

THE ANCIENT CONSTITUTION and the Origins of Anglo-American Liberty



John Phillip Reid

The Ancient Constitution And The Origins Of Anglo American Liberty

Clarke Forsythe

The Ancient Constitution And The Origins Of Anglo American Liberty:

The Ancient Constitution and the Origins of Anglo-American Liberty John Phillip Reid, 2005 In the seventeenth and eighteenth centuries English and American lawyers appealed to the ancient constitution as the cornerstone of liberty According to this idea constitutional law was not dictated by a monarch but based on the authority of custom passed down unaltered from time immemorial Legal historian John Phillip Reid convincingly demonstrates that this concept of an unchanging ancient constitution furnished English common lawyers and parliamentarians an argument with which to combat royal prerogative power At the same time it provided American revolutionaries with legal arguments for rejecting the British parliament's effort to impose arbitrary rule upon the colonies Whereas modern historians have tended to fault the constitutionalists of the seventeenth and eighteenth centuries for inventing a mystical past these polemical pamphleteers had less interest in the accuracy of their history than in its usefulness in forensic argumentation Much as lawyers contending before the bar they appealed to the past as precedent as analogy as principle in short as forensic history Claiming that liberty had been more effective and secure during ancient times they upheld an idealized Anglo Saxon standard for testing contemporary institutions More significantly they called upon the authority of the ancient constitution as a defense against the innovations of the English monarchy and against the assertions of an unrepresentative parliament The Ancient Constitution and the Origins of Anglo American Liberty complements Reid's recent book on another cornerstone of Anglo American jurisprudence and constitutional theory Rule of Law Whereas rule of law insists that one law applies to rulers and ruled alike the ancient constitution embodied the ideal for what that one law should be The Roots of Liberty Ellis Sandoz, 1993 In this contribution to the ongoing debate over the origins of constitutionalism and free government Sandoz brings together a selection of scholars to present a reevaluation of the place of Magna Carta and Ancient Constitution in the tradition of Anglo American liberty and rule of law The Constitutional Origins of the American Revolution Jack P. Greene, 2010-10-25 Using the British Empire as a case study this succinct study argues that the establishment of overseas settlements in America created a problem of constitutional organization The failure to resolve the resulting tensions led to the thirteen continental colonies seceding from the empire in 1776 Challenging those historians who have assumed that the British had the law on their side during the debates that led to the American Revolution this volume argues that the empire had long exhibited a high degree of constitutional multiplicity with each colony having its own discrete constitution Contending that these constitutions cannot be conflated with the metropolitan British constitution it argues that British refusal to accept the legitimacy of colonial understandings of the sanctity of the many colonial constitutions and the imperial constitution was the critical element leading to the American Revolution The Anglo-American Conception of the Rule of Law Nadia E. Nedzel, Nicholas Capaldi, 2019-09-03 This book offers a multidisciplinary account of the rule of law as a central pillar of the classical liberal tradition The authors analyze the original meaning of this expression as first introduced

by British jurist A V Dicey before examining its subsequent elaboration by Leoni Fuller Hayek and Oakeshott Addressing the main philosophical and legal aspects of the rule of law this volume will appeal to all those engaged in law political theory philosophy economics business ethics and public policy Common Law and Enlightenment in England, 1689-1750 Julia Rudolph, 2013 The book demonstrates how the common law mind was able to meet the various challenges posed by Enlightenment rationalism and civic and commercial discourse revealing that the common law played a much wider role beyond the legal world in shaping Enlightenment concepts Montesquieu and His Legacy Rebecca E. Kingston, 2008-11-04 Montesquieu 1689 1755 is regarded as one of the most important thinkers of the Enlightenment His Lettres persanes and L Esprit des lois have been read by students and scholars throughout the last two centuries While many have associated Montesquieu with the doctrine of the separation of powers in the history of ideas Rebecca E Kingston brings together leading international scholars who for the first time present a systematic treatment and discussion of the significance of his ideas more generally for the development of Western political theory and institutions In particular Montesquieu and His Legacy supplements the conventional focus on the institutional teachings of Montesquieu with attention to the theme of morals and manners The contributors provide commentary on the broad legacy of Montesquieu s thought in past times as well as for the The Oxford Handbook of English Law and Literature, 1500-1700 Lorna Hutson, 2017-06-29 This contemporary era Handbook triangulates the disciplines of history legal history and literature to produce a new interdisciplinary framework for the study of early modern England Scholars of early modern English literature and history have increasingly found that an understanding of how people in the past thought about and used the law is key to understanding early modern familial and social relations as well as important aspects of the political revolution and the emergence of capitalism Judicial or forensic rhetoric has been shown to foster new habits of literary composition poetry and drama and new processes of fact finding and evidence evaluation In addition the post Reformation jurisdictional dominance of the common law produced new ways of drawing the boundaries between private conscience and public accountability Accordingly historians critics and legal historians come together in this Handbook to develop accounts of the past that are attentive to the legally purposeful or fictional shaping of events in the historical archive They also contribute to a transformation of our understanding of the place of forensic modes of inquiry in the creation of imaginative fiction and drama Chapters in the Handbook approach from a diversity of perspectives topics including forensic rhetoric humanist and legal education Inns of Court revels drama poetry emblem books marriage and divorce witchcraft contract property imagination oaths evidence community local government legal reform libel censorship authorship torture slavery liberty due process the nation state colonialism and empire Edward Coke and the Reformation of the Laws David Chan Smith, 2014-11-06 This study of Edward Coke s legal thought reinterprets the political and legal thought of early Stuart England **Habeas Corpus in America** Justin J. Wert, 2023-09-15 For most Americans habeas corpus is the cornerstone of our legal system the principal constitutional check

on arbitrary government power allowing an arrested person to challenge the legality of his detention In a study that could not be more timely Justin Wert reexamines this essential individual right and shows that habeas corpus is not necessarily the check that we ve assumed Habeas corpus it emerges is as much a tool of politics as it is of law In this first study of habeas corpus in an American political context Wert shifts our collective emphasis from the judicial to the political toward the changes in the writ influenced by Congress the president political parties state governments legal academics and even interest groups By doing so he reveals how political regimes have used habeas corpus both to undo the legacies of their predecessors and to establish and enforce their own vision of constitutional governance Tracing the history of the writ from the Founding to Hamdi v Rumsfeld and Boumediene v Bush Wert illuminates crucial developmental moments in its evolution He demonstrates that during the antebellum period Reconstruction Gilded Age Great Society and the ongoing war on terrorism habeas corpus has waxed and waned in harmony with the interests of majoritarian politics Along the way Wert identifies and explains the political context of fine points of law that many political scientists and historians may not be aware of such as the exhaustion rule requiring that a federal habeas participant must first exhaust all possible claims for relief in state court a maneuver by which the post Reconstruction Court abandoned supervision of race relations in the South Especially in light of the new scrutiny of habeas corpus prompted by the Guant namo detainees Wert's book is essential for broadening our understanding of how law and politics continue to intersect after 9 11 Brimming with fresh insights into constitutional development and regime theory it shows that the Great Writ of Liberty may not be so great as we have supposed because while it has the potential to enforce conceptions of rights that are consistent with the best ideals of American politics it also has the potential to enforce its worst aspects as well Islam and the English Enlightenment, 1670-1840 Humberto Garcia, 2012-01-30 A corrective addendum to Edward Said's Orientalism this book examines how sympathetic representations of Islam contributed significantly to Protestant Britain's national and imperial identity in the eighteenth century Taking a historical view Humberto Garcia combines a rereading of eighteenth century and Romantic era British literature with original research on Anglo Islamic relations He finds that far from being considered foreign by the era s thinkers Islamic republicanism played a defining role in Radical Enlightenment debates most significantly during the Glorious Revolution French Revolution and other moments of acute constitutional crisis as well as in national and political debates about England and its overseas empire Garcia shows that writers such as Edmund Burke Lady Mary Wortley Montagu Samuel Taylor Coleridge Robert Southey and Percy and Mary Shelley not only were influenced by international events in the Muslim world but also saw in that world and its history a viable path to interrogate contest and redefine British concepts of liberty This deft exploration of the forgotten moment in early modern history when intercultural exchange between the Muslim world and Christian West was common resituates English literary and intellectual history in the wider context of the global eighteenth century The direct challenge it poses to the idea of an exclusionary Judeo Christian

Enlightenment serves as an important revision to post 9 11 narratives about a historical clash between Western democratic The ^ARevolutionary Constitution David J. Bodenhamer, 2012-02-01 The Revolutionary Constitution values and Islam examines how the Constitution has served as a dynamic and contested framework for legitimating power and advancing liberty in which our past concerns and experiences influence our present understanding Informed by the latest scholarship the book is an interpretive synthesis linking constitutional history with American political and social history **Bloomsbury Encyclopedia of the American Enlightenment** Mark G. Spencer, 2015-01-01 The History and Growth of Judicial Review, Volume 1 Steven G. Calabresi, 2021 This two volume set gives an account of the origins and growth of judicial review in the democratic countries of the G 20 from its beginnings in the United States to its expansion after World War II Volume 1 covers the common law jurisdictions *New Directions in Law and Literature* Elizabeth S. Anker, Bernadette Meyler, 2017-05-25 This collection of essays by twenty two prominent scholars from literature departments and law schools showcases the vibrancy of recent work in law and literature and highlights its many new directions since the field s heyday in the 1970s and 80s Entick v Carrington Adam Tomkins, Paul F Scott, 2015-09-24 Entick v Carrington is one of the canons of English public law and in 2015 it is 250 years old In 1762 the Earl of Halifax one of His Majesty s Principal Secretaries of State despatched Nathan Carrington and three other of the King's messengers to John Entick's house in Stepney They broke into his house seizing his papers and causing significant damage Why Because he was said to have written seditious papers published in the Monitor Entick sued Carrington and the other messengers for trespass The defendants argued that the Earl of Halifax had given them legal authority to act as they had Lord Camden ruled firmly in Entick's favour holding that the warrant of a Secretary of State could not render lawful actions such as these which were otherwise unlawful The case is a canonical statement of the common law s commitment to the constitutional principle of the rule of law In this collection leading public lawyers reflect on the history of the case the enduring importance of the legal principles for which it stands and the broader implications of Entick v Carrington 250 years on Winner of the American Society for Legal History Sutherland Prize 2016 Triumph of Order Lisa Keller, 2010-09-21 In an effort to create a secure urban environment in which residents can work live and prosper with minimal disruption New York and London established a network of laws policing and municipal government in the nineteenth century aimed at building the confidence of the citizenry and creating stability for economic growth At the same time these two cities attempted to maintain an expansive level of free speech and assembly Yet as democracy expanded in tandem with the size of the cities themselves the two goals clashed resulting in tensions over their compatibility Treating nineteenth century London and New York as case studies Lisa Keller examines the development of sanctioned free speech controlled public assembly new urban regulations and the quelling of riots all in the name of a proper regard for order Drawing on rich archival sources Keller paints an intimate portrait of daily life in these cities and the intricacies of their emerging bureaucracies She finds that New York eventually

settled on a policy of preempting disruption before it occurred while London chose a path of greater tolerance toward street activities Keller concludes with an assessment of freedom in New York and London today and asks whether the scales have been tipped too strongly in favor of order and control Politics for the Greatest Good Clarke Forsythe, 2010-06 With a level headed voice leading policy strategist Clarke Forsythe speaks clearly into the fray of political striving Here he campaigns for a recovery of a rich understanding of the virtue of prudence and for its application by policymakers and citizens to contemporary public policy As Forsythe explains prudence in its classical sense is the ability to apply wisdom to right action In this book he explores the importance of applying the principles of prudence taking account of limitations in a world of constraints and striving to achieve the greatest measure of justice under current circumstances to the realm of politics especially that of bioethics In particular Forsythe applies these concepts to the ongoing debate among pro life advocates regarding gradual versus radical change as the most effective way to achieve political and legislative goals Drawing on the Bible philosophy and the wisdom of historical figures such as Abraham Lincoln and William Wilberforce he makes a strong case for a strategy of seeking to achieve the maximal change possible at a given time or political prudence As such it has broad implications for political scientists and strategists both within and beyond the pro life context Jeremy Black, 2018-10-12 Eighteenth century England was a place of enlightenment and revolution new ideas abounded in science politics transportation commerce religion and the arts But even as England propelled itself into the future it was preoccupied with notions of its past Jeremy Black considers the interaction of history with knowledge and culture in eighteenth century England and shows how this engagement with the past influenced English historical writing The past was used as a tool to illustrate the contemporary religious social and political debates that shaped the revolutionary advances of the era Black reveals this present centered historical writing to be so valued and influential in the eighteenth century that its importance is greatly underappreciated in current considerations of the period In his customarily vivid and sweeping approach Black takes readers from print shop to church pew courtroom to painter s studio to show how historical writing influenced the era which in turn gave birth to the modern world British Pamphlets on the American Revolution, 1763-1785, Part I, Volume 1 Harry T Dickinson, 2021-12-24 First published in 2007 this collection presents a selection of British pamphlets which represent the multi faceted debate on both sides of the political divide in Britain The pamphlets in this work are organised chronologically in two parts taking the start of American armed resistance in 1775 as the dividing point Volume 1 covers the period of 1763 to 1785 The Nature of Rights at the American Founding and Beyond Barry Alan Shain, 2007 Americans have been claiming and defending rights since long before the nation achieved independence But few Americans recognize how profoundly the nature of rights has changed over the past three hundred years In The Nature of Rights at the American Founding and Beyond Barry Alan Shain gathers together essays by some of the leading scholars in American constitutional law and history to examine the nature of rights claims in eighteenth century America and how they

differed if at all from today s understandings Was America at its founding predominantly individualistic or in some important way communal Similarly which understanding of rights was of greater centrality the historical rights of Englishmen or abstract natural rights And who enjoyed these rights however understood Everyone Or only economically privileged and militarily responsible male heads of households The contributors also consider how such concepts of rights have continued to shape and reshape the American experience of political liberty to this day Beginning with the arresting transformation in the grounding of rights prompted by the American War of Independence the volume moves through what the contributors describe as the Founders Bill of Rights to the second Bill of Rights that coincided with the Civil War and ends with the language of rights erupting from the horrors of the Second World War and its aftermath in the Cold War By asking what kind of nation the founding generation left us or intended to leave us the contributors are then able to compare that nation to the nation we have become Most if not all of the essays demonstrate that the nature of rights in America has been anything but constant and that the rights defended in the late eighteenth century stand at some distance from those celebrated today Contributors Akhil Reed Amar Yale University James H Hutson Library of Congress Stephen Macedo Princeton University Richard Primus University of Michigan Jack N Rakove Stanford University John Phillip Reid New York University Daniel T Rodgers Princeton University A Gregg Roeber Pennsylvania State University Barry Alan Shain Colgate University Rogers M Smith University of Pennsylvania Leif Wenar University of Sheffield Gordon S Wood Brown University

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