

CONSTITUTIONAL LAW

EIGHTEENTH EDITION

KATHLEEN M. SULLIVAN

NOAH FELDMAN

FOUNDATION PRESS

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by

KATHLEEN M. SULLIVAN

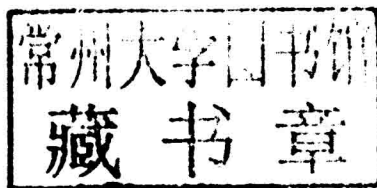
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PREFACE TO THE EIGHTEENTH EDITION

This edition of the casebook comes at an important moment in the life of contemporary constitutional law. Since the last edition, we have seen the first really major developments of the Roberts Court in the areas of the Commerce Clause, the taxing and spending power, and the power of the federal government to condition funding on states' participation, all addressed in the landmark decision in *NFIB v. Sebelius*, which considered the constitutionality of President Barack Obama's signature health care legislation. The Roberts Court has also marked out a significant new position on the crucial issue of free speech, on the one hand expanding free speech rights in the controversial *Citizens United* decision and on the other hand reaffirming their limits in the war on terror with its decision in *Holder v. Humanitarian Law Project*, which upheld the statute banning material support of designated terrorist organizations as applied to coordinated peaceful advocacy. Meanwhile, as this edition goes to press, the Court has granted certiorari and heard oral argument in what seem almost certain to be historic Equal Protection decisions concerning gay marriage in the context of the constitutionality of the Defense of Marriage Act and California's Proposition 8.

As it has done since its first edition in 1937, the casebook aims to present constitutional law as a species of law, informed by history, politics, and ideas but also marked by a deep, if contested, internal structure. Our goal is that any student learning constitutional law from this book will be readily equipped to practice it. The casebook attempts to uncover and explicate the rules, standards, and methodologies that inform practice before the Court as much as it seeks to make sense of the Court's evolving doctrine.

In keeping with longstanding practice, deletions and alterations are marked by brackets rather than ellipses, and footnotes are renumbered from the original text opinions, with those from opinions by the Justices so designated.

This edition also marks a change in the authorship of the book. Beginning as Noel Dowling's *Cases on Constitutional Law* just over three-quarters of a century ago, the book during the 1960s became Dowling and Gunther, then Gunther and Dowling. When the present authors studied from the book as students, it had become known as Gunther's *Constitutional Law*. The casebook became Gunther and Sullivan in 1997, and since 2001 it has been Sullivan and Gunther with Gerald Gunther's foundational contributions to the casebook acknowledged long after his death in 2002. In this edition, more than a decade later, the book becomes Sullivan and Feldman, adding to its authorship a colleague who has faithfully taught constitutional law from its prior editions and who is deeply committed to its unique place among constitutional law casebooks.

We are grateful for excellent research assistance from Kristin García, Adam Goodman, Patrick Gibson, Ingrid Gustafson, Anna Lvovsky, Brad Oppenheimer, Al-Amyn Sumar, and Justin Tresnowski.

We hope that you will enjoy learning and teaching from this edition of the casebook, and that the voice of Gerald Gunther continues to sound clearly among the harmonies of its other authors.

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June 2013

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