George Mouton
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Jefferson-Madison Correspondence

1. Citation

Mason, Alpheus Thomas and Stephenson Jr, Donald Grier. "Jefferson-Madison Correspondence." American constitutional Law: Introductory Essays and Selected Cases, 16th Edition. Upper Saddle River, New Jersey: Pearson, 2012. Print.

2. The Facts

A. Material

While the constitution was being written, debated, and ratified, Thomas Jefferson was abroad as minister in frane. Jefferson exchanged letters with James Madison discussing his want for a bill of rights.

B. Legal

Jefferson thought the most important objective of constitutional limitations was to guard the people against the federal government, as they are already guarded against their state government.

3. Legal Issues

A. Specific

Jefferson felt the bill of right should be clearly stated.

B. General

Madison says experience proves the inefficacy of a bill of right on those occasions when its control is most needed. Madison feels as long as the government has power there is a danger of oppression. Says the real power lies with the majority. The invasion of private rights is chiefly to be apprehended, not from acts of government contrary to the sense of it constituents, but from the acts in which the government is the mere instrument of the major number of the constituents. Jefferson says the legal check that it puts into the hands of the judiciary Is being ignored. The inconveniences of the declaration are that it might cramp government in its useful exertions, but is short lived, moderate, and reparable

4. The Holding

An amendment providing for safe gaurds against the states was proposed but it failed of adoption

5. Legal Rationale

none