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THE LIVING  
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# The Living Constitution

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*A CONSIDERATION OF THE REALITIES AND  
LEGENDS OF OUR FUNDAMENTAL LAW*

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By HOWARD LEE MCBAIN ~ ~ ~  
*The Ruggles Professor of Constitutional  
Law in Columbia University* ~ ~ ~

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## BIBLIOGRAPHICAL NOTE

The literature bearing upon the topics discussed in this book is almost limitless. Only a few suggestions can here be made.

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*The Federalist*, published in many editions, is a series of papers by Alexander Hamilton, James Madison and John Jay, written while the ratification of the federal constitution was pending in 1787-88. Among comments on the constitution it is our foremost classic.

Robert Livingston Schuyler's *Constitution of the United States*, 1923, is probably the best his-

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torical survey of the formation of the constitution in brief compass.

J. Allen Smith's *The Spirit of American Government*, 1907, is a stimulating study of some underlying principles of our government; but the main thesis of the book is somewhat overdrawn.

Woodrow Wilson's *Constitutional Government of the United States*, 1908, is an excellent critique of the more important features of our national government. His *Congressional Government*, 1885, though somewhat out of date has not ceased to be well worth reading.

C. G. Tiedman's *The Unwritten Constitution of the United States*, 1890, is a suggestive little volume.

William MacDonald's *A New Constitution for a New America*, 1921, is a plea for a general revision of our constitutional system. It expresses views that are contrary to many of those herein set forth.

On the subject of judicial review Charles A. Beard's *The Supreme Court and the Constitution*, 1912, and Horace A. Davis's *The Judicial Veto*, 1913, present opposing views of the intentions of those who drafted and ratified the constitution. Gilbert P. Rowe attacks the system in *Our Judi-*

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H. L. West's *Federal Power: Its Growth and Necessity* is a vigorous defense of national centralization. Franklin Pierce's *Federal Usurpation*, 1908, denounces it.

G. B. Brown's *Leadership of Congress*, 1922, discusses the disorganized procedure of the House of Representatives. Lindsay Rogers's *The American Senate*, 1926, is a brilliant little book containing many new slants on the relation between senatorial powers and procedure and the powers of the executive.

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