

Preface

Constitutional law is the perfect vehicle for exploring the dynamics of government, the relationship between citizens and government, the status of the United States in the rest of the world, and the unique interaction between the Constitution and culture. In other words, constitutional law provides great raw material for engaging curious minds trying to figure out how the big wheels turn.

This book covers classic topics and themes of constitutional knowledge such as federalism, individual rights, and separation of powers. That said, it does so through the means of topics central to the lives of U.S. citizens today. Examples of these current topics include the following:

- Do existing interpretations of the Constitution's freedom of expression principles adequately handle regulation by privately owned entities such as X (formerly Twitter) and Facebook concerning offensive or false speech?
- Hate speech is one of the most troublesome problems of human civilization. How does the U.S. Constitution handle this issue? Does it do a good job? How does the case law in the United States compare with that of other countries?
- How do U.S. Supreme Court cases reinforce existing racial, class, and gender stratifications? Are there decisions that challenged and attempted to change the existing hierarchy? If so, were the decisions successful in doing so? To what extent do individual decisions reproduce and reinforce superior power of one group over another?
- How do Supreme Court cases regulate popular culture? How does popular culture influence Supreme Court cases?
- What on earth does a Supreme Court case with weird facts from 1803 (*Marbury v. Madison*) have to do with whether a state can regulate your BB gun or whether a high school can tell students what they can post on Instagram off campus and after school hours?
- Has the Constitution helped or hindered the struggle in the United States to overcome the vestiges of slavery?

A Constitutional Law course is to legal understanding what an Anatomy and Physiology course is to medical understanding. Both disciplines are octopus-like, encompassing an ungainly swath of human existence. This book does not encompass all constitutional law. After setting the stage with materials on the operation of the U.S. Supreme Court and instructing on techniques for accurate reading

of Supreme Court decisions, the book presents a curated selection of key topics, each organized around a central theme.

The major topics include:

1. The role of each branch of government and the separation of powers.
2. The relationship between the state and federal governments.
3. The special protection afforded to freedom of communication.
4. The U.S. Supreme Court's approach to regulating other rights important to U.S. citizens: the right to bear arms, reproductive freedom, racial discrimination, LGBTQIA+ rights, and women's rights.

As you make your way through these diverse topics, look for shared angles with cases in other chapters. Questions you might ask in each context include: (1) How does the historical context for a case explain the result of the case? (2) Do neutral constitutional principles exist or does the discussion of constitutional rules simply serve to mask hidden agendas? (3) How do the rules that are articulated in different contexts resemble each other? Questions such as these not only help to tie the various topics together, but they also bring out the deeper meaning in the cases. In that way, you can avoid feeling enmeshed in a complex jumble of rules. You might even find fun in the material.

To give you a preview, the book features quirky historical cases, protests on topics that are likely to touch your heart, popular culture references, and unsavory case facts. Each of the major cases in the book is carefully edited and presented under the heading "From the Bench." Background on these cases and behind-the-scenes details appear in sections marked "Behind the Curtain." These "Behind the Curtain" features share in-depth descriptions of intrigue that occurred in the background of the case and shed light on the influences explaining the case's qualities. Your professor may choose to use the "Questions for Discussion" for in-class exchanges, but even if these questions are not used in class, they point you to the core meaning of the case. To provide further understanding, hypotheticals flagged with the question "What's Your Learned Opinion?" offer factual scenarios inviting you to take the rules of law and reasoning of a major case and apply them in a new context. Evaluating these factual scenarios will not only help you remember the case, but will illustrate the strength, parameters, and ambiguities of the case. Finally, each chapter ends with review questions enabling you to test your knowledge of the chapter's details.

Read on. Hope that you enjoy the ride!