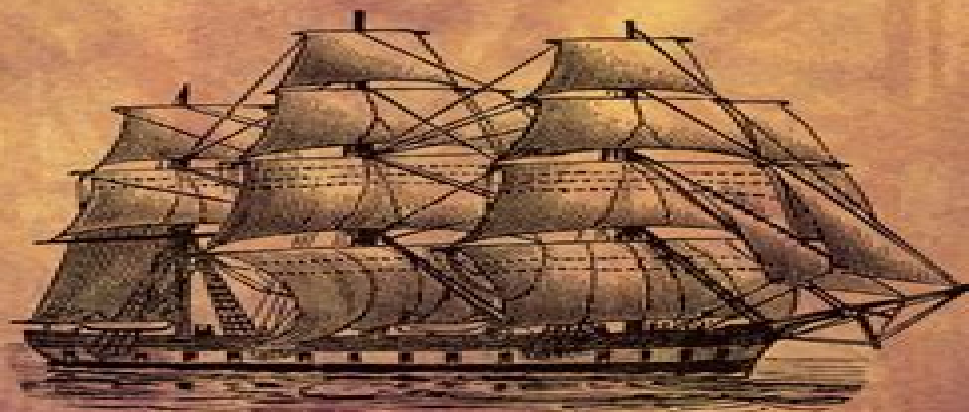


# The Transatlantic Constitution

Colonial Legal Culture  
and the Empire



MARY SARAH BILDER

# The Transatlantic Constitution The Transatlantic Constitution

**David J. Bodenhamer**



## **The Transatlantic Constitution The Transatlantic Constitution:**

The Transatlantic Constitution Mary Sarah Bilder, 2008-03-31 One of the more significant recent pieces of scholarship in this area essential reading for all students of early America Journal of American History Departing from traditional approaches to colonial legal history Mary Sarah Bilder argues that American law and legal culture developed within the framework of an evolving unwritten transatlantic constitution that lawyers legislators and litigants on both sides of the Atlantic understood The central tenet of this constitution that colonial laws and customs could not be repugnant to the laws of England but could diverge for local circumstances shaped the legal development of the colonial world Focusing on practices rather than doctrines Bilder describes how the pragmatic and flexible conversation about this constitution shaped colonial law the development of the legal profession the place of English law in the colonies the existence of equity courts and legislative equitable relief property rights for women and inheritance laws commercial law and currency reform and laws governing religious establishment Using as a case study the corporate colony of Rhode Island which had the largest number of appeals of any mainland colony to the English Privy Council she reconstructs a largely unknown world of pre Constitutional legal culture The book is rich in social history as well with the evolving status of women and institutional religion providing much of the legal grist Choice **The New York State Constitution, Second Edition** Peter J.

Galie, Christopher Bopst, 2012-06-01 This fully updated new edition of The New York State Constitution provides an outstanding constitutional and historical account of the state s governing charter In addition to an overview of New York s constitutional history it provides an in depth section by section analysis of the entire constitution detailing the many significant changes that have been made since its initial drafting This treatment along with a table of cases index and bibliography provides an unsurpassed reference guide for students scholars and practitioners of New York s constitution The New York State Constitution provides ready access to material that will help scholars judges lawyers students and the general public to understand the historical background to the New York Constitution the intent of the framers and the evolution and current meaning of its provisions The Oxford Commentaries on the State Constitutions of the United States is an important series that reflects a renewed international interest in constitutional history and provides expert insight into each of the 50 state constitutions Each volume in this innovative series contains a historical overview of the state s constitutional development a section by section analysis of its current constitution and a comprehensive guide to further research Under the expert editorship of Professor G Alan Tarr Director of the Center on State Constitutional Studies at Rutgers University this series provides essential reference tools for understanding state constitutional law Books in the series can be purchased individually or as part of a complete set giving readers unmatched access to these important political documents The Revolutionary Constitution David J. Bodenhamer, 2012-08-15 The framers of the Constitution chose their words carefully when they wrote of a more perfect union not absolutely perfect but with room for improvement

Indeed we no longer operate under the same Constitution as that ratified in 1788 or even the one completed by the Bill of Rights in 1791 because we are no longer the same nation In *The Revolutionary Constitution* David J Bodenhamer provides a comprehensive new look at America's basic law integrating the latest legal scholarship with historical context to highlight how it has evolved over time The Constitution he notes was the product of the first modern revolution and revolutions are by definition moments when the past shifts toward an unfamiliar future one radically different from what was foreseen only a brief time earlier In seeking to balance power and liberty the framers established a structure that would allow future generations to continually readjust the scale Bodenhamer explores this dynamic through seven major constitutional themes federalism balance of powers property representation equality rights and security With each he takes a historical approach following their changes over time For example the framers wrote multiple protections for property rights into the Constitution in response to actions by state governments after the Revolution But twentieth century courts and Congress redefined property rights through measures such as zoning and the designation of historical landmarks diminishing their commercial value in response to the needs of a modern economy The framers anticipated just such a future reworking of their own compromises between liberty and power With up to the minute legal expertise and a broad grasp of the social and political context this book is a tour de force of Constitutional history and analysis *Sovereignty and Possession in the English New World* Ken MacMillan, 2006-11-23 How did English notions of sovereignty empire and law impact their methods of settlement in the Americas **The Cosmopolitan State** H Patrick Glenn, 2013-05-23 For more than two centuries the idea of the nation state has been widespread The expression is now widely used and is even to be unavoidable The nation state implies that the population of a state should be homogenous in terms of language religion and ethnicity the nation and the state should coincide However history demonstrates that there never has been and there never will be a nation state Human diversity is manifest in states of all sizes locations and origins This wide ranging book argues that there should be no regret in the recognition of this empirical reality since the notion of a nation state has been the justification for some of the worst atrocities in human history Since the nation state is impossible all states are cosmopolitan in character They are cosmopolitan regardless of the language of their constitutions or official teaching and regardless of the extent to which they officially recognize their own diversity The most successful states are those which are most successful in their own forms of cosmopolitanism Cosmopolitan ways are infinitely varied however and must be sought in the intricate workings of individual states The cosmopolitan character of states is necessarily reflected in their law The main instruments of legal cosmopolitanism have been those of common laws constitutionalism and what is best described as institutional cosmopolitanism The relative importance of these legal instruments has changed over time but all three have been constantly operative even in times of attempted national and territorial closure All three remain present in the contemporary cosmopolitan state understood in terms of cosmopolitan citizens cosmopolitan sources and cosmopolitan thought The

cosmopolitan state is moreover the only appropriate conceptualization of the state in a time of globalization This book outlines the subtlety of the law of cosmopolitan states law which has survived through periods of nationalism and which provides the working methods for the reconciliation of diverse populations Combining law history political science political philosophy international relations and the new logics it demonstrates that the idea of the nation state has failed and should yield to an understanding of the state as necessarily cosmopolitan in character This will be invaluable reading to all those interested in constitutional law international law and political theory

### **The American Constitutional Tradition H.**

Lowell Brown, 2017-05-24 The book is a work of non fiction The book is a historical analysis of the evolution of a uniquely American constitutionalism that began with the original English royal charters for the exploration and exploitation of North America When the U S Constitution was written in 1787 the accepted conception of a constitution was that of the British constitution upon which the colonists had relied in asserting their rights with respect to the imperium comprised of ancient documents parliamentary enactments administrative regulations judicial pronouncements and established custom Of equal significance the laws comprising the constitution did not differ from other statutes and as a consequence there was no law endowed with greater sanctity than other legislative enactments In framing the revolutionary state constitutions following the retreat of the crown governments in the colonies as well as the later federal Constitution the Revolutionaries fundamentally reconceived a constitution as being the single authoritative source of fundamental law that was superior to all other statutes regulations and judicial decisions that was ratified by the states and that was subject to revision only through a formal amendment process This new constitutional conception has been hailed as the great innovation of the revolutionary period and deservedly so This American constitutionalism had its origins in the now largely overlooked royal charters for the exploration of North America beginning with the charter granted to Sir Humphrey Gilbert by Elizabeth I in 1578 The book follows the development of this constitutional tradition from the early charters of the Virginia Companies and the covenants entered of the New England colonies through the proprietary charters of the Middle Atlantic colonies On the basis of those foundational documents the colonists fashioned governments that came to be comprised not only of an executive but an elected legislature and a judiciary In those foundational documents and in the acts of the colonial legislatures the settlers sought to harmonize their aspirations for just institutions and individual rights with the exigencies and imperatives of an alien and often hostile environment When the colonies faced the withdrawal of the crown governments in 1775 they drew on their experience which they formalized in written constitutions This uniquely American constitutional tradition of the charters covenants and state constitutions was the foundation of the federal Constitution and of the process by which the Constitution was written and ratified a decade later

*The French Assembly of 1848 and American Constitutional Doctrines* Eugene Newton Curtis, 1917

### **Documents of the Canadian Constitution**

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*Hybrid Constitutions* Vicki Hsueh,2010-01-27 Demonstrates that in the early English colonies in North America constitutional thought and practice were more diverse than historians and political theorists have thought      *The Constitutional Year Book* ,1892      *The Development of Hungarian Constitutional Liberty* Gyula Andrassy (gróf),1908

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