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# THE CONTRACT CLAUSE

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**A CONSTITUTIONAL HISTORY**

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*James W. Ely, Jr.*

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# Contract Clause In American History

**James W. Ely, Jr.**



## **Contract Clause In American History:**

**Harvard Guide to American History** Frank Freidel, Frank Burt Freidel, Richard K. Showman, 1974 Editions for 1954 and 1967 by O Handlin and others      *The Contract Clause* James W. Ely, Jr., 2016-10-28 Few provisions of the American Constitution have had such a tumultuous history as the contract clause Prompted by efforts in a number of states to interfere with debtor creditor relationships after the Revolution the clause Article I Section 10 reads that no state shall pass any Law impairing the Obligation of Contracts Honoring contractual commitments in the framers view would serve the public interest to encourage commerce and economic growth How the contract clause has fared as chronicled in this book by James W Ely Jr tells us a great deal about the shifting concerns and assumptions of Americans Its history provides a window on matters central to American constitutional history including the protection of economic rights the growth of judicial review and the role of federalism Under the leadership of Chief Justice John Marshall the Supreme Court construed the provision expansively and it rapidly became the primary vehicle for federal judicial review of state legislation before the adoption of the Fourteenth Amendment Indeed the contract clause was one of the most litigated provisions of the Constitution throughout the nineteenth century and its history reflects the impact of wars economic distress and political currents on reading the Constitution Ely shows how over time the courts carved out several malleable exceptions to the constitutional protection of contracts most notably the notion of an inalienable police power thus weakening the contract clause and enhancing state regulatory authority His study documents the near fatal blow dealt to the provision by New Deal constitutionalism when the perceived need for governmental intervention in the economy superseded the economic rights of individuals Though the 1970s saw a modest revival of interest in the contract clause the criteria for invoking it remain uncertain And yet as state and local governments try to trim the benefits of public sector employees the provision has once again figured prominently in litigation In this book James Ely gives us a timely analytical lens for understanding these contemporary challenges as well as the critical historical significance of the contract clause      *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

**The Encyclopedia of Civil Liberties in America** David Schultz, John R. Vile, 2015-04-10 Driven by the growing reality of international terrorism the threats to civil liberties and individual rights in America are greater today than at any time since the McCarthy era in the 1950s At this critical time when individual freedoms are being weighed against the need for increased security this exhaustive three volume set provides the most detailed coverage of contemporary and historical issues relating to basic rights covered in the United States Constitution The Encyclopedia of Civil Liberties in America examines the history and hotly contested debates surrounding the concept and practice of civil liberties It provides detailed history of court cases events Constitutional amendments and rights personalities and themes that have had an impact on our freedoms in America The Encyclopedia appraises the state of civil liberties in America today and examines growing concerns over the limiting of personal freedoms for the common good Complete with selected relevant documents and a chronology of civil liberties developments and arranged in A Z format with multiple indexes for quick reference The Encyclopedia of Civil Liberties in America includes in depth coverage of freedom of speech religion press and assembly as outlined in the first amendment protection against unreasonable search and seizure as outlined in the fourth amendment criminal due process rights as outlined in the fifth sixth seventh and eighth amendments property rights economic liberties and other rights found within the text of the United States Constitution Supreme Court justices presidents and other personalities focusing specifically on their contributions to or effect on civil liberties concepts themes and events related to civil liberties both practical and theoretical court cases and their impact on civil liberties

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a study of the powers of law and its limits Exploring a century and a half of marriage through stories of struggle and conflict mined from case records Hartog shatters the myth of a golden age of stable marriage He describes the myriad ways the law shaped and defined marital relations and spousal identities and how individuals manipulated and reshaped the rules of the American states to fit their needs We witness a compelling cast of characters wives who attempted to leave abusive husbands women who manipulated their marital status for personal advantage accidental and intentional bigamists men who killed their wives lovers couples who insisted on divorce in a legal culture that denied them that right As we watch and listen to these men and women enmeshed in law and escaping from marriages we catch reflected images both of ourselves and our parents of our desires and our anxieties about marriage Hartog shows how our own conflicts and confusions about marital roles and identities are rooted in the history of marriage and the legal struggles that defined and transformed it

*Defending Freedom of Contract: Constitutional Solutions to Resolve the Political Divide* Patrick Bohan, 2019-06-13 The progressive movement that began in the late nineteenth century was a nonviolent coup d tat changing the United States of America from a republic that promoted equal rights for all to a democracy where the majority rules As a result moral and social justice was and is used by the federal government to protect the rights of some while mitigating the rights of others Patrick Bohan who has studied constitutional law in depth examines the revolution in detail in this treatise demonstrating how freedom of contract can be applied to protect the fundamental rights of each citizen equally The author evaluates hundreds of laws cases and examples of justice gone wrong for issues such as slavery abortion rights elections welfare rights free speech freedom of religion civil rights property rights contract rights gay rights alien rights and other important topics that polarize Americans

**Constitution and Public Policy in U. S. History** Julian E. Zelizer, Bruce J.

Schulman, 2010-11-01 **Property Rights in the Age of Enterprise**, 1997 The Chief Justiceship of Melville W. Fuller, 1888-1910 James W. Ely, 2012-11-01 A study of the man who led the Supreme Court as the nineteenth century ended and the twentieth began exploring issues of property government authority and more In this comprehensive interpretation of the Supreme Court during the pivotal tenure of Melville W Fuller James W Ely Jr provides a judicial biography of the man who led the Court from 1888 until 1910 as well as a comprehensive and thoughtful analysis of the jurisprudence dispensed under his leadership Highlighting Fuller s skills as a judicial administrator Ely argues that a commitment to economic liberty the security of private property limited government and states rights guided Fuller and his colleagues in their treatment of constitutional issues Ely directly challenges the conventional idea that the Fuller Court adopted laissez faire principles in order to serve the needs of business Rather Ely presents the Supreme Court s efforts to safeguard economic rights not as a single minded devotion to corporate interests but as a fulfillment of the property conscious values that shaped the constitution making process in 1787 The resulting study illuminates a range of related legal issues including the Supreme Court s handling of race relations criminal justice governmental authority and private law disputes **Northwestern**

**Journal of Technology & Intellectual Property, Vol. 9, No. 7** J. Benjamin Bai Et Al.,2011      **A Companion to the American Revolution** Jack P. Greene,J. R. Pole,2008-04-15 A Companion to the American Revolution is a single guide to the themes events and concepts of this major turning point in early American history Containing coverage before during and after the war as well as the effect of the revolution on a global scale this major reference to the period is ideal for any student scholar or general reader seeking a complete reference to the field Contains 90 articles in all including guides to further reading and a detailed chronological table Explains all aspects of the revolution before during and after the war Discusses the status and experiences of women Native Americans and African Americans and aspects of social and daily life during this period Describes the effects of the revolution abroad Provides complete coverage of military history including the home front Concludes with a section on concepts to put the morality of early America in today s context      **The Political Development of American Debt Relief** Emily Zackin,Chloe N. Thurston,2024-06-21 A political history of the rise and fall of American debt relief Americans have a long history with debt They also have a long history of mobilizing for debt relief Throughout the nineteenth century indebted citizens demanded government protection from their financial burdens challenging readings of the Constitution that exalted property rights at the expense of the vulnerable Their appeals shaped the country s periodic experiments with state debt relief and federal bankruptcy law constituting a pre industrial safety net Yet the twentieth century saw the erosion of debtor politics and the eventual retrenchment of bankruptcy protections The Political Development of American Debt Relief traces how geographic sectoral and racial politics shaped debtor activism over time enhancing our understanding of state building constitutionalism and social policy      **Since 1898** Henry Steele Commager,1963      **History of the United States of America, from the Discovery of the Continent [to 1789].** George Bancroft,1884      *Understanding Business Contracts in China, 1949-1963* Richard M. Pfeffer,2020-03-17 A comparative study of business contracts and institutional developments during the early years of the People s Republic of China Includes a case study of contracts in Chinese agriculture      The Bill of Rights in Modern America David J. Bodenhamer,James W. Ely (Jr.),2008 An expert guide to current debates on individual rights in America      Property, Power, and American Democracy David Andrew Schultz,1992-01-01 One legacy of the Reagan and post Reagan years has been a questioning by both liberals and conservatives of recent eminent domain and property rights decisions by the Supreme Court This timely volume examines the changing political and constitutional status of these concepts Schultz argues that we need to rethink the nature of property rights by asking what purpose they serve in American society and whether they deserve special legal and judicial protection against legislative interference Property Power and American Democracy is founded on a searching reexamination of the role of property in early and contemporary American legal and political thought From this perspective Schultz shows that the meaning of property is currently in flux as a result of a failure to sustain those values that property was originally supposed to protect in our society individual liberty limited government and minority rights In keeping with the moral and

political values associated with property in the writings of John Locke James Harrington and other classical theorists the author contends that property should not be viewed merely as a thing we possess or an entity we may dispose of at will Instead it is to be seen as an important social relationship to which the law gives special protection thereby furthering a sense of autonomy self identity and community This volume demonstrates that once we view property in this light we can then ask which relations or values are so important in our society that they deserve to be called property Drawing upon both liberal and conservative points of view Property Power and American Democracy is a powerful argument for the reinvigoration of property rights It will be of special interest to political scientists urban planners and specialists in American constitutional history and political thought     *Liberty of Contract* David N. Mayer, 2011-01-16 Examines the history of the liberty of contract and shows how this right has been continuously diminished by court decisions and by our country's growing regulatory and welfare state

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