

# Active Liberty Interpreting Our Democratic Constitution Stephen G Breyer

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### Active Liberty Interpreting Our Democratic

#### **active liberty: Interpreting our Democratic constitution**

active liberty: Interpreting our Democratic constitution stEPHEN BrEYER The Tanner Lectures on Human Values Delivered at Harvard university november 17-19, 2004

#### **Bill of Rights, © Bettmann/Corbis**

Active Liberty: Interpreting Our Democratic Constitution Stephen G Breyer stitutions and provides for democratic elec-tions Indeed, the First Amendment plays an important role in ensuring that people hear different points of view and, through hear-ing those different points of view, are able to

#### **Active Liberty: A Progressive Alternative to Textualism ...**

Enter Justice Stephen Breyer In a slim volume entitled Active Liberty: Interpreting Our Democratic Constitution, Justice Breyer articulates an approach to constitutional interpretation based on what he calls the principle of "active liberty" He offers the approach as a counterpoint to the conservatives' textualism-originalism, which he

#### **Democratizing The Constitution - Peter Berkowitz**

Democratizing The Constitution By Peter Berkowitz Stephen Breyer Active Liberty: Interpreting Our Democratic Constitution Alfred A Knopf 161 pages \$2100 T he struggle overthe Supreme Court is a high-stakes contest, though how the sides differ and what they share frequently gets lost in

the shuffle

## **THE BROOKINGS INSTITUTION JUSTICE STEPHEN BREYER**

THE BROOKINGS INSTITUTION JUSTICE STEPHEN BREYER Active Liberty: Interpreting Our Democratic Constitution Monday, October 17, 2005

Active Liberty, Justice Breyer's book, in ...

### **GEORGE MASON UNIVERSITY SCHOOL OF LAW**

Justice Stephen Breyer's new book Active Liberty: Interpreting Our Democratic Constitution, is an important contribution to the longstanding debate over the relationship between democracy and judicial review Justice Breyer argues that judicial power should be used to facilitate citizen engagement

### **Justice Stephen Breyer: The Active Liberty Approach Applied**

government constraint, and to protect "active" liberty, meaning the ability to participate in governance<sup>4</sup> Justice Breyer argues that the main purpose of this approach, if considered along with 1 Breyer, Stephen G 2005 Active Liberty: interpreting our democratic Constitution Random House, Inc pg 5 2 Sullivan, Review By Kathleen M 2006

### **Does It Take a Theory? Originalism, Active Liberty, and ...**

Does It Take a Theory? Originalism, Active Liberty, and Minimalism James E Ryan\* BOOK REVIEW Active Liberty: Interpreting Our Democratic Constitution By Stephen Breyer New York City: Knopf, 2005 Radicals in Robes: Why Extreme Right- Wing Courts Are Wrong for ORIGINALISM, ACTIVE LIBERTY, AND MINIMALISM 1 627 issues, from a right of

### **Justice Breyer's Mandarin Liberty**

Active Liberty: Interpreting Our Democratic Constitution, Stephen Breyer Alfred A Knopf, 2005 Pp ix, 161 Justice Stephen Breyer arrived at the Supreme Court in 1994 with a broad background in academia, government service, and the federal judiciary, and as one of the nation's leading scholars of ...

### **IN THE SUPREME COURT OF THE STATE OF CALIFORNIA In re ...**

Active Liberty: Interpreting Our Democratic Constitution (2005)<sup>2</sup> Browne, Report of the Debates in the Convention of California on the Formation of the State Constitution, in September and October, 1849 (1850) 15 Brief of the Professors of the History of Marriage, Families, and the Law as Amici Curiae

### **Conversation, Representation, and Allocation: Justice ...**

October 2006] CONVERSATION, REPRESENTATION, AND ALLOCATION 1507 political actors Justice Breyer's active liberty thus seems to incorporate theories of representation reinforcement,<sup>6</sup> deliberative democracy,<sup>7</sup> and civic republicanism,<sup>8</sup> including a role-not fully developed in the book-for experts in democratic decisionmaking <sup>9</sup> Our goal is

### **american academy of arts & sciences Bulletin**

Active Liberty: Interpreting Our Democratic Constitution Stephen G Breyer Page 44 Threats to the Rule of Law: State Courts, Public Expectations, and Political Attitudes Margaret H Marshall and Ronald M George New Academy Leaders, Page 1 Remembrance of Jaroslav Pelikan by Martin E Marty, Page 5 Tax Reform by James Poterba and Michael J

### **Review Essay: Using All Available Information**

It is questionable whether a less-fortunate title than Active Liberty: Interpreting Our Democratic Constitution could have been applied to Justice

Breyer's rejoinder to Justice Scalia's 1997 volume on his interpretive philosophy<sup>1</sup> Employed as it is in the context of the judicial process, "active liberty" calls to mind the ill-defined

### **Justice Breyer Throws Down the Gauntlet (reviewing ...**

Richard A Posner, "Justice Breyer Throws Down the Gauntlet (reviewing Stephen Breyer, *Active Liberty: Interpreting Our Democratic Constitution* (2005))," ...

### **1 Introduction and overview - interpretation and the ...**

1 Introduction and overview - interpretation and the European Court of Justice Introduction 'Judicial power is a brute fact of political life in the European Union',<sup>1</sup> according to Stone Sweet, writing fifty years after the European Union (EU) as it is now<sup>2</sup> and the European Court of Justice (ECJ) came into being

### **NEW YORK UNIVERSITY LAW REVIEW**

OUR DEMOCRATIC CONSTITUTION More recently, in my view, the Court has again underemphasized the importance of the citizen's active liberty I will argue for a con-temporary reemphasis that better combines "the liberty of the ancients" with that "freedom of ...

### **Michael DeBow publications by date 2006 - Samford ...**

Michael DeBow publications by date 2006 Happiness and Public Policy: A Partial Dissent (or, Why a Department of Homeland Happiness Would Be a Bad Idea), *Journal of Law & Politics*, 22 (2006): 283-301 (with Dwight R Lee) Review of Stephen Breyer, *Active Liberty: Interpreting Our Democratic Constitution*, *The Freeman*

### **Examining Justice Breyer's Constitutional Consequential ...**

See STEPHEN BREYER, *ACTIVE LIBERTY: INTERPRETING OUR DEMOCRATIC CONSTITUTION* 7 (2005) (arguing that the theme that Judges follow in their decisions can impact their constitutional interpretations tremendously) <sup>2</sup> See BREYER, *supra* note 1, at 5 (suggesting that active liberty is essential to democ-racy) <sup>3</sup>

### **Justice Breyer's Democratic Pragmatism**

Active Liberty as the entry point, this piece places Breyer's book in the wider context of his judicial opinions and activities as a Justice -and, as such, seeks to provide a preliminary sketch of Breyer's distinctive place in American law today I VOICE Active Liberty emphasizes one theme that Breyer says runs through our

### **The Pragmatic Passion of Stephen Breyer - Yale Law School**

The Pragmatic Passion of Stephen Breyer Now in his twelfth year as a Supreme Court Justice, Stephen Breyer has written an important book, *Active Liberty*,<sup>1</sup> which crystallizes a fundamental set of beliefs about the American Constitution and his role as a Justice Taking