Theory and Practice: A Personal Collection on the Making and Meaning of the Constitution

This collection began in the fall semester of my junior year of high school, when my constitutional law teacher slammed down a box filled with tiny copies of the Constitution. He tossed one to every kid in the class and described how he had repeatedly harassed his state representative until the man agreed to send him 500 pocket constitutions for his students. It was not so much this colorful story that made an impression on me as the document itself; how remarkable that the founding document of our federal government, including all its amendments, can fit so easily into a pocket! I no longer have that Constitution, because after about a year of heavy use the cover fell off and the pages became too crumpled for use. I now keep two copies: a paper one to destroy in the bottom of my backpack, and a beautiful green hardcover version that holds pride of place on my bookshelf.

If you have never tried to read a Supreme Court opinion, you should know that it bears a resemblance to a game of whack-a-mole: to understand how the justices are applying a line of the Constitution, you need to look at the precedent case they cite to justify their interpretation, which case in turn mentions three more cases resting on other cases in turn, and so on. This process came to captivate me: each Constitutional clause gives rise to so much interpretation that to apply it in a given case one must first read a whole history of precedent cases.

I sought out books that tried to synthesize that history in a readable format, most notably several editions of "The Constitution and What it Means Today" (those meanings varying wildly depending on which decade 'today' referred to). In comparing the 1947 edition to more modern constitutional philosophies, I was shocked by just how differently the same few words could be interpreted. Evidence obtained through illegal searches was still admissible in court, the

commerce clause meaningfully limited Congress' power, and the Fourteenth Amendment had no bearing on the right to privacy.

Some of these changes I agreed with, and others I did not. I became all the more determined to find out for myself what those lines were originally supposed to mean, so I could make my own call as to what they ought to mean today. I first began trying to answer this question by reading the Federalist papers, to understand the arguments made in favor of the various sections of the Constitution before it was ratified. Then I stumbled across Richard Beeman's "Plain, Honest Men" for an account of the constitutional convention itself, and was fascinated to learn that Hamilton, author of the majority of the Federalist papers, had disagreed vehemently with many of those same provisions he argued for. Is it possible, then, that his arguments in the Federalist papers were merely rhetorical? This worry led me even further back, to Montesquieu, Rousseau, Machiavelli, Locke, and others, to try and understand all the theory that went into each carefully crafted clause of the Constitution.

That is my collection: books that went into the writing of the Constitution, and books that came directly out of it. The collection actually contains five copies of the Constitution in addition to the main volume; those seven thousand words are so concise and so important that anyone writing a related book cannot help but include them once again.

Bibliography

Beeman, Richard R. *Plain, Honest Men: The Making of the American Constitution*. Random House Trade Paperbacks, 2010.

An excellent account of the constitutional convention, drawing chiefly on James Madison's meticulous (though perhaps biased) notes, as well as letters from the delegates, journal entries, and contemporary newspaper articles. I stumbled across it in Goodwill one fortunate summer, and it blew me away to learn how little motivated the delegates were to even begin the process of the Constitution, and how little they agreed on anything once they finally began.

Corwin, Edward S. *The Constitution and What It Means Today*. Princeton University Press, 1947.

One of my favorites in the whole collection, this beautiful little volume explains the generally understood meaning of every line of the Constitution—the only catch is that those meanings are from 1947. I use it to check myself: are the interpretations that seem unquestionable to me really so, or am I going too easily with the times? If they read the line completely differently 70 years ago, it's worth reconsidering why I believe what I do.

De Montesquieu, Baron, and Jean Jacques Rousseau. *Great Books of the Western World 38: Montesquieu, Rousseau*. Britannica Inc., 1952.

Two for one! Montesquieu's *Spirit of Laws* is not on the program at St. John's College, but it should be. It is essentially the origin of the idea of separation of powers that made America's Constitution so uniquely powerful. Rousseau had a great deal of influence as well, although the founders did not end up implementing the direct democracy he favored.

Hall, Kermit L. *The Oxford Companion to the Supreme Court of the United States*. Oxford University Press, 1992.

After discovering it at the Greenfield Library Annual Book Sale, I have referred to this volume repeatedly while preparing assignments for my Supreme Court case reading group. Like the Corwin book, it offers a snapshot of constitutional interpretation during a specific time (the early 1990s), but it also contains an invaluable store of historical information about justices and cases.

Hamilton, Alexander, John Jay, and James Madison. *The Federalist Papers*. Edited by Clinton Rossiter. Signet Classic, 2014.

The Constitution would be worth nothing if it had not been ratified, and it was chiefly these papers that convinced the public to do so. I read them behind the counter of the burger joint I worked at in high school during slow hours. My coworker, initially judgmental about this choice, was ultimately convinced that they were interesting and we had a very good time discussing how to balance the corruption of the few and the ineptitude of the many.

Ketcham, Ralph, ed. *The Anti-Federalist Papers and the Constitutional Convention Debates*. Signet Classic, 2003.

I bought this to read the Anti-Federalist Papers, the other side of the ratification story, but I must admit that I have only actually read a few of them. What I found most interesting instead were the Constitutional Convention Debates themselves. The book serves as an excellent companion volume to Beeman's history, containing large portions of Madison's notes on various speeches.

Locke, John. *Two Treatises of Government and a Letter Concerning Toleration*. Digireads, 2015.

Quoted in both the Declaration of Independence and the Fourteenth Amendment, John Locke's philosophy had an undeniable impact on both the founding fathers and those seeking to rebuild our nation after the Civil War.

Machiavelli, Niccolò. Discourses on Livy. Barnes & Noble, 2005.

The lesser known cousin of *the Prince*, *Discourses on Livy* details Machiavelli's views on republics and the unique strengths and challenges they face. As the founders attempted to avoid democracy turning into mob rule, his detailed study of Rome must have weighed heavily on their minds.

Madison, et al. *Constitution of the United States of America (Deluxe, Hardbound Edition) : With the Declaration of Independence.* Peter Pauper Press, 2024

It was only recently that the thought occurred to me that I spend enough time thinking about the Constitution that I really ought to own a nicer copy than the crumpled paper one I keep in my backpack, so I bought this gorgeous green hardcover version. I think it is important to treat the document with the reverence it deserves (and wish more people in the government did so), and it helps for it to be encased in such beautiful binding.

Quirk, William J., and R. Randall Bridwell. *Judicial Dictatorship.* Transaction Publishers, 1995.

A testament to my willingness to read almost anything written on this subject. *Judicial Dictatorship* argues that the Supreme Court decided Marbury v. Madison wrongly, and that they do not actually have the power of judicial review. I did not come away convinced, but it was certainly interesting to consider what the government would look like if the Supreme Court really had no ability to strike down laws as unconstitutional.

Thucydides. *The Landmark Thucydides: A Comprehensive Guide to the Peloponnesian War.* Edited by Robert B. Strassler. Translated by Richard Crawley. Free Press, 2008.

Until I read this freshman year at St. John's, I had never even heard of Thucydides, but as I read so many accounts of former colonial democracies overthrown by factionalism I realized that it must have been on the minds of the founding fathers as they attempted to devise a system of checks and balances that would protect our nation from them.

Woodward, Bob, and Scott Armstrong. *The Brethren: Inside the Supreme Court.* Simon & Schuster, 2011.

An extremely in-depth account of the Burger Court (1969-1986). These years marked a seismic shift in judicial philosophy from that of the Warren Court that preceded it, and serves as a testament to just how quickly interpretations can shift.