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Jack Fruchtman, Jr., *The Supreme Court: Rulings on American Government and Society*, 2nd Edition

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THE SUPREME COURT: RULINGS ON AMERICAN GOVERNMENT AND SOCIETY, 2nd edition, by Jack Fruchtman, Jr. Baltimore: Lanahan Publishers, 2014. 323pp. Paper \$30.00. ISBN: 978-1-930398-18-4.

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If instructors for constitutional law or other judicial politics courses are looking for a concise overview of some of the U.S. Supreme Court's landmark cases, then this casebook might work well. The textbook includes some introductory material designed to introduce students to the work of the U.S. Supreme Court and how one does research on the Court's opinions. The actual opinions of the Supreme Court are then divided into categories, with an introductory section for each category as well as a detailed introduction for each decision. In addition to highly edited excerpts from the majority opinion in each case, the book also includes a small number of highly relevant and carefully edited concurrences or dissents to accompany each decision. The main goal of the book seems to be to present the cases to the students in a highly readable and highly edited fashion. The book gives students a fast survey of many of the Supreme Court's landmark decisions without going too in-depth into any single decision or into any single line of precedent.

The first category of cases covered deals with judicial review, judicial activism and judicial restraint. However, none of these key terms are ever defined in the book, and the cases listed cover a wide range of topics. Some readers may wonder how and why the specific cases were chosen for this section. Included in this initial catch-all section are cases such as *Marbury v Madison* (1803), *Korematsu v United States* (1944), *Baker v Carr* (1962), *Griswold v Connecticut* (1965), and *Shelby County v Holder*

(2013). Each of these cases are very important, but the author could give the reader more context for treating these disparate cases as a group.

Following this initial set of cases, the remaining categories of opinions are more traditionally defined. One set of cases deals with federalism and the Commerce Clause, although the chapter adds two presidential powers cases, *Ex Parte Milligan* (1866) and *Youngstown Sheet and Tube Co. v Sawyer* (1952), with little explanation. The next chapter covers free speech, freedom of press, free exercise of religion, and establishment of religion cases. Following this is a chapter on equal protection cases dealing with race, sex, and affirmative action. The chapter does not really address other forms of discrimination, such as cases dealing with citizenship or sexual orientation/gender identity. The next chapter covers substantive due process, procedural due process, and the Second Amendment cases. There could be more explanation as to why these disparate cases are brought together in one chapter. One might also wonder why the book includes *McDonald v City of Chicago* (2010) instead of the more landmark discussion of the intent of the Second Amendment found in *D.C. v. Heller* (2008). The final chapter covers cases dealing with privacy issues, including cases dealing with abortion, the right to die, and sodomy and same-sex marriage.

Thus, this book presents a fast and readable overview of many of the landmark civil rights and civil liberties cases handed down by the U.S. Supreme Court. One could quibble about why some other landmark cases are left out of the book, but that is one of the shortcomings of a quick overview approach. Trying to cover a variety of cases in a single short volume, the book does not follow the traditional approach of many of the leading constitutional law casebooks. Many of the authors of popular constitutional law

textbooks used by political scientists and other socio-legal scholars break down the cases into two volume sets: the first volume typically covers so-called government powers cases dealing with the powers of the federal courts, the Congress, the president, the federal bureaucracy, and the states. The second volume in this approach usually covers civil rights and civil liberties issues. Another way to break down Supreme Court cases is to treat them chronologically, which is popular among American Political Development scholars today. Some textbooks are more historical in their approach, while others are more concerned about having students understand various lines of precedent and thus are more topical and doctrinal in their approach. These two volume sets are often much more detailed in their coverage, presenting many more cases, than the Fruchtman textbook. Because of this, the Fruchtman casebook contains very few cases found in a traditional government powers course, focusing instead mostly on the Supreme Court's civil rights and civil liberties decisions.

The Fruchtman textbook also uses a judicial supremacy approach to these landmark cases, often stating things like, "One thing is settled: we accept the fact that ... the Supreme Court of the United States ... is the final arbiter of the meaning of the Constitution" (page xi). Scholars in the Governance as Dialogue Movement would not accept this judicial supremacy approach, arguing instead that the meaning of the U.S. Constitution is determined through an inter-institutional conversation or dialogue among the president, the Congress, the bureaucracy, the states, and the Supreme Court. The Fruchtman textbook does not mention, for example, *Immigration and Naturalization Service v. Chadha* (1983), where the U.S. Congress has completely ignored the Court's ruling that one-house vetoes of administrative actions are unconstitutional. The book

also does not discuss the constitutional effects of presidential signing statements that accompany legislation, where presidents often attempt to assert their role in the inter-institutional conversation regarding the meaning of various constitutional provisions. The book also does not mention cases such as *Chevron, U.S.A., Inc. v. NRDC* (1984), where the Supreme Court ruled that federal courts must give great deference to administrative interpretations of federal statutes. The book fails to mention the string of Supreme Court rulings regarding the rights of detainees at Guantanamo Bay, a line of decisions where the institutional differences among the president, the Congress, and the Court were clearly displayed. The book also barely mentions federalism cases where the Court overruled Congressional actions that were seen as having interfered with the powers of the states. As stated earlier, the book is light on many of the landmark cases in the government powers half of a two course approach. It may be convenient for beginning students to see the U.S. Supreme Court as the last word on the meaning of the U.S. Constitution, but many socio-legal scholars see the situation as much more complicated and much more nuanced than the one Fruchtman presents.

U.S. constitutional law is an extremely complex subject that deserves careful attention to the notion of precedent and the complicated institutional and political context in which the Supreme Court operates. The U.S. Supreme Court is an important voice in the inter-institutional dialogue, and it is this conversation that eventually determines the meaning of the various portions of the U.S. Constitution. However, the Supreme Court is not always the last and final word on constitutional meaning in our society. I think my students would find the Fruchtman textbook to be too simplistic in many ways.

However, given the limitations of the broad survey approach to constitutional law, this

casebook does provide a good overview of many of the landmark decisions of the U.S. Supreme Court, at least those in the civil rights and civil liberties areas. If an instructor needs a fast and readable overview, then this book may fill that need.