



WILLIAM S. BOYD SCHOOL OF LAW
Faculty Publications
(As of February 23, 2008)

Thomas B. McAfee

BOOKS

THE MOST DANGEROUS BRANCH: WHY THE CONSTITUTION GAVE THE WAR POWER TO CONGRESS AND NOT TO ROGUE PRESIDENTS (with Christopher L. Blakesley & Edwin B. Firmage) (U. of Ill. Press forthcoming 2008).

POWERS RESERVED FOR THE PEOPLE AND THE STATES: A HISTORY OF THE NINTH AND TENTH AMENDMENTS (with Jay S. Bybee & A. Christopher Bryant).

INHERENT RIGHTS, THE WRITTEN CONSTITUTION, AND POPULAR SOVEREIGNTY: THE FOUNDERS' UNDERSTANDING (2000).

BOOK CHAPTER

The Legal Protection of Constitutional Rights, in THE LEGAL SYSTEM AND AMERICAN CONSTITUTIONAL DEMOCRACY, 132 (M. Frankowska and A. Melone, eds. 1993).

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The "Foundations" of Anti-Foundationalism -- Or, Taking the Ninth Amendment Lightly: A Comment on Farber's Book on the Ninth Amendment, 8 Nev. L.J. ____ (forthcoming 2008) [SSRN](#)

The Automobile Exception in Nevada: A Critique of the Harnisch Cases (with John P. Lukens & Thaddeus J. Yurek III), ____ NEV. L.J. ____ (forthcoming 2008). [SSRN](#) [Lexis](#) [Westlaw](#)

Overcoming Lochner in the Twenty-First Century: Taking Both Rights and Popular Sovereignty Seriously as We Seek to Secure Equal Citizenship and Promote the Public Good, 42 U. RICH. L. REV. 101 (forthcoming 2008). [SSRN](#) [Lexis](#) [Westlaw](#) [Hein](#)

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The Augustan Constitution and Our Natural Rights Tradition: Is There a Conflict? 4 S. CAL. INTERDISC. L.J. 653 (1996).

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Federalism and the Protection of Rights: The Modern Ninth Amendment's Spreading Confusion, 1996 BYU L. REV. 351.

Originalism and Indeterminacy, 19 HARV. J.L. & PUB. POL'Y 429 (1996).

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Prolegomena to a Meaningful Debate of the "Unwritten Constitution" Thesis, 61 U. CIN. L. REV. 1201 (1992).

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