

Includes Changes for Next Time Taught

DEPARTMENT OF POLITICAL SCIENCE

UNIVERSITY AT BUFFALO

PSC 561
Constitutional Law
Spring 2015

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COURSE DESCRIPTION: This course addresses major aspects of American constitutional law. Some of the semester will be devoted to examining scholarly literature on constitutional law, but much of the course will be spent reading and discussing Supreme Court decisions. This reflects the primary assumption driving the seminar: one simply cannot grasp American constitutional law without understanding the Supreme Court's leading decisions. Topics to receive attention include the powers of the courts, the president, and Congress, and American federalism. Regular class participation and one major research paper are required.

BOOKS: We will read the following books during the semester. They are available for purchase at the University Bookstore or on the Internet.

Benjamin N. Cardozo, The Nature of the Judicial Process (New Haven: Yale University Press, 1921).

Richard H. Fallon, Jr. The Dynamic Constitution: An Introduction to American Constitutional Law, 2 ed. (New York: Cambridge University Press, 2013).

Louis Fisher, Constitutional Conflicts Between Congress and the President, 6th ed. rev. (Lawrence: University Press of Kansas, 2014).

Louis Fisher, Presidential War Power, 2d ed. rev. (Lawrence: University Press of Kansas, 2004).

Robert G. McCloskey, The American Supreme Court (Chicago: University of Chicago Press, any edition).

David M. O'Brien, Constitutional Law and Politics: Struggles for Power and Governmental Accountability, Vol. 1, 8th ed. (New York: Norton, 2011).

Bob Woodward and Scott Armstrong, The Brethren: Inside the Supreme Court (New York: Simon and Schuster, 1979).

COURSE GRADES: Each student's grade will be based on:

(1) Seminar participation in weekly discussions of readings (approximately 50 percent of your final grade). Students are expected to participate in class throughout the semester. To give class participation more structure, however, each of you will sign up for three discussion groups. In discussing the readings, our goal is not to simply restate in a presentation what was said in the books. Instead, we want to hit the most important points made by the authors and then stimulate

class discussion. That can be done by formulating questions after you have read the material and presenting those questions for the class as a whole to discuss after you have raised the most important points presented in the books.

(2) A major research project (approximately 50 percent of your final grade.) We will discuss the research paper extensively in class. You must make an appointment with the instructor to discuss your research project **no later than the fourth week of classes. Also, by the fifth week of classes, a one-page description of your project is due, explaining the research question(s) that you intend to address and how you intend on addressing them.** Papers may be qualitative or quantitative in nature, or some combination of the two. Ideas for a wide range of research can be obtained by thumbing through the texts used in the course, the books cited in the reading list at the end of this syllabus, or from law reviews in the Law School Library.

In the past, research papers for PSC 561 have examined various aspects of the power of judicial review, the president's power to initiate military hostilities, the president's power of executive privilege, Congress's power to regulate interstate and foreign commerce, Congress's power to tax and spend, and the decline of state governmental power during the twentieth century. Other papers have focused on specific provisions of the Constitution, such as the presentment and speech or debate clauses, the impeachment process, and the contract and supremacy clauses.

Research papers for this course should deal with some aspect of separation of powers or federalism, not with civil rights and civil liberties. Emphasis should be placed on quality of research, not the length of papers. Final papers should be 25 to 40 pages in length, including all tables, footnotes, and references. **To help you stay on schedule, an early draft of papers are due two weeks before the end of the semester. Final papers are due the last day of class when student research presentations will be made.**

Incompletes are strongly discouraged. In accord with University policy, though, a grade of "I" (Incomplete) may be given a student who has not completed all course requirements, provided (a) the student has been unable to finish all the requirements due to illness or other compelling circumstances; (b) there exists a well-defined means by which the course requirements can be completed; and (c) the student has a passing average. To remove an incomplete grade, the unfinished work must be completed within four months of the last seminar meeting. If not, you will receive a default grade of "F."

OFFICE HOURS: Tuesday before and after class; MWF 10-11, 503 Park Hall.

SCHEDULE: Our schedule is expected to be as follows:

1/27 Introduction

2/3 Constitutional Law Overview. Readings: Fallon (all).

2/10 Historical Development and Constitutional Eras. Readings: McCloskey (all); Halpern and Lamb (handout).

2/17 Judicial Power. Readings: O'Brien, chs. 1-2 (Emphasize Marbury v. Madison, Flast v. Cohen, and Baker v. Carr), and Cardozo (all).

2/24 Presidential Power I. Readings: O'Brien, ch. 3 (Emphasize U.S. v. Curtis-Wright, Dames & Moore v. Regan, Missouri v. Holland, Goldwater v. Carter, the Prize Cases, Ex parte Milligan, Korematsu v. U.S., Rasul v. Bush). **A one-page research proposal is due no later than today's class.**

3/3 Presidential Power II. Readings: Fisher 2004 (all).

3/10 Presidential Power III. Readings: O'Brien, ch. 4 (Emphasize Youngstown Sheet & Tube v. Sawyer, New York Times v. U.S., Myers v. U.S., Humphrey's Executor v. U.S., Bowsher v. Synar, Morrison v. Olson, Schechter Poultry Corp. v. U.S., INS v. Chadha, Clinton v. City of New York, U.S. v. Nixon, and Clinton v. Jones.)

3/17 Spring Break.

3/24 Congressional Power I. Readings: O'Brien, ch. 5 (Emphasize Powell v. McCormack, U.S. Term Limits v. Thornton, Gravel v. U.S., Hutchinson v. Proxmire, Watkins v. U.S., Barenblatt v. U.S., and Walter L. Nixon v. U.S.); O'Brien, ch. 6 (Emphasize McCulloch v. Maryland, Gibbons v. Ogden, U.S. v. E.C. Knight, and Hammar v. Daggenhart).

3/31 Congressional Power II. Readings: O'Brien, ch. 6 (Emphasize NLRB v. Jones & Laughlin, U.S. v. Darby Lumber Co., Wickard v. Fiburn, Heart of Atlanta Motel v. U.S., Katzenbach v. McClung, U.S. v. Lopez, Reno v. Condon, City of Boerne v. Flores, and U.S. v. Morrison. Also we will read the Court's "Obamacare" decision, National Federation of Independent Business v. Sebelius (2012), in conjunction with the above cases (handout).

4/7 Separation of Powers. Readings: Fisher 2007 (all).

4/14 Federalism. Readings: O'Brien, ch. 7 (Emphasize Cooley v. Board of Wardens, Southern Pacific Co. v. Arizona, Bibb v. Navajo Freight Lines, Maine v. Taylor, Pennsylvania v. Nelson, Garcia v. SAMTA, New York v. U.S., Printz v. U.S., Seminole Tribe v. Florida, Alden v. Maine, Martin v. Hunter's Lessee, and Cooper v. Aaron.)

4/21 Representative Government and the Franchise. Readings: O'Brien, ch. 8 (Emphasize South Carolina v. Katzenbach, Gomillion v. Lightfoot, Wesberry v. Sanders, Reynolds v. Sims, Vieth v. Jubelirer, Shaw v. Reno, Hunt v. Cromartie, Bush v. Gore, Buckley v. Valeo, Federal Election Commission v. NCPAC, and Rutan v. Republican Party of Illinois.) **A draft of your research paper is due today at the beginning of today's class.**

4/28 Economic Liberties. Readings: O'Brien, ch. 9 (Emphasize Fletcher v. Peck, Dartmouth College v. Woodward, Charles River Bridge v. Warren Bridge, Home Building & Loan v. Blaisdell, U.S. Trust Co. of New York v. New Jersey, the Slaughterhouse Cases, Munn v. Illinois,

Lochner v. New York, Muller v. Oregon, West Coast Hotel v. Parrish, Hawaii Housing Authority v. Midkiff, Lucas v. South Carolina Coastal Council, and Kelo v. New London, Conn.)

5/5 Constitutional Law in the Political Context. Readings: Woodward and Armstrong (all). Also Student Research Presentations and Turn in Final Papers.

SUPPLEMENTARY READING LIST: During the semester, you should explore other leading studies in constitutional law and judicial politics. The following reading list is provided for that purpose.

Henry J. Abraham. Justices, Presidents, and Senators: A Political History of Appointments to the Supreme Court, rev. ed. New York: Rowman and Littlefield, 1999.

Bruce Ackerman. We the People. Cambridge: Harvard University Press, 1991-2014.

Anthony Amsterdam and Jerome Bruner. Minding the Law. Cambridge: Harvard University Press, 2000.

Howard Ball and Phillip J. Cooper. Of Power and Right: Hugo Black, William O. Douglas, and America's Constitutional Revolution. New York: Oxford University Press, 1992.

Sotirios A. Barber. The Constitution and the Delegation of Congressional Power. Chicago: University of Chicago Press, 1975.

Samuel H. Beer. To Make a Nation: The Rediscovery of American Federalism. Cambridge: Harvard University Press, 1993.

Raoul Berger. Impeachment: The Constitutional Problems. Cambridge: Harvard University Press, 1973.

Raoul Berger. Executive Privilege. Cambridge: Harvard University Press, 1974.

Raoul Berger. Federalism: The Founders' Design. Norman: University of Oklahoma Press, 1987.

Alexander M. Bickel. The Least Dangerous Branch: The Supreme Court at the Bar of Politics. Indianapolis: Bobbs-Merrill, 1962.

Alexander M. Bickel. The Supreme Court and the Idea of Progress. New Haven: Yale University Press, 1978.

Charles Black. Impeachment: A Handbook. New Haven: Yale University Press, 1998.

Vincent Blasi. The Burger Court: The Counter-Revolution That Wasn't. New Haven: Yale University Press, 1983.

Robert H. Bork. The Tempting of America: The Political Seduction of the Law. New York: Simon and Schuster, 1990.

Craig M. Bradley. The Failure of the Criminal Procedure Revolution. Philadelphia: University of Pennsylvania Press, 1993.

Stephen Breyer. Active Liberty: Interpreting Our Democratic Constitution. New York: Knopf, 2005.

John Brigham. The Cult of the Court. Philadelphia: Temple University Press, 1987.

Ethan Bronner. Battle for Justice: How the Bork Nomination Shook America. New York: Norton, 1989.

Cornell W. Clayton and Howard Gillman. Supreme Court Decision-Making: New Institutional Approaches. Chicago: University of Chicago Press, 1999.

Bradley C. Canon and Charles A. Johnson. Judicial Policies: Implementation and Impact, 2d ed. Washington, DC: Congressional Quarterly Press, 1999.

Jesse H. Choper. Judicial Review and the National Political Process. Chicago: University of Chicago Press, 1980.

Edward J. Cleary. Beyond the Burning Cross: The First Amendment and the Landmark R.A.V. Case. New York: Random House, 1994.

Phillip J. Cooper. Battles on the Bench: Conflict Inside the Supreme Court. Lawrence, KS: University Press of Kansas, 1995.

Edwin S. Corwin. The Commerce Power versus State Rights. Princeton: Princeton University Press, 1936.

Edwin S. Corwin. The Doctrine of Judicial Review. Princeton: Princeton University Press, 1914.

Edwin S. Corwin. The "Higher Law" Background of the United States Constitution. Ithaca: Cornell University Press, 1974.

Archibald Cox. The Court and the Constitution. Boston: Houghton Mifflin, 1987.

Archibald Cox. The Warren Court: Constitutional Decision as a Instrument of Reform. Cambridge: Harvard University Press, 1968.

David P. Currie. The Constitution of the United States. Chicago: University of Chicago Press, 1988.

Sue Davis. Justice Rehnquist and the Constitution. Princeton, NJ: Princeton University Press, 1989.

Neal Devins and Louis Fisher. The Democratic Constitution. New York: Oxford University Press, 2004.

William O. Douglas. Go East, Young Man: The Early Years: The Autobiography of William O. Douglas. New York: Random House, 1974.

William O. Douglas. The Court Years, 1939-1975: The Autobiography of William O. Douglas. New York: Vintage, 1980.

Kim Isaac Eisler. A Justice for All: William J. Brennan, Jr., and the Decisions that Transformed America. New York: Simon and Schuster, 1993.

John Hart Ely. Democracy and Distrust: A Theory of Judicial Review. Cambridge: Harvard University Press, 1980.

John Hart Ely. War and Responsibility: Constitutional Lessons of Vietnam and Its Aftermath. Cambridge: Harvard University Press, 1993.

Lee Epstein. Contemplating Courts. Washington, DC: Congressional Quarterly Press, 1995.

Lee Epstein and Jack Knight. The Choices Justices Make. Washington, D.C.: Congressional Quarterly Press, 1998.

Lee Epstein and Joseph F. Kobylka. The Supreme Court and Legal Change: Abortion and the Death Penalty. Chapel Hill: University of North Carolina Press, 1992.

Lee Epstein and Jeffrey A. Segal. Advice and Consent: The Politics of Judicial Appointments. New York: Oxford University Press, 2005. New York: Oxford University Press, 2005.

Lee Epstein, Jeffrey A. Segal, Harold J. Spaeth, and Thomas G. Walker. The Supreme Court Compendium: Data, Decisions, and Developments, 4th ed. Washington, D.C.: Congressional Quarterly Press, 2007.

Richard H. Fallon. Implementing the Constitution. New York: Cambridge University Press, 2001.

Marian Faux. Roe v. Wade. New York: Macmillan, 1988.

Louis Fisher. Constitutional Dialogues: Interpretation as Political Process. Princeton: Princeton University Press, 1988.

Louis Fisher. The Politics of Shared Power: Congress and the Executive, 4th ed. College Station: Texas A&M University, 1998.

Thomas Franck. Political Questions/Judicial Answers: Does the Rule of Law Apply to Foreign Affairs? Princeton, NJ: Princeton University Press, 1992.

Felix Frankfurter. The Commerce Clause. Chicago: Quadrangle, 1964.

Charles Fried. Order and Law: Arguing the Reagan Revolution--A First Hand Account. New York: Simon and Schuster, 1991.

David J. Garrow. Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade. New York: Macmillan, 1994.

John H. Garvey and T. Alexander Aleinikoff. Modern Constitutional Theory: A Reader, 4th ed. St. Paul: West, 1999.

John B. Gates and Charles A. Johnson. The American Courts: A Critical Assessment. Washington, DC: Congressional Quarterly Press, 1991.

Michael J. Gerhardt. The Federal Impeachment Process: A Constitutional and Historical Analysis. Chicago: University of Chicago Press, 2000.

Michael J. Gerhardt. The Power of Precedent. New York: Oxford University Press, 2008.

Howard Gillman and Cornell Clayton. The Supreme Court in American Politics: New Institutional Interpretations. Lawrence: University Press of Kansas, 1999.

Howard Gillman. The Votes That Counted. Chicago: University of Chicago Press, 2001.

Mark Gitenstein. Matters of Principle: An Insider's Account of America's Rejection of Robert Bork's Nomination to the Supreme Court. New York: Simon and Schuster, 1992.

Michael J. Glennon, et al., A Constitutional Law Anthology, 2d ed. Cincinnati: Anderson Publishing Co., 1997.

Sheldon Goldman. Picking Federal Judges: Lower Court Selection from Roosevelt through Reagan. New Haven: Yale University Press, 1997.

Sheldon Goldman and Charles M. Lamb. Judicial Conflict and Consensus: Behavioral Studies of American Appellate Courts. Lexington, KY: University Press of Kentucky, 1986.

Sheldon Goldman and Austin Sarat. American Court Systems: Readings in Judicial Process and Behavior. San Francisco: W.H. Freeman, 1988.

Kermit Hall. The Oxford Companion to the Supreme Court of the United States, 2d ed. New York: Oxford University Press, 2005.

Kermit L. Hall and Kevin T. McGuire, eds. The Judicial Branch. New York: Oxford University Press, 2005.

Stephen C. Halpern and Charles M. Lamb. Supreme Court Activism and Restraint. Lexington, Mass.: D.C. Heath, 1982.

A. Leon Higginbotham. Shades of Freedom. New York: Oxford University Press, 1996.

Donald L. Horowitz. The Courts and Social Policy. Washington, DC: Brookings, 1977.

Peter Irons. Justice at War. New York: Oxford University Press, 1983.

John C. Jeffries. Justice Lewis F. Powell, Jr.. New York: Charles Scribner's Sons, 1994.

Timothy R. Johnson. Oral Arguments and the United States Supreme Court. Albany: SUNY Press, 2004.

Laura Kalman. Abe Fortas: A Biography. New Haven: Yale University Press, 1990.

Harry Kalven, Jr. A Worthy Tradition: Freedom of Speech in America. New York: Harper and Row, 1988.

Edward Keynes and Randall K. Miller. The Court v. Congress: Prayer, Busing, and Abortion. Durham, NC: Duke University Press, 1989.

Richard Kluger. Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality. New York: Knopf, 1976.

Joseph F. Kobylka. The Politics of Obscenity: Group Litigation in a Time of Legal Change. Westport, CT: Greenwood, 1991.

Philip B. Kurland. Politics, the Constitution and the Warren Court. Chicago: University of Chicago Press, 1970.

Charles M. Lamb. Housing Segregation in Suburban America since 1960: Presidential and Judicial Politics. New York: Cambridge University Press, 2005.

Charles M. Lamb and Stephen C. Halpern. The Burger Court: Political and Judicial Profiles. Urbana: University of Illinois Press, 1991.

William Lasser. The Limits of Judicial Power: The Supreme Court in American Politics. Chapel Hill, NC: University of North Carolina Press, 1988.

Susan E. Lawrence. The Poor in Court: The Legal Services Program and Supreme Court Decision

Making. Princeton, NJ: Princeton University Press, 1990.

Edward Lazarus. Closed Chambers: The First Eyewitness Account of the Epic Struggles Inside the Supreme Court. New York: Random House, 1998.

Leonard W. Levy. Against the Law: The Nixon Court and Criminal Justice. New York: Harper & Row, 1974.

William E. Leuchtenburg. The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt. New York: Oxford University Press, 1995.

Joseph Lynch. Negotiating the Constitution: The Earliest Debates Over Original Intent. Ithaca: Cornell University Press, 1999.

Kevin T. McGuire. The Supreme Court Bar: Legal Elites in the Washington Community. Charlottesville, VA: University Press of Virginia, 1993.

Robert G. McCloskey. The Modern Supreme Court. Cambridge: Harvard University Press, 1972.

John Anthony Maltese. The Selling of Supreme Court Nominees. Baltimore: Johns Hopkins University Press, 1995.

Forrest Maltzman, James F. Spriggs, and Paul J. Wahlbeck. Crafting Law on the Supreme Court: The Collegial Game. New York: Cambridge University Press, 2000.

Maeva Marcus. Truman and the Steel Seizure Case. New York: Columbia University Press, 1977.

Alpheus Thomas Mason. Brandeis: A Free Man's Life. New York: Viking, 1946.

Alpheus Thomas Mason. Harlan Fiske Stone: Pillar of the Law. New York: Viking, 1956.

Alpheus Thomas Mason. The Supreme Court from Taft to Burger, 3d ed., revised. Baton Rouge, LA: Louisiana State University Press, 1979.

Nancy Maveety. Queen's Court: Judicial Power in the Rehnquist Era. Lawrence: University Press of Kansas, 2008.

Bruce Allen Murphy. Fortas: The Rise and Ruin of a Supreme Court Justice. New York: William Morrow, 1988.

Bruce Allen Murphy. The Brandeis/Frankfurter Connection: The Secret Political Activities of Two Supreme Court Justices. New York: Oxford University Press, 1982.

William Nelson. Marbury v. Madison: The Origins and Legacy of Judicial Review. Lawrence:

University Press of Kansas, 2000.

David M. O'Brien. Judges on Judging: Views from the Bench. Chatham, NJ: Chatham House, 1997.

J.W. Peltason. Fifty-Eight Lonely Men: Southern Federal Judges and School Desegregation, 2d ed. Urbana: University of Illinois Press, 1971.

Michael J. Perry. The Constitution, the Courts, and Human Rights. New Haven: Yale University Press, 1982.

Michael J. Perry. The Constitution in the Courts: Law or Politics? New York: Oxford University Press, 1994.

Richard A. Posner. An Affair of State: The Investigation, Impeachment, and Trial of President Clinton. Cambridge: Harvard University Press, 1999.

Richard A. Posner. How Judges Think. Cambridge: Harvard University Press, 2008.

Jefferson H. Powell. Constitutional Conscience. Chicago: University of Chicago Press, 2008.

C. Herman Pritchett. The Roosevelt Court: A Study of Judicial Politics and Values 1937-1947. New York: Macmillan, 1948.

Doris Marie Provine. Case Selection in the United States Supreme Court. Chicago: University of Chicago Press, 1980.

William H. Rehnquist. All the Laws But One: Civil Liberties in Wartime. New York: Knopf, 1998.

Gerald N. Rosenberg. The Hollow Hope: Can Courts Bring About Social Change? Chicago: University of Chicago Press, 2d ed., 2008.

Carl T. Rowan. Dream Makers, Dream Breakers: The World of Justice Thurgood Marshall. Boston: Little, Brown, 1993.

Mark J. Rozell. Executive Privilege: The Dilemma of Secrecy and Democratic Accountability. Baltimore: Johns Hopkins University Press, 1994.

David G. Savage. Turning Right: The Making of the Rehnquist Supreme Court. New York: Wiley, 1992.

John R. Schmidhauser and Larry L. Berg. The Supreme Court and Congress: Conflict and Interaction, 1945-1968. New York: Free Press, 1972.

Glendon Schubert. The Judicial Mind: Attitudes and Ideologies of Supreme Court Justices 1946-1963. Evanston, IL: Northwestern University Press, 1965.

Bernard Schwartz. A History of the Supreme Court. New York: Oxford University Press, 1993.

Bernard Schwartz. Decision: How the Supreme Court Decides Cases. New York: Oxford University Press, 1996.

Bernard Schwartz. Super Chief: Earl Warren and His Supreme Court--A Judicial Biography. New York: New York University Press, 1983.

Bernard Schwartz. The Ascent of Pragmatism: The Burger Court in Action. Reading, MA: Addison-Wesley, 1991.

Bernard Schwartz. The Burger Court: Courter-Revolution or Confirmation? New York: Oxford University Press, 1998.

Bernard Schwartz. The Unpublished Opinions of the Burger Court. New York: Oxford University Press, 1988.

Herman Schwartz. The Burger Years: Rights and Wrongs in the Supreme Court 1969-1986. New York: Viking, 1987.

Robert Scigliano. The Supreme Court and the Presidency. New York: 1971.

Robert Y. Shapiro, Lawrence R. Jacobs, and Martha Jaynt Kumar. Presidential Power. New York: Columbia University Press, 2000.

Mark Silverstein. Judicious Choices: The New Politics of Supreme Court Confirmations. New York: Norton, 1994.

James F. Simon. The Antagonists: Hugo Black, Felix Frankfurter, and Civil Liberties in Modern America. New York: Simon and Schuster, 1989.

James F. Simon. The Center Holds: The Power Struggle Inside the Rehnquist Court. New York: Simon and Schuster, 1995.

James F. Simon. In His Own Image: The Supreme Court in Richard Nixon's America. New York: David McKay Company, 1973.

Frank J. Sorauf. The Wall of Separation: The Constitutional Politics of Church and State. Princeton, NJ: Princeton University Press, 1976.

Cass R. Sunstein. Designing Democracy: What Constitutions Do. New York: Oxford University Press, 2001.

Cass R. Sunstein. Legal Reasoning and Political Conflict. New York: Oxford University Press, 1995.

Cass R. Sunstein. One Case at a Time: Judicial Minimalism on the Supreme Court. Cambridge, Mass.: Harvard University Press, 1999.

Robert J. Steamer. Chief Justice: Leadership and the Supreme Court. Columbia, SC: University of South Carolina Press, 1986.

Mark V. Tushnet. A Court Divided: The Rehnquist Court and the Future of Constitutional Law. New York: Norton, 2005.

Mark V. Tushnet. Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1936-1961. New York: Oxford University Press, 1994.

Mark V. Tushnet. Making Constitutional Law: Thurgood Marshall and the Supreme Court, 1961-1991. New York: Oxford University Press, 1997.

Melvin I. Urofsky. The Continuity of Change: The Supreme Court and Individual Liberties 1953-1986. Belmont, CA:

Melvin I. Urofsky. A March of Liberty: A Constitutional History of the United States. New York: Oxford University Press, 2002.

M.J.C. Vile. Constitutionalism and the Separation of Powers. London: Oxford University Press, 1967.

Charles Warren. The Supreme Court in United States History. 3 vols. Boston: Little, Brown, 1922.

Stephen L. Wasby. The Impact of the United States Supreme Court. Homewood, IL: Dorsey Press, 1970.

G. Edward White. The American Judicial Tradition: Profiles of Leading American Judges. New York: Oxford University Press, 1988.

Keith E. Whittington. Constitutional Interpretation: Textual Meaning, Original Intent, and Judicial Review. Lawrence: University Press of Kansas, 1999.

William M. Wiecek. Liberty under Law: The Supreme Court in American Life. Baltimore: Johns Hopkins University Press, 1988.

J. Harvie Wilkinson, III. From Brown to Bakke: The Supreme Court and School Integration, 1954-1978. New York: Oxford University Press, 1979.

David A. Yalof. Pursuit of Justices: Presidential Politics and the Selection of Supreme Court Nominees. Chicago: University of Chicago Press, 1999.

Tinsley E. Yarbrough. John Marshall Harlan: Great Dissenter of the Warren Court. New York: Oxford University Press, 1992.

Tinsley E. Yarbrough. Judicial Enigma: The First Justice Harlan. New York: Oxford University Press, 1995.

Tinsley E. Yarbrough. The Rehnquist Court and the Constitution. New York: Oxford University Press, 2000.