

**LEGAL AND POLITICAL HERMENEUTICS,
OR, PRINCIPLES OF INTERPRETATION
AND CONSTRUCTION IN LAW AND
POLITICS, WITH REMARKS ON
PRECEDENTS AND AUTHORITIES**

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Legal and political hermeneutics, or, Principles of interpretation and construction in law and politics, with remarks on precedents and authorities by Francis Lieber

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FRANCIS LIEBER

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WITH REMARKS

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ENLARGED EDITION.

BY FRANCIS LIEBER.

BOSTON:

CHARLES C. LITTLE AND JAMES BROWN.

MDCCCXXXIX.

1839.

1839

TO THE HONORABLE

JAMES KENT, LL. D.,

RESPECTFULLY INSCRIBED,

BY THE AUTHOR.

S. N. BOSTON, PRINTER.

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FRANCIS A. BAKER,
in the Clerk's Office of the District Court of the District of Massachusetts.

Ms. A. 9. 2. 30. 114

Dear Sir,

Your name placed at the head of so small a work, may appear, to many readers, not unlike a noble front of granite, which hides but a common brick building, and deceives the unobserving passer-by. But the very fact that I was bold enough to grace so insignificant a book with your name, must plead for me; for it will show, at least, how anxious I was to express my deep respect for your labors, and my sincere thanks for your indulgence towards mine. May the additions I have made to the *Hermeneutics* not induce you to change the opinion which you were kindly disposed to take of the first edition.

I am,

Dear Sir,

Your respectful servant,

FRANCIS LIEBER.

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P R E F A C E .

One of the first articles, which I read after my landing at New York, now nearly twelve years ago, was in a paper opposed to the administration of Mr. Adams. The construction of the constitution formed one of the points on which the writer founded his objections to the president and his party. The subject, as a distinction of political men and measures, was new to me, as political construction in this aspect, is peculiarly American; for, here, the idea of written constitutions, of which it is a consequence, was first realized permanently and on a large scale, although they have existed at earlier dates. My attention was naturally attracted by this subject, and the more attention I paid to the whole political system, in which I have lived ever since, the more important it appeared to me, not, indeed, as a matter of curiosity, but one which involves the gravest interests of right. When, however, the idea of trying to reduce upon ethical principles that which yet appears so unsettled in

practical municipal politics, and to find some firm and solid foundations of right and morality, in the rolling tides of party actions, was gradually matured in my mind; when I finally concluded to undertake a work on Political Ethics, I was naturally led to reflect more thoroughly on Construction, and to arrange my thoughts in systematic order. For it seems evident that mathematics alone can wholly dispense with interpretation and construction of some sort, while, on the other hand, without good faith they become desperate weapons in the hands of the disingenuous. They form, therefore, a subject which clearly appertains to legal and political morals. But when I came to write down my observations in their proper connexion, I found that they extended much beyond the limits which could be fairly allowed to a single chapter, nor did the crowd of subjects admit of more than one being occupied by this specific one. They were published in the *American Jurist*,* after which I thought I might, perhaps, succeed in pruning them to a more proportionate size for the then projected and now half published work. I was told, however, that the article had found favor with the readers of the *Jurist*, and that a reduction would materially injure it, while I was called upon by several professional gentlemen of eminence, to publish the article separately. I followed their advice, the more readily as I was desirous of

* October number of 1837, and January number of 1838.

adding some remarks, which appear to me of sufficient importance, to enlarge the chapter on precedents, and to add a new one on authorities. I have re-written the whole, as a superficial comparison will show, and here lay the result of my labors before the reader. May it do some good. Whether I have succeeded or not, I believe it will be granted on all hands, that the subject is a very important one, and that in countries, as the United States and England, in which civil liberty teaches the citizen to look for one of its great protections in the exact administration of the laws, and a careful avoidance of constant explanation, not interpretation, of the laws by the Public Power—in countries, in which the law is allowed to make its own way, immutable principles and fixed rules for interpreting and construing them, should be generally acknowledged, or if they exist already, in a scattered state, should be gathered and clearly represented, so that they may establish themselves along with the laws, as part and branch of the common law of free countries.

JANUARY 1. 1839.

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