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WASHINGTON LAW REVIEW

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- The Role of A Bill of Rights in a Modern State Constitution
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- Why a State Bill of Rights? *Vern Countryman* 454

Historical perspective reveals that the recent activism of the federal courts in the area of political and civil rights was largely necessitated by the unwillingness of state courts to recast those rights in molds adapted to our changing society. Federal supplementation of the states' inaction in this field has now regrettably caused many state courts to assume a posture of even more begrudging conservatism in the interpretation and implementation of our political and civil rights. In this background, Professor Countryman advocates state legislative initiative to formulate new and broad general principles for protecting our fundamental rights. He identifies three major reasons for such action—the desirability of expanding federal interpretations of constitutional rights, the need to extend several constitutional protections to application against the States, and the need to delineate new rights not comprehended within the Bill of Rights appended to the United States Constitution.

- New Horizon for a State Bill of Rights *Arold A. Morris* 474

Professor Morris, examines the current scope of the Washington State Constitution, originally designed for a frontier people in a railroad economy, and deficient in a number of elements critical to the Washington society of today and 100 years hence. With particular emphasis on what new rights must be set forth in textual guarantees, the author examines the problems and implications of a menagerie of changed circumstances and contemporary social ills, including racial integration, invasions of privacy by public and private modes of surveillance, the deterioration of the life and structures of our cities, the threat of administrative abuses in the distribution of public benefits, and the overwhelming need for improvement and adaptation of our educational program. Professor Morris appends a challenging and forthright proposal for a Bill of Rights for the State of Washington, expressly designed to preserve our libertarian heritage and yet anticipate the trends of the next century.

- Standing, The 'New Property,' and the Costs of Welfare: Dilemmas in American and West German Provider-Administration
Robert Dugan 497

The overwhelming increase in governmental welfare, subsidy, and licensing programs in the United States' recent history has prompted substantial academic controversy and judicial uncertainty over the requisites for standing to challenge the decisions of our provider-administration. Looking beyond our traditional theories, Mr. Dugan examines recent decisions of the West German Federal Administrative Court with respect to mandatory and discretionary governmental benefits which are deemed to create rights in their intended beneficiaries. He argues that the most sound analytical approach to the problem as we now view it would be to apply a "violated right" standard, since

injury depends upon violation of a right and, in the public sector as in the private, rights may be defined by their allocatory content. However, recognition of such rights may be self-defeating in the end, since even that approach disregards the fundamental issue of the need for sovereign prerogative over economic controls. The author concludes that creation of rights in our economic system may in fact be inconsistent with the need to maintain that system.

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