than one in one hundred U S labor union members were African American By 1980 the figure was more than one in five *Black and Blue* explores the politics and history that led to this dramatic integration of organized labor In the process the book tells a broader story about how the Democratic Party unintentionally sowed the seeds of labor's decline The labor and civil rights movements are the cornerstones of the Democratic Party but for much of the twentieth century these movements worked independently of one another Paul Frymer argues that as Democrats passed separate legislation to promote labor rights and racial equality they split the issues of class and race into two sets of institutions neither of which had enough authority to integrate the labor movement From this division the courts became the leading enforcers of workplace civil rights threatening unions with bankruptcy if they resisted integration The courts previously unappreciated power however was also a problem in diversifying unions judges and lawyers enfeebled them financially thus democratizing through destruction Sharply delineating the double edged sword of state and legal power *Black and Blue* chronicles an achievement that was as problematic as it was remarkable and that demonstrates the deficiencies of race and class based understandings of labor equality and power in America *Constitutional Orphan* Paula A. Monopoli, 2020-08-07 *Constitutional Orphan* explores the role of the former suffragists in the emergence of a limited conception of the Nineteenth Amendment that the Nineteenth was simply a rule preventing states from discriminating against women at the ballot box The book describes new legal scholarship which suggests how the Nineteenth can be used more robustly to fully secure gender equality today *The US Supreme Court and the Centralization of Federal Authority* Michael A. Dichio, 2018-11-01 Traces the US Supreme Court's effect on federal government growth from the founding era forward This book explores the US Supreme Court's impact on the constitutional development of the federal government from the founding era forward The author's research is based on an original database of several hundred landmark decisions compiled from constitutional law casebooks and treatises published between 1822 and 2010 By rigorously and systematically interpreting these decisions he determines the extent to which the court advanced and consolidated national governing authority The result is a portrait of how the high court regardless of constitutional issue and ideology persistently expanded the reach and scope of the federal government Dichio takes a fairly unique approach to thinking about the relationship between the US Supreme Court and the development of the American state Scholars interested in American political development and historical work on the law and the courts should grapple with the evidence on offer here Keith E Whittington coauthor of *American Constitutionalism* Second Edition **The ^AOxford Guide to United States Supreme**

Court Decisions Kermit Hall, James W Ely Jr., 2009-03-11 This new edition examines more than 450 major Supreme Court cases including 53 of the latest landmark rulings Written by eminent legal scholars each entry provides the United States Reports citation the date the case was argued and decided the vote of the Justices who wrote the opinion for the Court who concurred and who dissented More important the entries feature an informative account of the particulars of the case the legal and social background the reasoning behind the Court's decision and the case's impact on American society

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