

## **The Constitution of Trepidation**

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Can a legal document have an emotional posture? The history of emotions largely examines the emotional character of individuals and communities. By their nature, legal texts are seen as rational, inexpressive embodiments of norms. This essay argues, however, that such embodiments contain affective gestures and feelings embedded within their very structure. It focuses upon the framework of sensibilities that inhabit the most famous United States legal text, the Federal Constitution, which was ratified in 1787. The Constitution famously has been described by legal historian Dirk Hartog as aspirational. To the contrary, many rights-bearing provisions of the Constitution are informed by trepidation. Out of this legacy of fear comes our own contemporary anxiety about the competing rights' claims.