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# SERIATIM

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THE SUPREME COURT BEFORE

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JOHN MARSHALL

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EDITED BY

SCOTT DOUGLAS GERBER

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# Seriatim The Supreme Court Before John Marshall

**Lawrence M. Friedman**



## **Seriatim The Supreme Court Before John Marshall:**

Seriatim Scott Douglas Gerber, 1998-07 Seldom has American law seen a more towering figure than the great Chief Justice John Marshall Yet even while acknowledging the indelible stamp Marshall put on the Supreme Court it is possible in fact necessary to examine the pre Marshall Court and its justices to gain a true understanding of the origins of American constitutionalism The ten essays in this tightly edited volume were especially commissioned for the book each by the leading authority on their particular subject The result is a window onto the origins of the most powerful court in the world and onto American constitutionalism itself

**The Supreme Court** Paul Finkelman, 2014-01-15 An insightful chronological by chief justice examination of the Supreme Court that enables students and readers to understand and appreciate the constitutional role the Court plays in American government and society American citizens need to understand the importance of the Supreme Court in determining how our government and society operates regardless of whether or not they agree with the Court's opinions Unfortunately the role and powers of the third branch of government are not well understood by the American public After an introduction and overview to the history of the Supreme Court from 1789 to 2013 this book examines the Court's decisions chronologically by Chief Justice allowing readers to grasp how the role and powers of the Court have developed and shifted over time The chapters depict the Court as the essential agent of review and an integrated part of the government regardless of the majority minority balance on the Court and of which political party is in the White House or controlling the House or Senate

*Jay and Ellsworth, The First Courts* Matthew P. Harrington, 2008-05-12 A fascinating exploration of the first two Supreme Courts and how they laid the groundwork for the modern day Court When the Supreme Court was established in 1789 no other country had a judicial body quite like it The early justices struggled to give definition to such concepts as judicial review and separation of powers The early court approached its role in ways that would be startling today often using its power to support the new government rather than merely serving as an independent arbiter The Jay Ellsworth Courts were the first to take up the role of interpreting the constitution and their approach influenced constitutional debates for the next two centuries Clearly this is a book for any reader who wishes to understand how the court was initially set up and how it functioned in our early judicial history

**The American Supreme Court** Robert G. McCloskey, 2010-07-15 Celebrating its fiftieth anniversary Robert McCloskey's classic work on the Supreme Court's role in constructing the U S Constitution has introduced generations of students to the workings of our nation's highest court For this new fifth edition Sanford Levinson extends McCloskey's magisterial treatment to address the Court's most recent decisions As in prior editions McCloskey's original text remains unchanged In his historical interpretation he argues that the strength of the Court has always been its sensitivity to the changing political scene as well as its reluctance to stray too far from the main currents of public sentiments In two revised chapters Levinson shows how McCloskey's approach continues to illuminate developments since 2005 including the Court's decisions in cases arising out of the War on Terror

which range from issues of civil liberty to tests of executive power He also discusses the Court's skepticism regarding campaign finance regulation its affirmation of the right to bear arms and the increasingly important nomination and confirmation process of Supreme Court justices including that of the first Hispanic justice Sonia Sotomayor The best and most concise account of the Supreme Court and its place in American politics McCloskey's wonderfully readable book is an essential guide to the past present and future prospects of this institution

**A History of American Law** Lawrence M. Friedman, 2019-09-09 Renowned legal historian Lawrence Friedman presents an accessible and authoritative history of American law from the colonial era to the present day This fully revised fourth edition incorporates the latest research to bring this classic work into the twenty first century In addition to looking closely at timely issues like race relations the book covers the changing configurations of commercial law criminal law family law and the law of property Friedman furthermore interrogates the vicissitudes of the legal profession and legal education The underlying theory of this eminently readable book is that the law is the product of society In this way we can view the history of the legal system through a sociological prism as it has evolved over the years

**Routledge Revivals: Encyclopedia of American Civil Liberties (2006)** Paul Finkelman, 2018-04-17 Originally published in 2006 the Encyclopedia of American Civil Liberties is a comprehensive 3 volume set covering a broad range of topics in the subject of civil liberties in America The book covers the topic from numerous different areas including freedom of speech press religion assembly and petition The Encyclopedia also addresses areas such as the Constitution the Bill of Rights slavery censorship crime and war The book's multidisciplinary approach will make it an ideal library reference resource for lawyers scholars and students

**A Distinct Judicial Power** Scott Douglas Gerber, 2011-05-05 This title provides a comprehensive critical analysis of the origins of judicial independence in the United States The book examines the political theory of an independent judiciary and chronicles how each of the original 13 states and their colonial antecedents treated their respective judiciaries

**Washington's Heir** Gerard N. Magliocca, 2022 Washington's Heir is the first published biography of Bushrod Washington George Washington's nephew and a Supreme Court Justice for over thirty years Justice Washington is one of the most underrated Founding Fathers He was Chief Justice John Marshall's right hand man in establishing the authority of the Supreme Court and wrote many influential opinions defining the fundamental rights of citizens and the structure of the Constitution Justice Washington's remarkable life story and his secret journal shed new light on George Washington John Marshall the Constitution and America's ongoing struggle to overcome its flaws and become a more perfect union

**First Principles** Scott Douglas Gerber, 1999 Clarence Thomas is one of the most vilified public figures of our day To date however his legal philosophy has received only cursory treatment First Principles provides a portrait of Thomas based not on the justice's caricatured reputation but on his judicial opinions and votes his scholarly writings and his public speeches The paperback edition includes a provocative new Afterword by the author bringing the book up to date by assessing Justice Thomas's performance and the reaction to his decisions during the

last five years      **Gibbons v. Ogden, Law, and Society in the Early Republic** Thomas H. Cox, 2009-08-25 Gibbons v Ogden Law and Society in the Early Republic examines a landmark decision in American jurisprudence the first Supreme Court case to deal with the thorny legal issue of interstate commerce Decided in 1824 Gibbons v Ogden arose out of litigation between owners of rival steamboat lines over passenger and freight routes between the neighboring states of New York and New Jersey But what began as a local dispute over the right to ferry the paying public from the New Jersey shore to New York City soon found its way into John Marshall s court and constitutional history The case is consistently ranked as one of the twenty most significant Supreme Court decisions and is still taught in constitutional law courses cited in state and federal cases and quoted in articles on constitutional business and technological history Gibbons v Ogden initially attracted enormous public attention because it involved the development of a new and sensational form of technology To early Americans steamboats were floating symbols of progress cheaper and quicker transportation that could bring goods to market and refinement to the backcountry A product of the rough and tumble world of nascent capitalism and legal innovation the case became a landmark decision that established the supremacy of federal regulation of interstate trade curtailed states rights and promoted a national market economy The case has been invoked by prohibitionists New Dealers civil rights activists and social conservatives alike in debates over federal regulation of issues ranging from labor standards to gun control This lively study fills in the social and political context in which the case was decided the colorful and fascinating personalities the entrepreneurial spirit of the early republic and the technological breakthroughs that brought modernity to the masses      *The Yale Biographical Dictionary of American Law* Roger K. Newman, 2009-01-01 This book is the first to gather in a single volume concise biographies of the most eminent men and women in the history of American law Encompassing a wide range of individuals who have devised replenished expounded and explained law The Yale Biographical Dictionary of American Law presents succinct and lively entries devoted to more than 700 subjects selected for their significant and lasting influence on American law Casting a wide net editor Roger K Newman includes individuals from around the country from colonial times to the present encompassing the spectrum of ideologies from left wing to right and including a diversity of racial ethnic and religious groups Entries are devoted to the living and dead the famous and infamous many who upheld the law and some who broke it Supreme Court justices private practice lawyers presidents professors journalists philosophers novelists prosecutors and others the individuals in the volume are as diverse as the nation itself Entries written by close to 600 expert contributors outline basic biographical facts on their subjects offer well chosen anecdotes and incidents to reveal accomplishments and include brief bibliographies Readers will turn to this dictionary as an authoritative and useful resource but they will also discover a volume that delights and entertains Listed in *The Yale Biographical Dictionary of American Law* John Ashcroft Robert H Bork Bill Clinton Ruth Bader Ginsburg Patrick Henry J Edgar Hoover James Madison Thurgood Marshall Sandra Day O Connor Janet Reno Franklin D Roosevelt Julius and Ethel

Rosenberg John T Scopes O J Simpson Alexis de Tocqueville Scott Turow And more than 700 others      **The Contract Clause** James W. Ely, Jr., 2016-10-28 Few provisions of the American Constitution have had such a tumultuous history as the contract clause Prompted by efforts in a number of states to interfere with debtor creditor relationships after the Revolution the clause Article I Section 10 reads that no state shall pass any Law impairing the Obligation of Contracts Honoring contractual commitments in the framers view would serve the public interest to encourage commerce and economic growth How the contract clause has fared as chronicled in this book by James W Ely Jr tells us a great deal about the shifting concerns and assumptions of Americans Its history provides a window on matters central to American constitutional history including the protection of economic rights the growth of judicial review and the role of federalism Under the leadership of Chief Justice John Marshall the Supreme Court construed the provision expansively and it rapidly became the primary vehicle for federal judicial review of state legislation before the adoption of the Fourteenth Amendment Indeed the contract clause was one of the most litigated provisions of the Constitution throughout the nineteenth century and its history reflects the impact of wars economic distress and political currents on reading the Constitution Ely shows how over time the courts carved out several malleable exceptions to the constitutional protection of contracts most notably the notion of an inalienable police power thus weakening the contract clause and enhancing state regulatory authority His study documents the near fatal blow dealt to the provision by New Deal constitutionalism when the perceived need for governmental intervention in the economy superseded the economic rights of individuals Though the 1970s saw a modest revival of interest in the contract clause the criteria for invoking it remain uncertain And yet as state and local governments try to trim the benefits of public sector employees the provision has once again figured prominently in litigation In this book James Ely gives us a timely analytical lens for understanding these contemporary challenges as well as the critical historical significance of the contract clause      **The Men Who Made the Constitution** John R. Vile, 2013-10-10 Few events in the history of the United States were of greater consequence than the Constitutional Convention of 1787 Although most histories have focused on the issues and compromises that dominated the debates the exchanges were also shaped by the dynamic personalities of the fifty five delegates who attended from twelve of the thirteen states In *The Men Who Made the Constitution* constitutional scholar John R Vile explores the lives and contributions of all delegates to the 1787 Constitutional Convention including those who left before the Convention ended and those who stayed until the last day but refused to sign Each biography records the delegate s birth education previous positions or public service roles homes family life life after the Convention death and resting place Drawing directly from Convention debates and a vast array of secondary sources Vile covers the positions of each delegate at the Convention on both major and minor issues and describes his service on committees and afterward at state ratification conventions *The Men Who Made the Constitution* includes a bibliography of key sources engravings of delegates for whom portraits were created a quiz on key facts and a transcript of the Constitution of the United States This work is the perfect

reference for students and scholars as well as professional and amateur historians of colonial and early American history constitutional law and American jurisprudence      Constitutional Inquisitors Scott Ingram,2023-09-26 In the United States federal prosecutors enjoy a degree of power that s unmatched elsewhere in the world unlike their counterparts in other countries federal prosecutors are free to investigate and prosecute or decline to prosecute criminal cases without significant oversight Our contemporary concerns about federal prosecutors that they have too much power and too much discretion over how they use it have a history that goes back to the founding of the United States This will be the first book to examine the development of the federal law enforcement apparatus in the earliest part of the early republic      **The Journal of**

**Southern Legal History** ,1999      **Repressive Jurisprudence in the Early American Republic** Phillip I.

Blumberg,2010-09-30 This volume seeks to explain how American society which had been capable of noble aspirations such as those in the Declaration of Independence and the Constitution was capable of adopting one of the most widely deplored statutes of our history the Sedition Act of 1798 It examines how the political ideals of the American Revolution were undermined by the adoption of repressive doctrines of the English monarchical system the criminalization of criticism against the king the Parliament the judiciary and Christianity Freedom of speech was dramatically confined and this law remained unchallenged until well into the twentieth century This book will be of keen interest to all concerned with the early Republic freedom of speech and evolution of American constitutional jurisprudence Because it addresses the much criticized Sedition Act of 1798 one of the most dramatic illustrations of this repressive jurisprudence the book will also be of interest to Americans concerned about preserving free speech in wartime      **Encyclopedia of American Civil Liberties** Paul

Finkelman,2021-02-25 Originally published in 2006 the Encyclopedia of American Civil Liberties is a comprehensive 3 volume set covering a broad range of topics in the subject of American Civil Liberties The book covers the topic from numerous different areas including freedom of speech press religion assembly and petition The Encyclopedia also addresses areas such as the Constitution the Bill of Rights slavery censorship crime and war The book s multidisciplinary approach will make it an ideal library reference resource for lawyers scholars and students      *George Washington and the Origins of the American Presidency* William D. Pederson,Mark J. Rozell, Frank J. Williams,2000-07-30 This essay collection is a retrospective analysis of the Washington administration s importance to the understanding of the modern presidency Contemporary presidential scholarship gives little attention to the enormous impact that Washington s actions had on establishing the presidency Most contemporary literature starts with 1933 and although FDR s impact on the development of the modern institution of the presidency is undeniable Washington s actions in office also established standards for practices that continue to this day This analysis of the Washington presidency begins with an examination of Washington s leadership and its relevance to the modern presidency The second group of essays looks at different aspects of presidential powers and the precedents established by the Washington administration The third section examines Washington s press coverage looking at

the origins of Washington's image and the various myths in the press as well as the president's difficult relations with his contemporary press. A thoughtful and important corrective that will be of interest to scholars, students, and researchers involved with the American presidency and its history. Origins of the Dred Scott Case Austin Allen, 2010-01-25. The Supreme Court's 1857 Dred Scott decision denied citizenship to African Americans and enabled slavery's westward expansion. It has long stood as a grievous instance of justice perverted by sectional politics. Austin Allen finds that the outcome of Dred Scott hinged not on a single issue, slavery, but on a web of assumptions, agendas, and commitments held collectively and individually by Chief Justice Roger B. Taney and his colleagues. Allen carefully tracks arguments made by Taney Court justices in more than 1,600 reported cases in the two decades prior to Dred Scott and in its immediate aftermath. By showing us the political, professional, ideological, and institutional contexts in which the Taney Court worked, Allen reveals that Dred Scott was not simply a victory for the Court's pro-southern faction. It was instead an outgrowth of Jacksonian jurisprudence, an intellectual system that charged the Court with protecting slavery, preserving both federal power and state sovereignty, promoting economic development, and securing the legal foundations of an emerging corporate order, all at the same time. Here is a wealth of new insight into the internal dynamics of the Taney Court and the origins of its most infamous decision.

**The Jeffersonians** Kevin R. C. Gutzman, 2022-12-13. The epic chronicle of the Virginia Dynasty, three presidents who shaped America's destiny and set the stage for modern liberalism. A long, insightful look at three founder presidents. Political histories are rarely page-turners, but Gutzman, clearly a scholar who has read everything on his subjects, writes lively prose and displays a refreshingly opinionated eye for a huge cast of characters and their often unfortunate actions. Outstanding historical writing. Kirkus starred review. Before the consecutive two-term administrations of Presidents Bill Clinton, George W. Bush, and Barack Obama, there had only been one other trio of its type: Thomas Jefferson, James Madison, and James Monroe. Kevin R. C. Gutzman's *The Jeffersonians* is a complete chronicle of the men known as the Virginia Dynasty, who served as president from 1801 to 1825 and implemented the foreign policy, domestic, and constitutional agenda of the radical wing of the American Revolution, setting guideposts for later American liberals to follow. The three close political allies were tightly related: Jefferson and Madison were the closest of friends, and Monroe was Jefferson's former law student. Their achievements were many, including the founding of the opposition Republican Party in the 1790s, the Louisiana Purchase, and the call upon Congress in 1806 to use its constitutional power to ban slave imports, beginning on January 1, 1808. Of course, not everything the Virginia Dynasty undertook was a success. Its chief failure might have been the ineptly planned and led War of 1812. In general, however, when Monroe rode off into the sunset in 1825, his passing and the end of the Virginia Dynasty were much lamented. Kevin R. C. Gutzman's compelling narrative details a pivotal time in America when three presidents worked toward common goals to strengthen our republic in a way rarely seen in modern politics.

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