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Why The Founding Document
Doesnt Mean What It Meant
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Meant Before By
Why The Founding Document

Sunstein Cass R 2009
Doesn't Mean What It Meant

Hardcover
Before By Sunstein Cass R

**This collection adopts a distinctive
method and structure to introduce**
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Why The Founding Document

**the work of Italian constitutional law
scholars into the Anglophone**

dialogue while also bringing a

number of prominent non-Italian

constitutional law scholars to study

and write about constitutional

justice in a global context. The work

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presents six distinct areas of particular interest from a comparative constitutional perspective: first, the role of legal scholarship in the work of constitutional courts; second, structures and processes that

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**contribute to more “open” or
“closed” styles of constitutional
adjudication; third, pros and cons of
collegiality in the work of
constitutional courts; fourth, forms
of access by individuals to
constitutional justice; fifth, methods**

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of constitutional interpretation; and sixth, the relationship between national constitutional adjudication and the transnational context. In each of these six areas, the volume sets up a new and genuine constitutional dialogue between an

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Italian scholar presenting a discussion and critical assessment of the specific topic, and a non-Italian scholar who responds elaborating the issue as seen from constitutional law beyond the Italian system. The resulting six such dialogues thus

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**provide a dynamic, in-depth,
multidimensional, national and
transnational/comparative
examination of these areas in which
the `Italian style' of constitutional
adjudication has a distinctive
contribution to make to comparative**

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Italian Constitutional Court within

the comparative global space and

advancing a creative and fruitful

methodological approach, the book

will be fascinating reading for

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In Legal Reasoning and Political

Conflict, Cass R. Sunstein, one of

America's best known commentators

on our legal system, offers a bold,

new thesis about how the law should

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work in America, arguing that the courts best enable people to live together, despite their diversity, by resolving particular cases without taking sides in broader, more abstract conflicts. Professor Sunstein closely analyzes the way the

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law can mediate disputes in a diverse society, examining how the law works in practical terms, and showing that, to arrive at workable, practical solutions, judges must avoid broad, abstract reasoning. He states that judges purposely limit the

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scope of their decisions to avoid reopening large-scale controversies, calling such actions incompletely theorized agreements. In identifying them as the core feature of legal reasoning, he takes issue with advocates of comprehensive theories

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and systemization, from Robert Bork to Jeremy Bentham, and Ronald Dworkin. Equally important, Sunstein goes on to argue that it is the living practice of the nation's citizens that truly makes law. Legal reasoning can seem impenetrable,

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mysterious, baroque. Legal Reasoning and Political Conflict

helps dissolve the mystery. Whether discussing abortion, homosexuality,

or free speech, the meaning of the

Constitution, or the spell cast by the

Warren Court, Cass Sunstein writes

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with grace and power, offering a striking and original vision of the role of the law in a diverse society. In his flexible, practical approach to legal reasoning, he moves the debate over fundamental values and principles out of the courts and back

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to its rightful place in a democratic state: to the legislatures elected by the people. In this Second Edition, the author updates the previous edition bringing the book into the current mainstream of twenty-first century legal reasoning and judicial

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decision-making focusing on the

many relevant contemporary issues

and developments that occurred

since its initial 1996 publication.

Can the Supreme Court be free of

politics? Do we want it to be?

Normative constitutional theory has

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long concerned itself with the

legitimate scope and limits of

judicial review. Too often, theorists

seek to resolve that issue by
eliminating politics from
constitutional decisionmaking. In
contrast, Terri Peretti argues for an

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openly political role for the Supreme Court. Peretti asserts that politically motivated constitutional decisionmaking is not only inevitable, it is legitimate and desirable as well. When Supreme Court justices decide in accordance

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with their ideological values, or consider the likely political reaction to the Court's decisions, a number of benefits result. The Court's performance of political representation and consensus-building functions is enhanced, and

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the effectiveness of political checks on the Court is increased. Thus, political motive in constitutional decision making does not lead to judicial tyranny, as many claim, but goes far to prevent it. Using pluralist theory, Peretti further argues that a

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**political Court possesses
instrumental value in American
democracy. As one of many diverse
and redundant political institutions,
the Court enhances both system
stability and the quality of
policymaking, particularly regarding**

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the breadth of interests represented.

In his 1996 State of the Union

Address, President Bill Clinton

announced that the "age of big

government is over." Some

Republicans accused him of

cynically appropriating their themes,

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while many Democrats thought he was betraying the principles of the New Deal and the Great Society.

Mark Tushnet argues that Clinton was stating an observed fact: the emergence of a new constitutional order in which the aspiration to

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**achieve justice directly through law
has been substantially chastened.**

**Tushnet argues that the
constitutional arrangements that
prevailed in the United States from
the 1930s to the 1990s have ended.**

We are now in a new constitutional

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order--one characterized by divided government, ideologically organized parties, and subdued constitutional ambition. Contrary to arguments that describe a threatened return to a pre-New Deal constitutional order, however, this book presents evidence

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that our current regime's animating principle is not the old belief that

government cannot solve any

problems but rather that government cannot solve any more problems.

Tushnet examines the institutional arrangements that support the new

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**constitutional order as well as
Supreme Court decisions that reflect**

it. He also considers recent

developments in constitutional

scholarship, focusing on the idea of

minimalism as appropriate to a

regime with chastened ambitions.

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Tushnet discusses what we know so far about the impact of globalization

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on domestic constitutional law, particularly in the areas of

international human rights and

federalism. He concludes with

predictions about the type of

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regulation we can expect from the new order. This is a major new analysis of the constitutional arrangements in the United States. Though it will not be received without controversy, it offers real explanatory and predictive power

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An Institutional Theory of Legal

Interpretation

Constitutional Bricolage

Restoring a Jurisprudence of

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Natural Rights

Critical Engagements with Jessup's

Bold Proposal

Infotopia

Constitutional Dialogues

Arming Americans to defend the truth
from today's war on facts

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Refer By Sunstein Case B

2009 Harvard U

Disinformation. Trolling. Conspiracies. Social media pile-ons. Campus intolerance. On the surface, these recent additions to our daily vocabulary appear to have little in common. But together, they are driving an epistemic crisis: a multi-front challenge to America's ability to

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distinguish fact from fiction and elevate truth above falsehood. In 2016

Russian trolls and bots nearly drowned the truth in a flood of fake news and

conspiracy theories, and Donald

Trump and his troll armies continued

to do the same. Social media

companies struggled to keep up with a

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Doesn't Mean What It Meant
Before By: Steven Gooch
2009 Harvard University Press

flood of falsehoods, and too often didn't even seem to try. Experts and some public officials began wondering if society was losing its grip on truth itself. Meanwhile, another new phenomenon appeared: "cancel culture." At the push of a button, those armed with a cellphone could gang up

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century developments of liberal

democracy and science to explain

what he calls the “Constitution of

Knowledge”—our social system for

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2008 Harvard

turning disagreement into truth. By explicating the Constitution of Knowledge and probing the war on reality, Rauch arms defenders of truth

with a clearer understanding of what

they must protect, why they must

do—and how they can do it. His book is

a sweeping and readable description

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Publisher description

The Constitution may guarantee it. But religious freedom in America is, in fact, impossible. So argues this timely and

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Why The Founding Document

iconoclastic work by law and religion scholar Winnifred Sullivan. Sullivan

uses as the backdrop for the book the

trial of Warner vs. Boca Raton, a

recent case concerning the laws that

protect the free exercise of religion in

America. The trial, for which the author

served as an expert witness,

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concerned regulations banning certain
memorials from a multiconfessional

nondenominational cemetery in Boca

Raton, Florida. The book portrays the

unsuccessful struggle of Catholic,

Protestant, and Jewish families in

Boca Raton to preserve the practice of

placing such religious artifacts as

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Before By Supreme Court
2005 Harvard

crosses and stars of David on the graves of the city-owned burial ground. Sullivan demonstrates how, during the course of the proceeding, citizens from

all walks of life and religious

backgrounds were harassed to define

just what their religion is. She argues

that their plight points up a shocking

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Doesn't Mean What It Means

Before By Sunstein Cass R

2009 Harvard

truth: religion cannot be coherently defined for the purposes of American law, because everyone has different definitions of what religion is. Indeed, while religious freedom as a political idea was arguably once a force for tolerance, it has now become a force for intolerance, she maintains. A clear-

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Doesnt Mean What It Meant

Refer By Sunstein Case R

2009 Harvard

eyed look at the laws created to protect religious freedom, this vigorously argued book offers a new take on a right deemed by many to be necessary for a free democratic society. It will have broad appeal not only for religion scholars, but also for anyone interested in law and the

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Religion By Sunstein Case P

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Constitution. Featuring a new preface by the author, *The Impossibility of Religious Freedom* offers a new take on a right deemed by many to be necessary for a free democratic society.

"The book is intended to make clearer the ambiguities of "constitutional faith,"

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i.e. wholehearted attachment to the
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2009 Harvard UP
Constitution as the center of one's
(and ultimately the nation's) political
life."--The introduction.

The Return of George Sutherland

Reading the US Constitution

Judging Under Uncertainty

A Comparative Perspective

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The Intelligent Mind

The New Constitutional Order

Uniquely blending
anthropological and
exchange theory, Professor
Garvey offers a new
interpretation of American

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**constitutional
development. His thesis:
judicial reliance on a
limited stock of received
forms has inhibited the
development of new
concepts that could**

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**adequately reflect
fundamental changes in
society. Professor Garvey
reviews the history of the
Supreme Court in light of
the "bricolage" theory. The
Court, by interpreting the**

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**Constitution to effect
laissez-faire and Social
Darwinism, helped bring
about a society ostensibly
patterned on the buyer-
seller model, marked by
free exchange and "liberty**

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**of contract." New
departures by the Court in
the areas of free speech
and criminal justice,
according to the author,
evidence a recognition of
present inequities and a**

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determination to change them; but to the extent the Court remains loyal to a buyer-seller model, it practices an unrealistic jurisprudence. Originally published in 1971. The

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A former U.S. senator joins a legal scholar to examine a hushed effort to radically change our Constitution, offering a warning and a way forward. Over the last two decades, a fringe plan

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to call a convention under

the Constitution's

amendment

mechanism—the nation's

first ever—has inched

through statehouses.

Delegates, like those in

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Philadelphia two centuries ago, would exercise nearly unlimited authority to draft changes to our fundamental law, potentially altering anything from voting and

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**free speech rights to
regulatory and foreign
policy powers. Such a
watershed moment would
present great danger, and
for some, great power. In
this important book,**

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**Feingold and Prindiville
distill extensive legal and
historical research and
examine the grave risks
inherent in this effort. But
they also consider the role
of constitutional**

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**amendment in modern life.
Though many focus solely
on judicial and electoral
avenues for change, such
an approach is at odds with
a cornerstone ideal of the
Founding: that the People**

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**make constitutional law,
directly. In an era defined
by faction and rejection of
long-held norms, The
Constitution in Jeopardy
examines the nature of
constitutional change and**

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**asks urgent questions
about what American
democracy is, and should
be.**

**Why do people become
extremists? What makes
people become so**

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**dismissive of opposing
views? Why is political and
cultural polarization so
pervasive in America? In
Going to Extremes,
renowned legal scholar and
best-selling author Cass R.**

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Sunstein offers startling insights into why and when people gravitate toward extremism. Sunstein marshals a wealth of evidence that shows that when like-minded people

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gather in groups, they tend to become more extreme in their views than they were before. Thus when liberals group get together to debate climate change, they end up more alarmed

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**about climate change,
while conservatives
brought together to discuss
same-sex unions become
more set against same-sex
unions. In courtrooms,
radio stations, and**

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chatrooms, enclaves of like-minded people are breeding ground for extreme movements.

Indeed, Sunstein shows that a good way to create an extremist group, or a

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cult of any kind, is to separate members from the rest of society, either physically or psychologically. Sunstein's findings help to explain such diverse phenomena as

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**political outrage on the
Internet, unanticipated
"blockbusters" in the film
and music industry, the
success of the disability
rights movement, ethnic
conflict in Iraq and former**

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Yugoslavia, and Islamic terrorism. Providing a wealth of real-world examples--sometimes entertaining, sometimes alarming--Sunstein offers a fresh explanation of why

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partisanship has become so bitter and debate so rancorous in America and abroad. Praise for the hardcover: "A path-breaking exploration of the perils and possibilities

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Created by polarization
among the like-minded."

--Kathleen Hall Jamieson, co-
author of unSpun and Echo

Chamber "Poses a powerful
challenge to anyone
concerned with the future

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of our democracy. He reveals the dark side to our cherished freedoms of thought, expression and participation. Initiates an urgent dialogue which any thoughtful citizen should be

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interested in." --James S.
Fishkin, author of *When the
People Speak*

John Hart Ely is a leading
contemporary writer on
political theory from the
standpoint of American

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**constitutional law. This
collection covers a full
range of topics of
constitutional
interpretation: federalism,
separation of powers,
freedom of expression,**

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"substantive due process,"

and honesty in

government. Organized

under these heads and

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**linked by the author's witty
explanatory and
autobiographical remarks,
the essays and other
documents--many
previously unpublished in
any forum--range**

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**chronologically over the
past three decades, from
memoranda he wrote as a
student working with lead
counsel Abe Fortas on the
landmark case of Gideon v.
Wainwright to a comment**

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**on the constitutional
implications of the O. J.
Simpson verdict. Before
beginning his academic
career, Ely was the junior
member of the Warren
Commission's sixteen-**

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**lawyer staff, Chief Justice
Earl Warren's law clerk, and
a public defender in San
Diego; and during the Ford
Administration he took time
off to serve as the third-
ranking official of the U.S.**

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**Department of
Transportation. This book
reflects his various
experience. It comments on
many of the past quarter
century's "hot button"
issues--including abortion,**

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**affirmative action, anti-
Communist legislation,
busing, flag burning,
governmental display of
nativity scenes, the Nixon
impeachment, "trial by
newspaper," the Clarence**

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Thomas-Anita Hill
contretemps,
congressionally
unauthorized war in the
Persian Gulf and Bosnia,
and whether the Warren
Commission Report should

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**be officially reexamined.
Understanding State
Constitutions
On Constitutional Ground
Constitutional Rights and
Powers of the People
Legal Reasoning and**

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**Political Conflict
The Power of Separation
The Impossibility of
Religious Freedom**

Publisher Description

In a fascinating blend of biography
and history, Joseph Tartakovsky

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tells the epic and unexpected story of our Constitution through the eyes of ten extraordinary individuals—some renowned, like Alexander Hamilton and Woodrow Wilson, and some forgotten, like James Wilson and Ida B. Wells-

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Barnett. Tartakovsky brings to life their struggles over our supreme law from its origins in revolutionary America to the era of Obama and Trump. Sweeping from settings as diverse as Gold Rush California to the halls of Congress,

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and crowded with a vivid
Dickensian cast, Tartakovsky
shows how America's unique
constitutional culture grapples
with questions like democracy,
racial and sexual equality, free
speech, economic liberty, and the

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role of government. Joining the ranks of other great American storytellers, Tartakovsky chronicles how Daniel Webster sought to avert the Civil War; how Alexis de Tocqueville misunderstood America; how

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Robert Jackson balanced liberty and order in the battle against Nazism and Communism; and how Antonin Scalia died warning Americans about the ever-growing reach of the Supreme Court. From the 1787 Philadelphia Convention

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to the clash over gay marriage,
this is a grand tour through two
centuries of constitutional history
as never told before, and an
education in the principles that
sustain America in the most
astonishing experiment in

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government ever undertaken.
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We are all familiar with the image
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discerns the best rule of common
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law for the case at hand.
According to U.S. Supreme Court
Justice Antonin Scalia, a judge like

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this can maneuver through earlier cases to achieve the desired aim—"distinguishing one prior case on his left, straight-arming another one on his right, high-stepping away from another precedent about to tackle him

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from the rear, until (bravo!) he reaches the goal—good law." But is this common-law mindset, which is appropriate in its place, suitable also in statutory and constitutional interpretation? In a witty and trenchant essay, Justice Scalia

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answers this question with a resounding negative. In exploring the neglected art of statutory interpretation, Scalia urges that judges resist the temptation to use legislative intention and legislative history. In his view, it is

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incompatible with democratic
government to allow the meaning
of a statute to be determined by
what the judges think the
lawgivers meant rather than by
what the legislature actually
promulgated. Eschewing the

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judicial lawmaking that is the
essence of common law, judges
should interpret statutes and
regulations by focusing on the text
itself. Scalia then extends this
principle to constitutional law. He
proposes that we abandon the

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notion of an everchanging
Constitution and pay attention to
the Constitution's original
meaning. Although not subscribing
to the “strict constructionism” that
would prevent applying the
Constitution to modern

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circumstances, Scalia emphatically rejects the idea that judges can properly “smuggle” in new rights or deny old rights by using the Due Process Clause, for instance. In fact, such judicial discretion might lead to the destruction of

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the Bill of Rights if a majority of

the judges ever wished to reach

that most undesirable of goals.

This essay is followed by four

commentaries by Professors

Gordon Wood, Laurence Tribe,

Mary Ann Glendon, and Ronald

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Dworkin, who engage Justice
Scalia's ideas about judicial
interpretation from varying
standpoints. In the spirit of debate,
Justice Scalia responds to these
critics. Featuring a new foreword
that discusses Scalia's impact,

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jurisprudence, and legacy, this
witty and trenchant exchange
illuminates the brilliance of one of
the most influential legal minds of
our time.
American constitutionalism rests
on premises of popular

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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

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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

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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

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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

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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,

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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

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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

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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.

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Justice

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Chicago) asserts that, as it is currently interpreted, the Constitution is biased.

He points to two

contemporary mistakes: that

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*Constitutional law posits
the status quo as neutral
and just (which, he argues,*

*is not the case); and that
the meaning of the*

*Constitution is increasingly
solely within the purview of
the Supreme Court (which, he*

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*argues, is not what the
founders intended.)*

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*"The United States is the
only nation in the world in
which political leaders,
judges and soldiers all*

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Reform By Sustain Care?

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The Constitution today,

however, is much revered but

little read. . Readers of

AMERICAN EPIC will never

think of the Constitution in

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quite the same way again.

Garrett Epps, a legal scholar who is also a journalist and writer of prize-winning fiction, takes readers on a literary tour of the Constitution, finding in it much that is

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*interesting, puzzling,
praiseworthy, and sometimes
hilarious. Reading the
Constitution like a literary
work yields a host of
meanings that shed new light
on what it means to be an
American" --*

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How did the Student

Nonviolent Coordinating

Committee break open the

caste system in the American

South between 1960 and 1965?

In this innovative study,

Wesley Hogan explores what

SNCC accomplished and, more

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important, how it fostered significant social change in such a short time. She

offers new insights into the internal dynamics of SNCC as well as the workings of the larger civil rights and Black Power movement of

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which it was a part. As

Hogan chronicles, the

members of SNCC created some

of the civil rights

movement's boldest

experiments in freedom,

including the sit-ins of

1960, the rejuvenated

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Freedom Rides of 1961, and
grassroots democracy
projects in Georgia and
Mississippi. She highlights
several key

players--including Charles
Sherrod, Bob Moses, and

Fannie Lou Hamer--as

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2008 Hardcover Hogan shows how SNCC

laid the foundation for the

emergence of the New Left

and created new definitions

of political leadership

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during the civil rights and

Vietnam eras. She traces the

ways other social

movements--such as Black

Power, women's liberation,

and the antiwar

movement--adapted practices

developed within SNCC to

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Before Ultimately reframes

the movement and asks us to

look anew at where America

stands on justice and

equality today.

From Amherst College, Hadley

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2000 Harvard Law Review

Justice of the Supreme Court

George Sutherland done

anchored in the

understanding of natural

rights. Arkes argues that if

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both liberals and
conservatives would study
the writings of George R
Sutherland, with unclouded
eyes, both groups would set
aside their differences and
return to the moral ground
of their jurisprudence.

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On the Genesis and

Constitution of Discursive

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What sort of methods are best suited to understanding constitutional doctrines and practices? Should we look to lawyers and legal methods alone, or should we draw upon other

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disciplines such as history, sociology, political theory, and moral philosophy? Should we study constitutions in isolation or in a comparative context? To what extent must constitutional methods be sensitive to empirical

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data about the functioning of legal practice? Can ideal theory aid our understanding of real constitutions? This volume brings together constitutional experts from around the world to address these types of questions through

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topical events and challenges such as Brexit, administrative law

reforms, and the increasing

polarisations in law, politics, and constitutional scholarship.

Importantly, it investigates the

ways in which we can ensure that

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*constitutional scholars do not talk
past each other despite their
persistent - and often fierce -
disagreements. In so doing, it
aims systematically to re-examine
the methodology of constitutional
theory.*

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Constitutional pluralism has become immensely popular among scholars who study European integration and issues of global governance. Some of them believe that constitutionalism, traditionally thought to be bound

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to a nation state, can emerge

beyond state borders - most

importantly in the process of

European integration, but also

beyond that, for example, in

international regulatory regimes

such as the WTO, or international

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systems of fundamental rights protection, such as the European Convention. At the same time, the idea of constitutional pluralism has not gone unchallenged. Some have questioned its compatibility with the very nature of law and

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the values which law brings to constitutionalism. The critiques

have come from both sides: from

those who believe in the

'traditional' European

constitutionalism based on a

hierarchically superior authority

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*of the European Union as well as
from scholars focusing on
constitutions of particular states.*

*The book collects contributions
taking opposing perspectives on
constitutional pluralism - some
defending and promoting the*

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concept of constitutional pluralism, some criticising and

opposing it. While some authors

can be called 'the founding fathers

of constitutional pluralism', others

are young academics who have

recently entered the field.

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Together they offer fresh perspectives on both theoretical and practical aspects of constitutional pluralism, enriching our existing understanding of the concept in current scholarship. The Intelligent Mind conceives the

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psychological reality of thought and language, explaining how intelligence develops from intuition to representation and then to linguistic interaction and thinking. Overcoming the prevailing dogmas regarding how

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discursive reason emerges, this book secures the psychological possibility of the philosophy of mind.

Law and the Limits of Reason asks "what are the consequences of recognizing the limits of reason

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within the legal system?" In particular, what are the consequences for the allocation of lawmaking authority among judges, legislators, and administrative agencies or executive officials? Vermeule

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*examines the conditions under
which the limits of reason support*

a greater or lesser allocation of

authority to one institution or

another.

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The Judge in a Democracy*

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*How Many Minds Produce
Knowledge*

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The Lives of the Constitution

Many thoughts of many minds.

Compiled by H. Southgate

The future of the U.S.

Supreme Court hangs in the

balance like never before.

Will conservatives or

liberals succeed in remaking

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the court in their own
image? In *A Constitution of
Many Minds*, acclaimed law
scholar Cass Sunstein
proposes a bold new way of
interpreting the
Constitution, one that
respects the Constitution's

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*text and history but also
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refuses to view the document
as frozen in time. Exploring
hot-button issues ranging
from presidential power to
same-sex relations to gun
rights, Sunstein shows how
the meaning of the

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Constitution is reestablished in every generation as new social commitments and ideas compel us to reassess our fundamental beliefs. He focuses on three approaches to the

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Constitution--traditionalism, which grounds the document's meaning in long-standing social practices, not necessarily in the views of the founding generation; populism, which insists that judges should respect

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*contemporary public opinion;
and cosmopolitanism, which
looks at how foreign courts
address constitutional
questions, and which
suggests that the meaning of
the Constitution turns on
what other nations do.*

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Sunstein demonstrates that
in all three contexts a
"many minds" argument is at
work—put simply, better
decisions result when many
points of view are
considered. He makes sense
of the intense debates

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surrounding these approaches, revealing their strengths and weaknesses, and sketches the contexts in which each provides a legitimate basis for interpreting the Constitution today. This

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*book illuminates the
underpinnings of
constitutionalism itself,
and shows that ours is
indeed a Constitution, not
of any particular
generation, but of many
minds.*

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Whether examining election outcomes, the legal status of terrorism suspects, or if (or how) people can be sentenced to death, a judge in a modern democracy assumes a role that raises some of the most contentious

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political issues of our day.

But do judges even have a

role beyond deciding the

disputes before them under

law? What are the criteria

for judging the justices who

write opinions for the

United States Supreme Court

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or constitutional courts in
other democracies? These are
the questions that one of
the world's foremost judges
and legal theorists, Aharon
Barak, poses in this book.

In fluent prose, Barak sets
forth a powerful vision of

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the role of the judge. He argues that this role comprises two central elements beyond dispute resolution: bridging the gap between the law and society, and protecting the constitution and democracy.

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*The former involves
balancing the need to adapt
the law to social change
against the need for
stability; the latter,
judges' ultimate
accountability, not to
public opinion or to*

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*politicians, but to the
"internal morality" of
democracy. Barak's vigorous
support of "purposive
interpretation"*

*(interpreting legal
texts--for example, statutes
and constitutions--in light*

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of their purpose) contrasts sharply with the influential

"originalism" advocated by

U.S. Supreme Court Justice

Antonin Scalia. As he

explores these questions,

Barak also traces how

supreme courts in major

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democracies have evolved
since World War II, and he
guides us through many of
his own decisions to show
how he has tried to put
these principles into
action, even under the
burden of judging on

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terrorism.
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challenges the notion that
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the 18th-century principles
underlying the American
separation of powers system
are incompatible with the
demands of 20th-century

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governance by questioning the dominant scholarship on the legislative veto. Korn's analysis shows that commentators have exaggerated the legislative veto's significance as a result of their incorrect

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*assumption that the
separation of powers was
designed solely to check
governmental authority.*

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*THE WORDS WE LIVE BY takes
an entertaining and*

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*informative look at
America's most important
historical document, now
with discussions on new
rulings on hot button issues
such as immigration, gay
marriage, gun control, and
affirmative action. In THE*

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offer cut-and-dried answers

to questions regarding

personal rights, but the

interpretations of this

hallowed document are nearly

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*infinite. For example, in
the debate over gun control,
does "the right of the
people to bear arms" as
stated in the Second
Amendment pertain to
individual citizens or
regulated militias? What do*

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scholars say? Should the Internet be regulated and censored, or does this impinge on the freedom of speech as defined in the First Amendment? These and other issues vary depending on the interpretation of the

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*Constitution. Through
entertaining and informative
annotations, THE WORDS WE
LIVE BY offers a new way of
looking at the Constitution.
Its pages reflect a
critical, respectful and
appreciative look at one of*

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history's greatest
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engaging historical
perspective along with
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fascinating facts and
illustrations to prove that

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your Constitution is a
living--and
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time, THE WORDS WE LIVE BY
continues to take an
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important historical document, now with discussions on new rulings on hot button issues such as immigration, gay marriage, and affirmative action.

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Religion and the
Constitution

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Normative Institutional
Doesnt Mean What It Meant
Design for EU Law

*In this book, Adrian Vermeule shows
that any approach to legal
interpretation rests on institutional
and empirical premises about the
capacities of judges and the systemic*

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effects of their rulings. He argues that legal interpretation is above all an exercise in decisionmaking under severe empirical uncertainty.

This text shows us how to approach the Internet as responsible people.

Democracy, it maintains, depends on

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shared experiences and requires

people to be exposed to topics and

ideas that they would not have chosen

in advance.

Who makes constitutional law? Is

constitutional doctrine the monopoly

of the courts? In accessible and

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persuasive prose Louis Fisher explains

that constitutional law is not solely or

even primarily the Supreme Court's

"final word" but rather a richly

political convergence of separate

interpretations. With a broad range

of examples, he argues that

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constitutional principles emerge from

a dialogue among all three branches

of government--executive, legislative,

and judicial. Important contributions

also come from the states and the

general public. Fisher identifies

executive and legislative initiatives in

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many areas of constitutional significance. Where there is litigation, the Court generally upholds these initiatives or may avoid making a constitutional decision by using "threshold devices." On those rare occasions when the Supreme Court

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*exercises judicial review and strikes
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down a presidential or congressional
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action, it is usually only a matter of*

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time before the proposal is revived
and the dialogue begins again.*

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Sixty years after Jessup's

Doesn't Mean What It Meant

Transnational Law Lectures, this

collection traces the field's

development and significance to the

present day.

A Matter of Interpretation

American Constitutionalism and the

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Constitutional Faith

This is among the most
significant ways in

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which they effect social change, yet we are just beginning to understand the power and impact of default rules. Many central questions remain unanswered: When should

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governments set such
defaults, and when
should they insist on
active choices? How
should such defaults be
made? What makes some
defaults successful

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while others fail? Cass
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developing public policy
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better decisions. In
this major new book,
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he presents his most
complete argument yet
for how we should
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choice, and when and how
we should enable people
to choose not to choose.

The onset of big data
gives corporations and
governments the power to
make ever more

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sophisticated decisions
on our behalf,
defaulting us to buy the
goods we predictably
want, or vote for the
parties and policies we
predictably support.

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For many Americans, the
word "constitution"
means just one thing:

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the national
Constitution. According
to a recent survey,
almost half do not know
that individual states
also have constitutions.
Scholars have also paid

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little attention to state constitutions, favoring the apparently more dynamic and significant federal scene. G. Alan Tarr seeks to change that in

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this landmark book. A leading authority on state legal issues, he combines history, law, and political science to present a thorough and long-needed account of

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the distinct and
important role of state
constitutions in
American life. Tarr
shows that state
constitutional politics
are dominated by three

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crucial issues with
little salience at the
national level: the
distribution of power
among groups and regions
within states, the scope
of state and local

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governmental authority,
and the relation of the
state to economic
activity. He explains
how state constitutions
differ from the national
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not only matters of high principle but also such mundane subjects as ski trails and motor vehicle revenues. He also explores why state constitutions, unlike

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their federal
counterpart, have been
so frequently amended
and replaced. Tarr

concludes that the
United States not only
has a system of dual

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constitutionalism but
also has dual
constitutional cultures.
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the book fills an
important gap in

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political and legal
studies and finally
gives state
constitutions the
scholarly attention they
richly deserve.

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