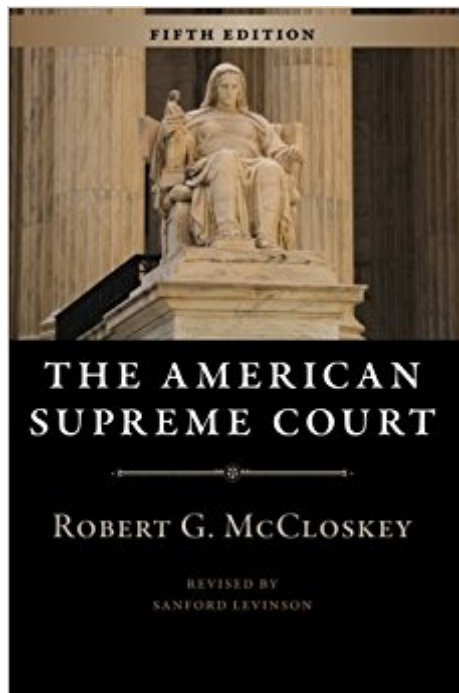




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# **The American Supreme Court: Fifth Edition (The Chicago History Of American Civilization)**



## Synopsis

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.

## Book Information

Series: The Chicago History of American Civilization

Paperback: 368 pages

Publisher: University Of Chicago Press; 5 edition (July 1, 2010)

Language: English

ISBN-10: 0226556875

ISBN-13: 978-0226556871

Product Dimensions: 6 x 0.8 x 9 inches

Shipping Weight: 1.4 pounds

Average Customer Review: 3.1 out of 5 stars 2 customer reviews

Best Sellers Rank: #196,400 in Books (See Top 100 in Books) #93 in Books > Politics & Social Sciences > Politics & Government > United States > Judicial Branch #122 in Books > Law > Rules & Procedures > Courts #204 in Books > Textbooks > Law > Constitutional Law

## Customer Reviews

"The best general book on the Court in years.... Criticism of the Court will surely once again be

heard. We will be fortunate if some of it matches Mr. McCloskey's in thoughtfulness, responsibility, and penetration." - Gerald Gunther, New York Times Book Review"

Robert G. McCloskey was professor of government at Harvard University. He is the author of *American Conservatism in the Age of the Enterprise*. Sanford Levinson is the W. St. John Garwood and W. St. John Garwood Jr. Centennial Chair in Law at the University of Texas Law School and professor of government at the University of Texas at Austin. He is the author of *Constitutional Faith and Our Undemocratic Constitution: Where the Constitution Goes Wrong (and How We the People Can Correct It)*.

I have no legal background whatsoever, but after reading this book I can follow along the court decisions on the Scotus Blog. That was my whole purpose for getting the book and it served its purpose well. I do think that the early parts on the history of the court are far superior than Mr Levinson's addition and the one star is a major strike against him spending so much time and pages on Jim Crow. Levinson makes it clear like Breyer, Ginsburg et alia, , that he believes that the Supremes should just be dealing with re-engineering social justice, hence the long chapters on Crow. Besides being wordy, he is very disorganized and the book could use a good editor for his parts. Pity he has piggybacked on the fame of McCloskey to push his own agenda.

The back cover of *The American Supreme Court* states that Robert McCloskey has introduced generations of students to the workings of our Supreme Court. I borrowed this book, plus "A People's History of the Supreme Court" by Peter Irons, for an introduction to the federal judicial system. After reading the first couple of chapters of this book, I junked it, and found a far more readable, enjoyable and educational resource for the American Historian in the book by Peter Irons. Most people would not look back, because the McCloskey book requires careful reading, and it is difficult to understand. It is written by lawyers, for lawyers, and it obfuscates matters for the layman. Where Peter Irons discussed the details of a case, McCloskey cites the legal opinion as evidence of a particular clarification of policy by the Court, and he does not necessarily mention the actual name of the case. For example, McCloskey writes, "In 1897, the concept of "liberty of contract" so dear to Herbert Spencer and other defenders of laissez-faire, was used as the basis for invalidating a state law." Upon reviewing the book of Peter Irons, I confirmed that the case of *Allgeyer vs. Louisiana* did, in fact, cite liberty of contract as the reason for striking down a state law that required businesses of obtain insurance from local firms. The point is that one should have a

better, more comprehensive, overview of the American Supreme Court at your fingertips to understand and remember what is in this book. Yet the historian may not want to render this book to the domain of legal eggheads, because it does offer many salient views on the Supreme Court. McCloskey's approach is high-level, offering the scholar a chance to see the forest after understanding the different trees that compose it. Sanford Levinson also corrects a flaw of *A People's History*, which declared that the Supreme Court had reached no landmark decisions after 1992. In fact, Levinson's breakneck account of recent Court history refers to nearly a hundred cases of the Rehnquist Court, and many of these decisions do seem significant. To clarify, Sanford Levinson wrote the last two, long chapters of over one hundred pages as well as the epilogue and coda. Levinson was also the final authority on the content for this book, which is an extension of McCloskey's original book on the Supreme Court published during the election of John F. Kennedy in 1960. Many of the controversial decisions of the Warren Court in protecting the rights of the arrested occurred in the 1960s, when the court nationalized due process and other liberties in the Bill of Rights. Levinson used the writings of McCloskey from 1960 to his death in 1969 in order to determine the opinion of his mentor on matters of the Court. Thus, the chapters of Levinson are not necessarily from his point of view, but are Levinson's opinion of his mentor's opinion. The appendix at the end of the book, which includes seven pages of important dates that are actually descriptions of cases and important justices who died or retired, could use more depth in its mention of cases, particularly before 1960. Many of the important court cases alluded to in the text are not included in this appendix. *Sturges vs. Crowninshield*, *Allgeyer vs. Louisiana*, *Home Building and Loan vs. Blaisdell*, and *Ogden vs. Saunders* are some examples of court decisions excluded from the appendix. Levinson should have added fifty more cases to the appendix of important dates. There is also an error in the text that describes the effect of *Gaines vs. Canada*, which can be called the Missouri case. The official name, according to Wikipedia, is *Missouri ex rel. Gaines versus Canada*. Lloyd Gaines sued the registrar of the University of Missouri, a man named Canada, because Gaines was denied admission to the all-white law school in Columbia. The appendix also lists the case as *Missouri vs. Canada*, which does not make sense - the registrar did not sue the school, Lloyd Gaines did. There is another small error in *Lee versus Wiesman* - arguments were heard in 1991, but the court released the verdict in 1992. The errors and the omissions are not the major factors in my lukewarm recommendation of this book. This book was analogous to the medicines that my grandparents used to talk about. They tasted awful, but they were good for you. This book was hard to digest and became a task to read - and while it may be good for you - you can always hope that something better will come along.

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