

DEPARTMENT OF POLITICAL SCIENCE
UNIVERSITY AT BUFFALO

PSC 562
ConstitutionalLaw2
Fall 2009

Professor Lamb
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COURSE DESCRIPTION: This course deals with trends in Supreme Court development of civil liberties law in the United States. Some of the semester will be devoted to examining scholarly literature on civil rights and civil liberties law, but most of the course will be spent reading, briefing, and analyzing Supreme Court decisions—lots of decisions! This reflects the primary assumption driving the seminar: one simply cannot grasp American civil liberties law without understanding the Supreme Court's leading decisions. Topics to receive special attention include the freedoms of speech, press, and religion; the most important criminal procedure protections; the right to privacy; and equal protection of the law. 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.

Liva Baker, Miranda: Crime, Law and Politics (New York: Atheneum, 1985).

Gilles, Myriam, and Risa L. Goluboff, eds. Civil Rights Stories (New York: Foundation Press, 2008).

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

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

David M. O'Brien, Constitutional Law and Politics: Civil Rights and Civil Liberties, Vol. II, 7th ed. (New York: Norton, 2008).

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 some structure, however, each of you will sign up for several discussion groups. We will talk about the discussion groups early in the semester so you will understand what is expected. In addition, all of you will participate in the October 6 discussion of Harry Kalven, A Worthy Tradition: Freedom of Speech in America. Please organize that discussion during class on

September 8 and read the book as we brief cases for our seminars on September 15 and 22.

(2) A major research paper (approximately 50 percent of your final grade.) We will discuss the research paper in class. You must make an appointment with the instructor to discuss your research project no later than the fourth week of classes. Papers may address substantive topics in civil liberties or civil rights law or other relevant topics. 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 writing your papers, emphasis should primarily be placed on quality of research, not the length of papers. However, papers should be 25 to 40 pages in length, including all 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.

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 by 6/15/10. If not, you will receive a default grade of "F."

OFFICE HOURS: Monday, Wednesday, and Friday 9-10; Tuesday 8-9; 503 Park Hall. You may also see immediately after class.

SCHEDULE: Our schedule is expected to be as follows:

9/1 Judicial Review, Supreme Court Decision-Making, and the Incorporation of the Bill of Rights. (Lecture emphasizing Marbury v. Madison 45-54, Baker v. Carr 150-62, Barron v. Baltimore 339-41, Hurtado v. California 341-45, Palko v. Connecticut 346-49, and Adamson v. California 349-54).

9/8 Freedom of Expression I. Readings: O'Brien Chapter 5 (Schenck v. United States 427-8, Gitlow v. New York 428-33, Dennis v. United States 433-44, Brandenburg v. Ohio 445-47, Rust v. Sullivan 538-43, Cohen v. California 507-11, FCC v. Pacifica Foundation 511-16, Bethel School District No. 403 v. Fraser 516-20, R.A.V. v. City of St. Paul 520-29, and Wisconsin v. Mitchell 529-31); Gilles and Goluboff, chapter 15.

9/15 Freedom of Expression II. Readings: O'Brien Chapter 5 (Virginia v. Black 531-38, Tinker v. Des Moines Ind. Community School 664-67, Morse v. Frederick 669-74, Texas v. Johnson 674-81, NAACP v. Alabama 694-97, Roberts v. U.S. Jaycees 697-700, Boy Scouts of America v. Dale 700-8, Near v. Minnesota 604-7, New York Times v. United States 607-15, and New York Times v. Sullivan 555-60).

9/22 Freedom of Expression III. Readings: O'Brien Chapter 5 (Gertz v. Welch, 560-67, Branzburg v. Hayes 618-23, Red Lion Broadcasting v. FCC 632-34, Roth v. United States and Alberts v. California 460-64, Stanley v. Georgia 464-66, Miller v. California 466-71, Paris Adult Theatre I v.

Slaton 471-77, *New York v. Ferber* 477-80, *City of Erie v. Pap's A.M.* 481-87, *Reno v. American Civil Liberties Union* 487-95, and *Ashcroft v. Free Speech Coalition* 495-501).

9/29 Freedom of Expression IV. Readings: Kalven (all). All students will participate in the discussion of this book. Since it is long, please start reading it early and organize your class discussion at our meeting on September 8.

10/6 Freedom from and of Religion. Readings: O'Brien, Chapter 6 (*West Virginia Board of Education v. Barnette* 655-64, *Sherbert v. Verner* 828-31, *Wisconsin v. Yoder* 834-37, *Employment Div., Dept. Human Res. v. Smith* 837-45, *Church of Lukumi Babalu Aye v. Hialeah* 846-52, *City of Boerne v. Flores* 852-62, *Everson v. Board of Education* 735-41, *Engle v. Vitale* 742-46, *Abington School District v. Schempp* 746-51, *Lemon v. Kurtzman* 751-58, *Wallace v. Jafree* 758-66, *Lee v. Weisman* 768-73, *Zobrest v. Catalina Foothills School District* 773-76, *Rosenberger v. Rector of University of Virginia* 777-87, and *Agostini v. Felton* 787-93).

10/13 Criminal Procedure I. Readings: O'Brien, Chapter 7 (*Rochin v. California* 354-57, *Chimel v. California* 879-84, *Terry v. Ohio* 895-900, *U.S. v. Sokolow* 900-3, *California v. Acevedo* 927-31, *Knowles v. Iowa* 931-33, *Atwater v. Lago Vista* 933-38, *National Treasury Employees Union v. Von Raab* 946-52, *Vernonia School District v. Acton* 953-58, *Bd. of Ed. v. Earls* 963-67, *Ferguson v. Charleston* 958-63). NOTE: This class will probably begin with the continuation of some of the separation of church and state cases from October 6.

10/20 Criminal Procedure II. Readings: O'Brien, Chapters 7 and 8 (*Olmstead v. United States* 975-78; *Katz v. United States* 978-82. *California v. Ciraolo* 982-84, *Kyllo v. United States* 989-94, *Mapp v. Ohio* 1002-10, *Nix v. Williams* 1010-15, *United States v. Leon and Mass. v. Sheppard* 1015-25, *Arizona v. Evans* 1025-27, *Miranda v. Arizona* 1045-56, *In re Gault* 1056-60, *Rhode Island v. Innis* 1060-64, *Arizona v. Fulminante* 1069-72, *Dickerson v. U.S.* 1073-78, and *Missouri v. Seibert* 1078-82).

10/27 Criminal Procedure III. Readings: We will probably start with some cases carried over from October 20; then *Baker* (all).

11/3 Criminal Procedure IV. Readings: O'Brien, Chapters 9 and 10 (*Powell v. Alabama* 1102-04, *Gideon v. Wainwright* 1104-08, *Argersinger v. Hamlin* 1108-10, *Duncan v. Louisiana* 368-73, *Batson v. Kentucky* 1130-32, *Williams v. Florida* 1136-38, *Burch v. Louisiana* 1138-40, *Ewing v. California* 1163-67, *Furman v. Georgia* 1178-88, *Lockett v. Ohio* 1189-94, *McCleskey v. Kemp* 1194-1204, *Payne v. Tennessee* 1204-08, *Atkins v. Virginia* 1208-14, and *Roper v. Simmons* 1214-22).

11/10 The Right to Bear Arms and the Right to Privacy. Readings: *District of Columbia v. Heller* (class handout); O'Brien Chapter 11 (*Buck v. Bell*, 1247-48, *Griswold v. Connecticut* 359-68, *Roe v. Wade*, 1253-62, *Maher v. Roe*, 1262-65, *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 1271-83, *Gonzales v. Carhart*, 1283-92, *Bowers v. Hardwick* (class handout), *Romer v. Evans* 1550-60; *Lawrence v. Texas* 1304-15, *Cruzan by Cruzan v. Director, Missouri Department of Health*, 1316-23, and *Washington v. Glucksburg and Vacco v. Quill*, 1323-33; Gilles and

Goluboff chapter. 8.

11/17 Equal Protection I. Readings: O'Brien Chapter 12 (Dred Scott v. Sanford 1360-71, The Civil Rights Cases 1371-78, Plessy v. Ferguson 1378-83, Shelley v. Kraemer 1383-85, Brown v. Board of Education I 1401-06, Bolling v. Sharpe 1412-13; Brown v. Board of Education II 1413-16, Cooper v. Aaron 1416-21, Swann v. Charlotte-Mecklenberg Board of Education 1422-26, Milliken v. Bradley 1427-30, Runyon v. McCrary (handout), Freeman v. Pitts 1431-34, and Parents Involved in Community Schools v. Seattle School District No. 1 1440-53); Gilles and Goluboff chapters 1, 2, 6, 11.

11/24 Equal Protection II. Readings: Lamb (all); class handouts; in-class research exercise.

12/1 Equal Protection III. Readings: O'Brien Chapter 12 (Regents of the University of California v. Bakke 1464-73, City of Richmond v. J.A. Croson 1477-88, Adarand Constructors, Inc. v. Peña 1491-1500, Grutter v. Bollinger 1505-13, Frontiero v. Richardson 1521-24, Craig v. Boren, 1525-29, Michael M. v. Superior Court of Sonoma County, 1529-32, United States v. Virginia, 1533-44, Shapiro v. Thompson 1564-67, San Antonio Indep. School Dist. v. Rodriguez 1567-74, Plyler v. Doe 1583-88, and Heller v. Doe 1589-92); Gilles and Goluboff chapters 5, 10, and 12. A Draft of Research Papers Are Due Today!

12/8 Civil Liberties in the Political Context. Readings: Woodward and Armstrong (all). Final Research Papers Are Due Today. Short Student Research Presentations.

SUPPLEMENTARY READING LIST: During the semester, you may wish to explore other leading studies in constitutional law, civil liberties, 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.

Floyd Abrams. Speaking Freely: Trials of the First Amendment. New York: Viking, 2005.

Amar, Akhil Reed. The Constitution and Criminal Procedure. New Haven, CT: Yale University Press, 1997.

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.

Stuart Banner. The Death Penalty: An American History. Cambridge, MA: Harvard University Press, 2002.

Eric Barendt. Freedom of Speech, 2d ed. New York: Oxford University Press, 2007.

Hugo Bedau and Paul Cassell. Debating the Death Penalty. New York: Oxford University Press, 2004.

Derrick Bell. Silent Covenants: Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform. New York: Oxford University Press, 2004.

Raoul Berger. Government by Judiciary: The Transformation of the Fourteenth Amendment. Cambridge: Harvard University Press, 1977.

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.

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

David Bodenhamer. Fair Trial: Rights of the Accused in American History. New York: Oxford University Press, 1992.

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.

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.

Jesse H. Choper. Securing Religious Liberty: Principles for Judicial Interpretation of the Religion Clauses. Chicago: University of Chicago Press, 1995.

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

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

Catherine Cookson. Regulating Religion: The Courts and the Free Exercise Clause. New York: Oxford University Press, 2001.

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

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.

Michael K. Curtis. Free Speech, "The People's Darling Privilege": Struggles for Freedom of Expression in American History. Durham, NC: Duke University Press, 2000.

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.

Donald Downs. Restoring Free Speech and Liberty on Campus. New York: Cambridge University Press, 2004.

Donald Downs. The New Politics of Pornography. Chicago: University of Chicago Press, 1989.

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

Richard J. Ellis. To the Flag: The Unlikely History of the Pledge of Allegiance. Lawrence: University Press of Kansas, 2002.

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

Thomas Emerson. The System of Freedom of Expression. New York: Random House, 1970.

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.

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

George Fisher. Plea Bargaining's Triumph: A History of Plea Bargaining in America. Palo Alto, CA: Stanford University Press, 2003.

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

Louis Fisher. Religious Liberty in America: Political Safeguards. Lawrence: University Press of Kansas, 2003.

Elizabeth Foley. Liberty for All: Reclaiming Individual Privacy in the New Era of Public Morality. New Haven, CT: Yale University Press, 2006.

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.

Stephen P. Garvey. Beyond Repair? America's Death Penalty. Durham, NC: Duke University Press, 2003.

Evan Gertsman. Same-Sex Marriage and the Constitution. New York: Cambridge University Press, 2003.

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.

Jon Gould. Speak No Evil: The Triumph of Hate Speech Regulation. Chicago: University of Chicago Press, 2006.

Mark Grabner. Dred Scott and the Problem of Constitutional Evil. New York; Cambridge University Press, 2006.

Mark Grabner. Rethinking Abortion: Equal Choice, the Constitution, and Reproductive Politics.

Princeton, NJ: Princeton University Press, 1996.

Kent Greenwalt. Fighting Words: Individuals, Communities, and Liberties of Speech. Princeton, NJ: Princeton University Press, 1995.

Amy Gutmann. Freedom of Association. Princeton, NJ: Princeton University Press, 1998.

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.

Philip Hamburger. Separation of Church and State. Cambridge, MA: Harvard University Press, 2002.

Marci Hamilton. God vs. the Gavel: Religion and the Rule of Law. New York: Cambridge University Press, 2005.

Charles Haynes, Sam Chaltain, and Susan Glisson, eds. First Freedoms. New York: Oxford University Press, 2006.

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

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

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.

Randall Kennedy. Race, Crime, and the Law. New York: Pantheon, 1997.

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

Michael Klarman. From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality. New York: Oxford University Press, 2004.

Philip Klinkner and Rogers Smith. The Unsteady March: The Rise and Decline of Racial Equality in America. Chicago: University of Chicago Press, 2000.

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.

Andrew Koppleman. The Gay Rights Question in Contemporary American Law. Chicago: University of Chicago Press, 2002.

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

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

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.

Leonard W. Levy. Emergence of a Free Press. New York: Oxford University Press, 1985.

Anthony Lewis. Gideon's Triumph. New York: Random House, 1964.

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

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

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

Jerome Miller. Search and Destroy: African American Males in the Criminal Justice System. New York: Cambridge University Press, 1996.

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.

Charles Ogletree and Austin Sarat. From Lynch Mobs to the Killing State: Race and the Death Penalty in America. New York: New York University Press, 2006.

James Patterson. Brown v. Board of Education: A Civil Rights Milestone and Its Troubled History. New York: Oxford University Press, 2000.

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.

Daniel R. Pinello. Gay Rights in American Law. New York: Cambridge University Press, 2003.

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

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.

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

Carl Schneider. Law at the End of Life: The Supreme Court and Assisted Suicide. Ann Arbor: University of Michigan Press, 2000.

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: Counter-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.

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.

Geoffrey Stone. Perilous Times: Free Speech in Wartime from the Sedition Act of 1789 to the War on Terrorism. New York: Norton, 2004.

Cass Sunstein. Republic.com. Princeton, NJ: Princeton University Press, 2001.

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

Lawrence Tribe. The Clash of Absolutes. New York: Norton, 1990.

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.

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

Welsh S. White. Miranda's Waning Protections. Ann Arbor: University of Michigan Press, 2003.

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

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.

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

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

Franklin Zimring. The Contradictions of American Capital Punishment. New York: Oxford University Press, 2003.