



# COMMON- LAW LIBERTY

RETHINKING AMERICAN  
CONSTITUTIONALISM

JAMES R. STONER, JR.

# Common Law Liberty Rethinking American Constitutionalism

**Mary E. Vogel**



## **Common Law Liberty Rethinking American Constitutionalism:**

**Common-law Liberty** James Reist Stoner, 2003 In an era as morally confused as ours Stoner argues we at least ought to know what we've abandoned or suppressed in the name of judicial activism and the modern rights oriented Constitution Having lost our way perhaps the common law in its original sense provides a way back a viable alternative to the debilitating relativism of our current age Common Law & Natural Rights Ruben Alvarado, 2009-08 Common law is explored as the alternative to natural rights as a means of restricting state power The separation of powers is weighed in the balance and found wanting as a brake on state power The underlying root of this inability is discovered in the philosophy of natural rights Natural rights gave birth to the separation of powers but neither the former nor the latter has been able to restrain government This failure is highlighted in detail and the alternative means to the same end the common law is brought to the fore *Natural Law and the Antislavery Constitutional Tradition* Justin Buckley Dyer, 2012-02-13 Natural Law and the Antislavery Constitutional Tradition is a succinct account of the development of American antislavery constitutionalism in the years preceding the Civil War In a series of case studies Dyer reconstructs the arguments of prominent antislavery thinkers such as John Quincy Adams John McLean Abraham Lincoln and Frederick Douglass What emerges is a convoluted understanding of American constitutional development that emphasizes the centrality of natural law to America's greatest constitutional crisis Thomas Jefferson and Alexander Hamilton K. Anthony Scott, 2008 The founding of American jurisprudence can be traced to the debates that occurred between Alexander Hamilton and Thomas Jefferson early in the history of our nation A Defining Political Debate explores the core tension between the two men over the ability of the judiciary to preserve the core values of republican government The author takes you through the normative dimensions of the Hamilton and Jefferson debates and provides an analysis of what this means for our current state of affairs *The Madisonian Constitution* George Thomas, 2008-06-18 Publisher Description **Reclaiming Politics** Nathan Warf, 2025-03-10 The author discusses political pluralism and the common law tradition Political pluralism refers to the English Pluralists of the early 1900s who understood pluralism as a response to the excesses of both individualism and state collectivism They argued that individuals will always be found within a myriad of groups families churches workplaces communities etc Such groups are real neither reducible to the individuals who make them up nor legal fictions or mere concessions of the state Pluralists view society as being built from the bottom up by an assortment of groups This organic view of society goes hand in hand with a parallel organic view of law which conceives law as a historically unfolding emanation from the people rather than a simple command of the sovereign The common law emphasizes consensus and continuity After connecting political pluralism and the common law through examples from European history the book turns to the United States Early America had both a strong organic conception of law and society As the U S moved away from these understandings political polarization grew and public sentiment became more pessimistic and anxious Political

pluralism and the common law tradition offer a powerful corrective to some of today's most pressing problems

**Encyclopedia of Political Theory** Mark Bevir, 2010-03-18 Looking at the roots of contemporary political theory this three volume set examines the global landscape of all the key theories and the theorists behind them and provides concise to the point definitions of key concepts ideas schools and figures

**The Eighteenth Century** Kevin L. Cope, Robert C. Leitz, 2007-09

**Transformations in American Legal History** Daniel W. Hamilton, Alfred L. Brophy, 2009 During his career at Harvard Morton Horwitz changed the questions legal historians ask In this book Horwitz's students re-examine legal history from America's colonial era to the late twentieth century The essays are like Horwitz provocative and original as they continue his transformation of American legal history

*The Journal of Legal Studies*, 1993

**Modern Age**, 2006

**American Review of Politics**, 2007

**Magnanimity and Statesmanship** Carson Holloway, 2008-01-28 Magnanimity and Statesmanship a collection of studies by a number distinguished political scientists traces the changing understanding of great political leadership through the history of political philosophy Covering thinkers from Aristotle to Nietzsche and including trea

**Coercion to Compromise** Mary E. Vogel, 2007 Plea bargaining is one of the most striking features of American courts The vast majority of criminal convictions today are produced through bargained pleas Where does the practice come from Whose interests does it serve Often plea bargaining is imagined as a corruption of the court during the post World War II years paradoxically rewarding those who appear guilty rather than those claiming innocence Yet as Mary Vogel argues in this pathbreaking history plea bargaining's roots are deeper and more distinctly American than is commonly supposed During the Age of Jackson amidst crime and violence wrought by social change the courts stepped forward as agents of the state to promote the social order Plea bargaining arose during the 1830s and 1840s as part of this process of political stabilization and an effort to legitimate institutions of self rule accomplishments that were vital to Whig efforts to restore order and reconsolidate their political power To this end the tradition of episodic leniency from British common law was recrafted into a new cultural form plea bargaining that drew conflicts into the courts while maintaining elite discretion over sentencing policy In its reliance on the mechanism of leniency the courts were attempting a sort of social triage sorting those who could be reclaimed as industrious and productive citizens from marginals and transients The worthy often paid fines and were returned to their community under the watchful eyes of their intercessors and that most powerful web of social control that of everyday life Created during a period of social mobility plea bargaining presumed that those with much to lose through conviction would embrace individual reform Today when many defendants who come before the court have much less in the way of prospects to lose leniency may be more likely to be regarded with cynicism as an act of weakness by the state and plea bargaining may grow more problematic

**Illiberal Justice** David Lewis Schaefer, 2007 Schaefer challenges John Rawls's practically sacrosanct status among scholars of political theory law and ethics by demonstrating how Rawls's teachings deviate from the core tradition of American constitutional liberalism toward libertarianism Provided by

publisher     *The Constitutional Convention of 1787* John R. Vile, 2005-06-24 An encyclopedic treatment of the personalities politics and events involved in drafting the US Constitution     **Common Law and Liberal Theory** James R. Stoner, 1992 In this book James Stoner's purpose is to recover the common law basis of American constitutionalism American constitutionalism in general he argues and judicial review in particular cannot be fully understood without acknowledging their roots in both common law and liberal political theory But for the most part the common law underpinnings of constitutionalism have received short shrift     **Race and American Political Development** Joseph E. Lowndes, Julie Novkov, Dorian Tod Warren, 2008 Race has been present at every critical moment in American political development shaping political institutions political discourse public policy and its denizens political identities But because of the nature of race its evolving and dynamic status as a structure of inequality a political organizing principle an ideology and a system of power we must study the politics of race historically institutionally and discursively Covering more than three hundred years of American political history from the founding to the contemporary moment the contributors in this volume make this extended argument Together they provide an understanding of American politics that challenges our conventional disciplinary tools of studying politics and our conservative political moment's dominant narrative of racial progress This volume the first to collect essays on the role of race in American political history and development resituates race in American politics as an issue for sustained and broadened critical attention     *Current Publications in Legal and Related Fields*, 2005

**Globalisation and Labour Rights** Christine Kaufmann, 2007 This book examines the tension between core labour rights defined by the International Labour Organisation and the interests of economic institutions

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