

CONTENTS

Foreword by George F. Will ix

Introduction: *Triumph and Tragedy:
How the Obamacare Case Was Won . . . and Lost* I

PART I: CREATING OUR REPUBLICAN CONSTITUTION

1. "To Secure These Rights":
The Political Theory of the Declaration of Independence 31

2. Revising "Republicanism":
Solving the Problem of Too Much Democracy 52

3. "We the People" as Individuals:
Popular Sovereignty in the Constitution and Supreme Court 62

PART II: IMPROVING OUR REPUBLICAN CONSTITUTION

4. How Slavery Led to a More Republican Constitution:
The New Republican Party and Its Amendments 85

5. Losing Our Republican Constitution:
*The Rise of Progressivism, Judicial Restraint,
and the Living Constitution* 113

PART III: PRESERVING OUR REPUBLICAN CONSTITUTION

6. Why Federalism Matters:
How Structure Secures the Liberties of the People 167

7. Protecting Rights by Limiting Federal Power: <i>The Rise, Fall, and Partial Revival of Federalism</i>	185
8. A Government of Men and Not of Laws: <i>The Rise of the Executive-Administrative State</i>	203
9. "Irrational and Arbitrary" Laws: <i>The Need for Judicial Skepticism</i>	222
Conclusion: <i>Redeeming Our Republican Constitution</i>	247
<i>Acknowledgments</i>	259
<i>Notes</i>	263
<i>Index</i>	285