



Interpreting State Constitutions: A Jurisprudence of Function in a Federal System

James A. Gardner

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Interpreting State Constitutions examines and proposes a solution to a problem central to contemporary debates over the enforcement of civil liberties: how courts, government officials, and lawyers should go about interpreting the constitutions of the American states.

With the Supreme Court's retreat from the aggressive protection of individual rights, state courts have begun to interpret state constitutions to provide broader protection of liberties. This development has reversed the polarity of constitutional politics, as liberals advocate unimpeded state power while conservatives lobby for state subordination to a constitutional law controlled centrally by the Supreme Court.

James A. Gardner here lays out the first fully developed theory of subnational constitutional interpretation. He argues that states are integral components of a national system of overlapping and mutually checking authority and that the purpose of this system is to protect liberty and defend against federal domination. The resulting account provides valuable prescriptive advice to state courts, showing them how to fulfill their responsibilities to the federal system in a way that strengthens American constitutional discourse.

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