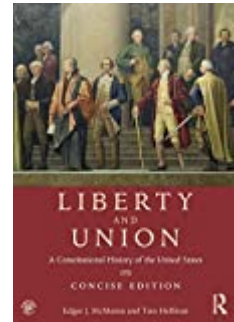


H-Net Reviews

in the Humanities & Social Sciences

Edgar J. McManus, Tara Helfman. *Liberty and Union: A Constitutional History of the United States*. Concise edition. Hoboken: Taylor and Francis, 2014. 752 pp. \$89.95 (e-book), ISBN 978-1-136-75723-5; \$89.95 (paper), ISBN 978-0-415-89286-5.



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Writing a constitutional history of the United States provides for many pitfalls. It is a narrow path that one must navigate so as not to stray too much into the world of constitutional law, focusing only on case law and statutes, nor into the world of American history, losing sight of the Constitution and being consumed by social movements, cultural shifts, and politics. And to try to write this type of history in a concise manner presents additional barriers.

In their new concise edition of *Liberty and Union*, Edgar J. McManus and Tara Helfman have done an admirable job of condensing what is a complicated and nuanced area of history into a short textbook. They focus on liberty as the cement that holds the Union together and forms the basis for constitutional development. While the book is promoted as an abridged history designed for single-semester courses, given its length and complicated material, it would be better suited for a two-semester class. In one semester, at two chapters per week, students, especially at the undergraduate level, would face a daunting task to get more than a cursory overview of American constitutional history.

Instead, in many ways, this edition reads as a more fluid version of the previously published two-volume set,

Liberty and Union: A Constitutional History of the United States (2013). While not radically different from the two-volume version and not quite as dense, the concise edition, especially if supplemented with primary materials, is ideal for teaching a yearlong course on constitutional history. The book, while explaining and describing a variety of cases and statutes, leaves a lot of room for students to explore the deeper meaning of cases and laws. Basic explanations given in the book become stepping stones for a deeper understanding of constitutional development.

One of the strengths of this volume is the accompanying online material, including not only case law but also statutes, speeches, interviews, videos, and so on. For example, the supporting materials for chapters 7 and 8, which focus on the Jacksonian period and the growth and changes in the Taney Court, include biographical sketches of the justices who filled out the Supreme Court. Chapter 17 includes links to news reels and fireside chats. And chapter 22, in its overview of justices appointed during the Kennedy and Johnson administrations, offers transcripts of interviews with Arthur Goldberg and Abe Fortas, a video interview with Thurgood Marshall, and a link to an interactive website about Marshall before he was on the Court.

One of the difficulties in writing about or teaching constitutional history, especially as one moves into the twentieth century, is deciding whether to approach the material in a chronological or thematic manner. McManus and Helfman merge the two, although they emphasize chronology in the first two-thirds of the book. There are exceptions to this with some chapters that overlap. For example, the discussion of Jeffersonian Republicanism calls for a second look in the ensuing chapter, which narrows in on the Marshall Court and its development of judicial nationalism while creating a bridge into Jacksonian America and the Taney Court. Another way the authors balance the need to move forward along a timeline, with the themes that transcend being grouped in such a manner, is that the accompanying documents focus on subheadings from each chapter, enabling readers to better match themes with documents, and understand the shifts in history as not just a movement of time, but one of ideas too.

For the post-World War II era, the authors chose to present the material thematically. To follow the multiple strains of constitutional history chronologically in the postwar is almost impossible given the many different issues that arose simultaneously in the last half of the twentieth century and into the beginning of the twenty-first century. As constitutional structures and development became more complicated, the story fragments, and the authors do a good job of approaching each issue of civil rights and liberties that arose in the postwar period. In fact, some of these sections are so nicely done that they could provide a great framework for a class on civil rights or civil liberties. These breaks from a straight timeline—more of a meandering path through American constitutional history at this point—allow readers to gain a better understanding of the different constitutional conundrums that arose.

The result is a series of sections that tie the material together nicely. For example, a discussion of the Truman presidency and the early days of the Eisenhower administration sets the stage for the myriad of issues that arose in the 1960s and 70s that had serious constitutional implications. Thus the book moves seamlessly from civil rights and civil liberties to judicial activism. This all creates a cohesive structure for further discussion of voting rights, the First Amendment and privacy, incorporation of the Bill of Rights, the nationalization of criminal due pro-

cess standards, Vietnam, and questions about free speech and presidential authority. The closing remarks about the Warren Court and its legacy of constitutional landmarks creates a solid segue way into the Burger Court and constitutional crises of Watergate and the War Powers Act. While regularly doubling back on the time period, the anchor of the Constitution enables the authors to guide the reader neatly through these various issues and constitutional confrontations. These developments, for example, pave the way for discussions of the post-Warren era under Chief Justices Warren E. Burger and William Rehnquist and the reassessment of constitutional authority and structure as defined under Earl Warren. The tidy timeline reemerges as all of the themes merge back together with a look at constitutional issues in the twenty-first century and, albeit limited, at the implications of the Roberts Court.

In the end, constitutional history is filled with ebbs and flows. McManus and Helfman do a good job of catching the pendulum-like history that the Constitution follows by using the concept of liberty, from which the pendulum swings. Constitutional history, whether it is focusing on the balance of power between the federal government and the states, the maneuvering between the branches of government, or the attempt by the individual to use the government to prevent abuses of rights and liberties, sees radical shifts in one direction or another. Constitutional evolution is often like a pendulum swinging back and forth, not knowing how far the pendulum will swing, and not knowing what the consequences will be for the Union and individual liberty. As a document that not only provides for but also encourages excess, any study in constitutional history must focus on those excesses, and what they mean to the expressions or suppressions of individual rights and liberty.

By the end of *Liberty and Union*, the reader will have a good understanding of constitutional change and continuity and the ebbs and flows of American constitutional history. As the authors suggest in the final paragraph, although the conversation begun in 1787 in Philadelphia is an ongoing one, despite discussions of federalism, states' rights, checks and balances, and the three branches of government, in the end it is all about liberty and right—the only thing that may have changed is that there are more people clamoring for their place in the sun.

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