

# THE PARTIAL CONSTITUTION

WE the People of the States of New-Hampshire, Massachusetts, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, do ordain, declare and establish the following Constitution for the Government of Ourselves and our Posterity.

## ARTICLE I.

The Title of this Government shall be, "The United States of America."

### II.

The Government shall consist of supreme legislative, executive and judicial powers.

### III.

The legislative power shall be vested in a Congress, to consist of two separate and distinct bodies of men, a House of Representatives, and a Senate; ~~and~~

~~which shall meet on the first Monday in December; and each a different day shall be appointed by law.~~ The Legislature shall meet on the first Monday in December; ~~and each a different day shall be appointed by law.~~

SECT. 1. The Members of the House of Representatives shall be chosen every second year, by the people of the several States comprehended within this Union. The qualifications of the electors shall be the same, from time to time, as choic of the electors in the several States, of the most numerous branch of their own legislatures.

SECT. 2. Every Member of the House of Representatives shall be of the age of twenty-five years at least; shall have been a citizen of the United States for at least ~~seven~~ years before his election; and shall be, at the time of his election, a resident of the State in which he shall be chosen.

SECT. 3. The House of Representatives shall, at its first formation, and until the number of citizens and inhabitants shall be taken in the manner herein after described, consist of sixty-five Members, of whom three shall be chosen in New-Hampshire, eight in Massachusetts, one in Rhode-Island and Providence Plantations, five in Connecticut, six in New-York, four in New-Jersey, eight in Pennsylvania, one in Delaware, six in Maryland, ten in Virginia, five in North-Carolina, five in South-Carolina, and three in Georgia.

~~And as the proportions of numbers in the different States will alter from time to time; as some of the States may hereafter be divided; as others may be enlarged by addition of territory; as two or more States may be united; as new States will be erected within the limits of the United States, the Legislature shall, in each of these cases, regulate the number of representatives by the number of inhabitants, according to the ~~proportion of numbers in the different States~~ ~~as the rate of one for every forty thousand.~~ ~~fixed every state shall have~~~~

SECT. 4. All bills for raising or appropriating money, and for fixing the salaries of the officers of government, shall originate in the House of Representatives, and shall not be altered or amended by the Senate. No money shall be drawn from the public Treasury, but in pursuance of appropriations that shall originate in the House of Representatives.

SECT. 5. The House of Representatives shall have the sole power of impeachment. It shall choose its Speaker and other officers.

SECT. 6. Vacancies in the House of Representatives shall be supplied by writs of election from the executive authority of the State, in the representation from which they shall happen.

CASS R. SUNSTEIN

# The Partial Constitution

**Roberto Gargarella, Theunis Roux**



## **The Partial Constitution:**

The Partial Constitution Cass R. Sunstein, 1993 This was not always the case as Sunstein demonstrates nor was it the intention of the country's founders Instead the Constitution often served as a catalyst for public deliberation about its general terms and aspirations and Sunstein makes a strong case for reviving this broader understanding of the Constitution's role

**Securing Constitutional Democracy** James E. Fleming, 2006-10-02 Famously described by Louis Brandeis as the most comprehensive of rights and the right most valued by civilized men the right of privacy or autonomy is more embattled during modern times than any other Debate over its meaning scope and constitutional status is so widespread that it all but defines the post 1960s era of constitutional interpretation Conservative Robert Bork called it a loose canon in the law while feminist Catharine MacKinnon attacked it as the right of men to be left alone to oppress women Can a right with such prominent critics from across the political spectrum be grounded in constitutional law In this book James Fleming responds to these controversies by arguing that the right to privacy or autonomy should be grounded in a theory of securing constitutional democracy His framework seeks to secure the basic liberties that are preconditions for deliberative democracy to allow citizens to deliberate about the institutions and policies of their government as well as deliberative autonomy to enable citizens to deliberate about the conduct of their own lives Together Fleming shows these two preconditions can afford everyone the status of free and equal citizenship in our morally pluralistic constitutional democracy

**The American Language of Rights** Richard A. Primus, 1999-07-29 Richard A Primus examines three crucial periods in American history the late eighteenth century the civil war and the 1950s and 1960s in order to demonstrate how the conceptions of rights prevailing at each of these times grew out of reactions to contemporary social and political crises His innovative approach sees rights language as grounded more in opposition to concrete social and political practices than in the universalistic paradigms presented by many political philosophers This study demonstrates the potency of the language of rights throughout American history and looks for the first time at the impact of modern totalitarianism in Nazi Germany and the Soviet Union on American conceptions of rights The American Language of Rights is a major contribution to contemporary political theory of interest to scholars and students in politics and government constitutional law and American history

**Constitutional Interpretation** Sotirios A. Barber, James E. Fleming, 2007-06-27 Ronald Dworkin famously argued that fidelity in interpreting the Constitution as written calls for a fusion of constitutional law and moral philosophy Barber and Fleming take up that call arguing for a philosophic approach to constitutional interpretation In doing so they systematically critique the competing approaches textualism consensualism originalism structuralism doctrinalism minimalism and pragmatism that aim and claim to avoid a philosophic approach Constitutional Interpretation The Basic Questions illustrates that these approaches cannot avoid philosophic reflection and choice in interpreting the Constitution Barber and Fleming contend that fidelity in constitutional interpretation requires a fusion of philosophic and other approaches properly

understood Within such a fusion interpreters would begin to think of text consensus intentions structures and doctrines not as alternatives to but as sites of philosophic reflection about the best understanding of our constitutional commitments

**Constitutional Interpretation The Basic Questions** examines the fundamental inquiries that arise in interpreting constitutional law In doing so the authors survey the controversial and intriguing questions that have stirred constitutional debate in the United States for over two centuries such as how and for what ends should governmental institutions and powers be arranged what does the Constitution mean under general circumstances and how should it be interpreted during concrete controversies and finally how do we decide what our constitution means and who ultimately decides its meaning

**The Constitution in Private Relations** András Sajó, Renáta Uitz, 2005 The contributors of this volume address various issues pertaining to Third Party Effect It provides an in depth analysis of jurisprudence placing problems in a comparative legal and theoretical perspective According to a classical tenet of constitutionalism the constitution and constitutional law deal with state actors In the 20th century the concept of third party effect emerged which has seen constitutional rights and principles apply in private relations as well This raises various questions such as what are the jurisprudential and political reasons of this change Is this concept brought about by the welfare state What are its practical consequences Is individual liberty enhanced when the state claims to promote a right How do such understandings influence the role of constitutional and supreme courts Are there equivalent doctrines to the third party effect How does the trend influence government spending and redistribution How does the US state action doctrine compare with the third party horizontal effect doctrine familiar in other domestic and international jurisdictions

**The Oxford Handbook of the U.S. Constitution** Mark V. Tushnet, Mark A. Graber, Sanford Levinson, 2015 The Oxford Handbook of the U S Constitution offers a comprehensive overview and introduction to the U S Constitution from the perspectives of history political science law rights and constitutional themes while focusing on its development structures rights and role in the U S political system and culture This Handbook enables readers within and beyond the U S to develop a critical comprehension of the literature on the Constitution along with accessible and up to date analysis Whether a return to the pristine constitutional institutions of the founding or a translation of these constitutional norms in the present is possible remains the central challenge of U S constitutionalism today

**ABA Journal** , 1993-08 The ABA Journal serves the legal profession Qualified recipients are lawyers and judges law students law librarians and associate members of the American Bar Association

**Foundations of Public Law** Martin Loughlin, 2010-06-03 This text develops Martin Loughlin s distinctive and provocative theory of public law Tracing the historical evolution of the concept of public law the book rethinks the foundational concepts of state constitution and government arguing that public power is created not controlled by law

**The Making of a European Constitution** Michelle Everson, Julia Eisner, 2007-09-21 Introduction Constitutional morning Retelling the legal integration story Forgetting law Adjudicating non authoritative law Constitutionalising the institutional balance of powers The principled

judicial mechanics of constitutional morphogenesis Constitutionalism beyond constitutions      **The Constitution and the Pride of Reason** Steven D. Smith, 1998-01-01 Attempting to realize Plato's vision of a republic governed by reason American constitutionalists according to Steven D. Smith's bold new critical study have instead reenacted the Tower of Babel myth producing a constitutional discourse marked by rampant confusion elaborate sophistry and thinly veiled authoritarian bullying How is it that the pursuit of such lofty aims by yesterday's framers and today's scholars has left us mired in a constitutional morass This timely book ponders that question with the intellectual vigor it deserves Observing that standard accounts of constitutional law both the conservative and liberal varieties have lost their power to illuminate The Constitution and the Pride of Reason explores how constitutional law hangs together and how it falls apart by investigating the perennial claim that the Constitution and its interpretation somehow embody a commitment to governance by reason What does this claim mean and is it valid In confronting these queries Smith offers revealing and iconoclastic assessments of constitutionalists ranging from Madison and Jefferson to Dworkin and Bork Also detailed in these pages is a provocative overview of the whole constitutional project from its noble aspirations to its tragic failures A truly visionary work that investigates the scholarship the design and the history of the quintessential American legal document this volume also sensibly reflects on the meaning and possibility of the ethical commitment to the life of reason It will appeal not only to students of constitutional law but also to those interested in political science philosophy and American history      **American Government** Alan R. Gitelson, Robert L. Dudley, Melvin J. Dubnick, 2017-01-27 What students think they know about politics is often based on common myths Rather than dismissing those myths as outright falsehoods this text encourages students to confront their preconceived notions in order to think critically about government and politics Clearly and distinctively woven into each chapter the myths and realities theme provides a pedagogical framework that engages students with interesting problems while effectively covering the core concepts of American government      Ordered Liberty James E. Fleming, Linda C. McClain, 2013-01-01 Fleming and McClain defend a civic liberalism that takes seriously not just rights but responsibilities and virtues Issues taken up include same sex marriage reproductive freedom regulation of civil society and the family education of children and clashes between First Amendment freedoms of association and religion and antidiscrimination law      *Women and Human Development* Martha C. Nussbaum, 2000 Martha Nussbaum proposes a kind of feminism that is genuinely international      Constitutional Rights and Powers of the People Wayne D. Moore, 2017-03-14 American constitutionalism rests on premises of popular sovereignty but serious questions remain about how the people and their rights and powers fit into the constitutional design In a book that will radically reorient thinking about the Constitution and its place in the polity Wayne Moore moves away from an exclusive focus on courts and judges and considers the following queries Who is included among the people How are the people politically configured How may the people act And how do the people relate to government and other representative structures Going beyond though not excluding relevant discussions of

specific constitutional texts such as the preamble articles V and VII and the ninth tenth and fourteenth amendments Moore examines historical material from the antebellum period such as the opinions of U S Supreme Court justices in the notorious Dred Scott case and significantly different perspectives from the writings and speeches of Frederick Douglass He also looks at influential thinking from the founding period and examines precedents set during prominent controversies involving the establishment of a national bank regulations of the economy and efforts to limit sexual and reproductive choices The penultimate chapter explores issues raised by claims of state interpretive autonomy and the conclusion models various dimensions of the constitutional order as a whole The book offers fresh insights into central problems of constitutional history theory and law Originally published in 1996 The Princeton Legacy Library uses the latest print on demand technology to again make available previously out of print books from the distinguished backlist of Princeton University Press These editions preserve the original texts of these important books while presenting them in durable paperback and hardcover editions The goal of the Princeton Legacy Library is to vastly increase access to the rich scholarly heritage found in the thousands of books published by Princeton University Press since its founding in 1905

*Caring for Justice* Robin West, 1999-03 Over the past decade mainstream feminist theory has repeatedly and urgently cautioned against arguments which assert the existence of fundamental or essential differences between men and women Any biological or natural differences between the sexes are often flatly denied on the grounds that such an acknowledgment will impede women's claims to equal treatment In *Caring for Justice* Robin West turns her sensitive measured eye to the consequences of this widespread refusal to consider how women's lived experiences and perspectives may differ from those of men Her work calls attention to two critical areas in which an inadequate recognition of women's distinctive experiences has failed jurisprudence We are in desperate need she contends both of a theory of justice which incorporates women's distinctive moral voice on the meaning of justice into our discourse and of a theory of harm which better acknowledges compensates and seeks to prevent the various harms which women disproportionately and distinctively suffer Providing a fresh feminist perspective on traditional jurisprudence West examines such issues as the nature of justice the concept of harm economic theories of value and the utility of constitutional discourse She illuminates the adverse repercussions of the anti essentialist position for jurisprudence and offers strategies for correcting them Far from espousing a return to essentialism West argues an anti anti essentialism which greatly refines our understanding of the similarities and differences between women and men

**Courts and Social Transformation in New Democracies** Roberto Gargarella, Theunis Roux, 2017-03-02 Using case studies drawn from Latin America Africa India and Eastern Europe this volume examines the role of courts as a channel for social transformation for excluded sectors of society in contemporary democracies With a focus on social rights litigation in post authoritarian regimes or in the context of fragile state control the authors assess the role of judicial processes in altering or perpetuating social and economic inequalities and power relations in society Drawing on interdisciplinary expertise in the

fields of law political theory and political science the chapters address theoretical debates and present empirical case studies to examine recent trends in social rights litigation

*The Cambridge Companion to the United States Constitution* Karen Orren, John W. Compton, 2018-03-22 This Companion provides a broad historically informed introduction to the study of the US constitutional system In place of the usual laundry lists of cases doctrines and theories it presents a picture of the constitutional system in action with separate sections devoted to constitutional principles organizational structures and the various legal and extra legal actions through which litigators and average citizens have attempted to bring about constitutional change Finally the volume covers a number of subjects that are rarely discussed in works aimed at a general audience but which are critical to ensuring that constitutional rights are honored in the day to day lives of citizens These include standing and causes of action suits against officeholders and the inner workings of the Foreign Intelligence Surveillance Court FISC This Companion places present day constitutional controversies in historical context and offers insights from a range of disciplines including history political science and law

**The Clash of Orthodoxies** Robert P. George, 2023-06-20 In *The Clash of Orthodoxies Law Religion and Morality in Crisis* Robert George tackles the issues at the heart of the contemporary conflict of worldviews Secular liberals typically suppose that their positions on morally charged issues of public policy are the fruit of pure reason while those of their morally conservative opponents reflect an irrational religious faith George shows that this supposition is wrong on both counts Challenging liberalism s claim to represent the triumph of reason George argues that on controversial issues like abortion euthanasia same sex unions civil rights and liberties and the place of religion in public life traditional Judeo Christian beliefs are rationally superior to secular liberal alternatives *The Clash of Orthodoxies* is a profoundly important contribution to our contemporary national conversation about the proper role of religion in politics The lucid and persuasive prose of Robert George one of America s most prominent public intellectuals will shock liberals out of an unwarranted complacency and provide powerful ammunition for embattled defenders of traditional morality

**The Future of Gay Rights in America** H.N. Hirsch, 2020-03-25 Sandra Day O Connor has called the gay rights movement the first important civil rights struggle of the twenty first century Recent court decisions to overturn sodomy laws and to recognize gay marriage have emboldened activists but have also resulted in a tremendous backlash not the least of which has been a call for a constitutional amendment defining marriage as only between members of the opposite sex Through its historical and legal contextualization of these decisions *The Future of Gay Rights in America* is essential for understanding an epochal moment in the history of gay rights

**American Constitutional Law** Donald P. Kommers, John E. Finn, Gary J. Jacobsohn, 2004 Designed for an undergraduate course in US constitutional law the casebook takes a liberal arts approach tracing constitutional doctrine and policy back to their foundation in social moral and political theory and prompting students to engage the great questions of political life addressed by the Constitution and its interpretation Opinions of the US Supreme Court constitute the core of the documents The first edition was published in

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