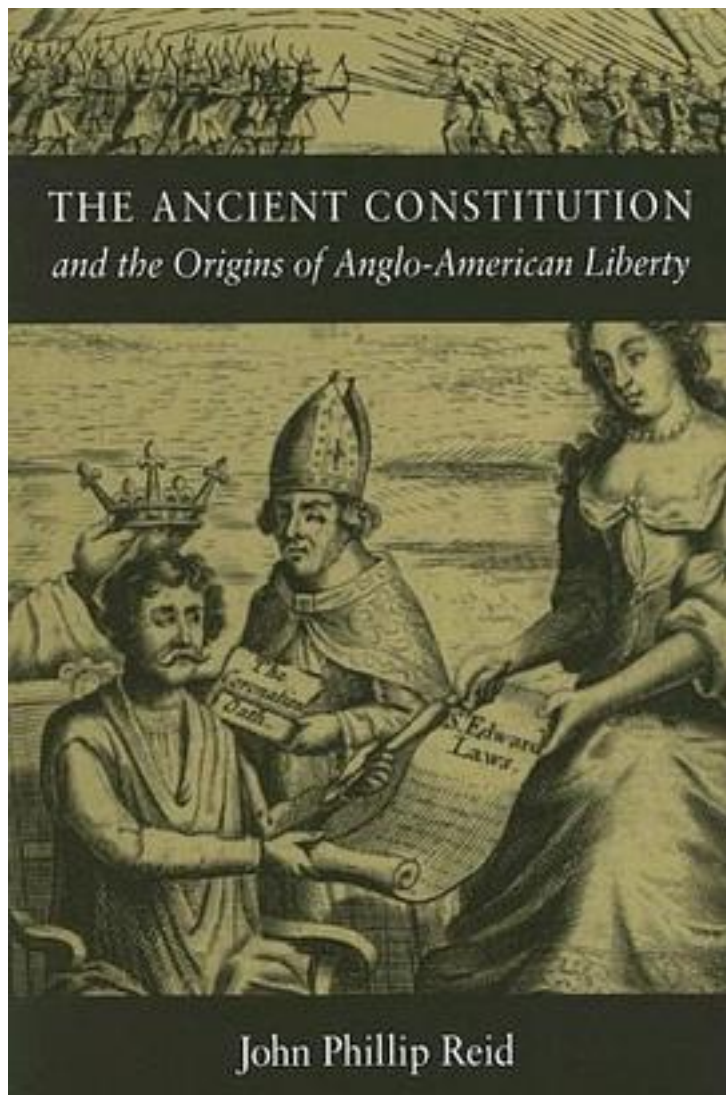


The Ancient Constitution And The Origins Of Anglo-American Liberty



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In the seventeenth and eighteenth centuries, English and American lawyers appealed to the ancient constitution as the cornerstone of liberty. According to this idea, constitutional law was not dictated by a monarch but based on the authority of custom, passed down unaltered from time immemorial. Legal historian, John Phillip Reid convincingly demonstrates that this concept of an unchanging, ancient constitution, furnished English common lawyers and parliamentarians an argument with which to combat royal prerogative power. At the same time, it provided American revolutionaries with legal arguments for rejecting the British parliament's effort to impose arbitrary rule upon the colonies. Whereas modern historians have tended to fault the constitutionalists of the seventeenth and eighteenth centuries for inventing a mystical past, these polemical pamphleteers had less interest in the accuracy of their history than in its usefulness in forensic argumentation. Much as lawyers contending before the bar, they appealed to the past as precedent, as analogy, as principle - in short, as forensic history. Claiming that liberty had been more effective and secure during ancient times, they upheld an idealized Anglo-Saxon standard for testing contemporary institutions. More significantly, they called upon the authority of the ancient constitution as a defense against the innovations of the English monarchy and against the assertions of an unrepresentative parliament. "The Ancient Constitution and the Origins of Anglo-American Liberty" complements Reid's recent book on another cornerstone of Anglo-American jurisprudence and constitutional theory, Rule of Law. Whereas "rule of law" insists that one law applies to rulers and ruled alike, the ancient constitution posed the ideal for what that one law should be.

作者介绍:

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