



# God and Man in the Law: The Foundations of Anglo-American Constitutionalism

By Robert Lowry Clinton

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Is man truly the measure of all things? If so, then perhaps that very premise accounts for our nation's constitutional ills.

In a wide-ranging study based on legal history, political theory, and philosophical concepts going all the way back to Plato, Robert Clinton seeks to challenge current faith in an activist judiciary. Claiming that a human-centered Constitution leads to government by reductive moral theory and illegitimate judicial review, he advocates a return to traditional jurisprudence and a God-centered Constitution grounded in English common law and its precedents.

Building upon his widely-discussed work *Marbury v. Madison and Judicial Review*, in which he urged the need for greater judicial accountability, Clinton reviews the transformation of legal traditions through the "Marbury Myth" and advocates a jurisprudence that would constrain capricious judicial interpretation by re-establishing traditional methods of legal analysis and rules of precedent. He seeks to ground constitutional theory in common law reasoning, and to ground common law reasoning in a naturalistic jurisprudence—conceived along Thomistic lines—that presupposes a transcendent source of legal order in the world.

Clinton argues that his proposed reorientation is superior to today's most influential approaches to constitutional interpretation, particularly academic moralism and subjective intentionalism. His account of the doctrine of original intention particularly helps to clarify an issue that has until now received much political attention but little scholarly analysis that is not already associated with these prevailing approaches.

*God and Man in the Law* joins a literature that stands at the intersection of political science and the study of law and will enlighten scholars who study constitutional matters in both fields. By focusing on the relation between judicial review and constitutional interpretation, it challenges judges to reclaim the traditions of the past for the sake of democracy's future.

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**Bibliography**

- Sales Rank: #3564771 in Books
- Brand: Brand: University Press of Kansas
- Published on: 1997-09-19
- Original language: English
- Number of items: 1
- Dimensions: 9.02" h x .81" w x 5.98" l, 1.46 pounds
- Binding: Hardcover

- 304 pages

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#### Review

"An extraordinarily imaginative, wide-ranging, and even daring effort to provide foundations for a more traditional conception of constitutional interpretation and judicial review."—**Christopher Wolfe**, author of *The Rise of Modern Judicial Review* "Clinton's remarkable pathbreaking study cogently argues the centrality of the experience of divine reality to the American constitutional system. It will be required reading for all lawyers, jurists, philosophers, historians, theologians, and political scientists who wish to grasp the character, disabilities, and conditions for the health of our republic's constitutional order. Insightful, deeply meditated, and lucidly written, this book is an uncommon treat."—**Ellis Sandoz**, author of *A Government of Laws* "A far-reaching philosophical defense of traditional jurisprudence that provides a much-needed antidote to those who have faith in an activist judiciary leading democracy to new planes of moral and legal decision making."—**Lane V. Sunderland**, author of *Popular Government and the Supreme Court* "This book could not be more timely. Clinton deftly unpacks every foundational controversy in constitutional law and interpretation, instructs us in history, and so speaks lucidly to the current debate over the nature and legitimacy of judicial power. His thesis is provocative-and, in the essentials, right."—**Graham Walker**, author of *Moral Foundations of Constitutional Thought*

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#### About the Author

Robert Lowry Clinton is associate professor and director of graduate studies in the department of political science at Southern Illinois University and author of *Marbury v. Madison and Judicial Review*.

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