
Geoffrey R. Stone
Louis M. Seidman
Cass R. Sunstein
Mark V. Tushnet

1999 Supplement

Constitutional Law

Third Edition



ASPEN LAW & BUSINESS

1999 Supplement

CONSTITUTIONAL LAW

Third Edition

Geoffrey R. Stone

*Harry Kalven, Jr., Distinguished Service Professor of Law
and Provost
University of Chicago*

Louis M. Seidman

*Professor of Law
Georgetown University Law Center*

Cass R. Sunstein

*Karl N. Llewellyn Professor of Jurisprudence
University of Chicago Law School and
Department of Political Science*

Mark V. Tushnet

*Professor of Law
Georgetown University Law Center*



ASPEN LAW & BUSINESS
A Division of Aspen Publishers, Inc.
Gaithersburg New York

Copyright © 1999 by Geoffrey R. Stone, Robert H. Seidman,
Trustee, Cass R. Sunstein, and Judith Broder, Trustee

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher. Requests for permission to make copies of any part of this publication should be mailed to:

Permissions
Aspen Law & Business
1185 Avenue of the Americas
New York, NY 10036

Printed in the United States of America

Library of Congress Catalog Card No. 95-80563

ISBN 0-7355-0026-6

1999 Supplement

CONSTITUTIONAL LAW

EDITORIAL ADVISORY BOARD



ASPEN PUBLISHERS, INC.

Legal Education Division

Richard A. Epstein

James Parker Hall Distinguished Service Professor of Law
University of Chicago

E. Allan Farnsworth

Alfred McCormack Professor of Law
Columbia University

Ronald J. Gilson

Charles J. Meyers Professor of Law and Business
Stanford University
Marc and Eva Stern Professor of Law and Business
Columbia University

Geoffrey C. Hazard, Jr.

Trustee Professor of Law
University of Pennsylvania

James E. Krier

Earl Warren DeLano Professor of Law
University of Michigan

Elizabeth Warren

Leo Gottlieb Professor of Law
Harvard University

Bernard Wolfman

Fessenden Professor of Law
Harvard University

About Aspen Law & Business, Legal Education Division

In 1996, Aspen Law & Business welcomed the Law School Division of Little, Brown and Company into its growing business—already established as a leading provider of practical information to legal practitioners.

Acquiring much more than a prestigious collection of educational publications by the country's foremost authors, Aspen Law & Business inherited the long-standing Little, Brown tradition of excellence—born over 150 years ago. As one of America's oldest and most venerable publishing houses, Little, Brown and Company commenced in a world of change and challenge, innovation and growth. Sharing that same spirit, Aspen Law & Business has dedicated itself to continuing and strengthening the integrity begun so many years ago.

ASPEN LAW & BUSINESS
A Division of Aspen Publishers, Inc.
A Wolters Kluwer Company
www.aspenpublishers.com

Table of Authorities

- Adams, The Last Wave of Affirmative Action , 1998 Wis. L. Rev. 1395, 694
- Addis, Role Models and the Politics of Recognition, 144 U. Pa. L. Rev. 1377 (1996), 692
- Adler, What's Left? Hate Speech, Pornography, and the Problem for Artistic Expression, 84 Cal. L. Rev. 1499 (1996), 1304
- Alexander, Sometimes Better Boring and Correct: *Romer v. Evans* as an Exercise of Ordinary Equal Protection Analysis, 68 U. Colo. L. Rev. 335 (1996), 780
- Alexander & Schauer, On Extrajudicial Constitutional Interpretation, 110 Harv. L. Rev. 1359 (1997), 22
- Amar, Attainment and Amendment 2: *Romer's* Rightness, 95 Mich. L. Rev. 203 (1996), 780
- Amar, Intratextualism, 112 Harv. L. Rev. 747, 768-773 (1999), 526
- Amar, The Bill of Rights (1999), 23
- Amar & Katyal, *Bakke's* Fate, 43 U.C.L.A. L. Rev. 1745 (1996), 692
- Ayers & Vars, When Does Private Discrimination Justify Public Affirmative Action, 98 Colum. L. Rev. 1577 (1998), 691
- Ayres, Narrow Tailoring, 43, U.C.L.A. L. Rev. 1781 (1996), 694
- Baker, Campaign Expenditures and Free Speech, 33 Harv. C.R.-C.L. L. Rev. 1, 21-25, 46 (1998), 1420
- Baker, Conditional Federal Spending after *Lopez*, 95 Col. L. Rev. 1911 (1995), 251
- Baker & Dinkin, The Senate: An Institution Whose Time Has Gone?, 13 Journal of Law & Politics, 21, 49-50 (1997), 151
- Balkin, Media Filters, the V-Chip, and the Foundation of Broadcast Regulation, 45 Duke L.J. 1131 (1996), 1281
- Barron, The Promise of *Cooley's* City: Traces of Local Constitutionalism, 147 U. Pa. L. Rev. 487, 568, 578, 589 (1999), 648
- Berg, Religion Clause anti-Theories, 72 Notre Dame L. Rev. 693 (1997), 1586
- Bezanson, Institutional Speech, 80 Iowa L. Rev. 735 (1995), 1425
- Bezanson, Means and Ends and Food Lion: The Tension Between Exemption and Independence in Newsgathering by the Press, 47 Emory L.J. 895, 924 (1998), 1492

- Bhagwat, *Of Markets and Media: The First Amendment, the New Mass Media, and the Political Components of Culture*, 74 N.C.L. Rev. 141 (1995), 1525
- Bhagwat, *Purpose Scrutiny in Constitutional Analysis*, 85 Calif. L. Rev. 197 (1997), 1434
- Blasi, *How Campaign Spending Limits Can Be Reconciled with the First Amendment*, 7 *The Responsive Community* 1, 5-8 (1996-1997), 1420
- Bowen & Bok, *The Shape of the River* (1998), 696
- Bradley, *The Treaty Power and American Federalism*, 97 Mich. L. Rev. 390 (1998), 235
- Bratton & McCahery, *The New Economics of Jurisdictional Competition: Devolutionary Federalism in a Second-Best World*, 86 Geo. L.J. 201, 260 (1997), 151
- Brownstein, *Rules of Engagement for Culture Wars: Regulating Conduct, Unprotected Speech, and Protected Expression in Anti-Abortion Protests*, 29 U.C. Davis L. Rev. 553, 586-588, 628 (1996), 1351
- Carter, *Parents, Religion, and Schools: Reflections on Pierce, 70 Years Later*, 27 Seton Hall L. Rev., 1194, 1214, 1214 (1997), 1558
- Casebeer, *Aliquippa: The Company Town and Contested Power in the Construction of Law*, 43 Buff. L. Rev. 617 (1995), 226
- Clark, *Translating Federalism: A Structural Approach*, 66 Geo. Wash. L. Rev. 1161, 1175, 1176-77 (1998), 182
- Coenen, *Business Subsidies and the Dormant Commerce Clause*, 107 Yale L.J. 965, 985-992 (1998), 323
- Cole, *The Paradox of Race and Crime: A Comment on Randall Kennedy's "Politics of Distinction"*, 83 Geo. L. Rev. 2547 (1995), 614
- Comment, *An Open Letter to Congressman Gingrich*, 104 Yale L.J. 1539 (1995), 451
- Cottrol & Diamond, *The Second Amendment: Toward an Afro-Americanist Reconsideration*, 80 Geo. L.J. 309 (1991), 287
- Cunningham & Menon, *Race, Caste . . . ? Rethinking Affirmative Action*, 97 Mich. L. Rev. 1296 (1999), 697
- Curtis, *The 1837 Killing of Elijah Lovejoy by an Anti-Abortion Mob: Free Speech, Mobs, Republican Government and the Privileges of American Citizens*, 44 U.C.L.A. L. Rev. 1109 (1997), 1078
- Dailey, *Federalism and Families*, 143 U. Pa. L. Rev. 1787 (1995), 181
- Dana, *The Case for Unfunded Environmental Mandates*, 69 S. Cal. L. Rev. 1 (1995), 286
- Dorf, *Incidental Burdens on Fundamental Rights*, 109 Harv. L. Rev. 1175 (1996), 1016, 1395
- Douglas-Scott, *The Hatefulness of Protected Speech: A Comparison of the American and European Approaches*, 7 Wm. & Mary Bill of Rts. J. 305, 309, 317, 343-345 (1999), 1154

Table of Authorities

- Dow, The Moral Failure of the Clear and Present Danger Test, 6 Wm. & Mary Bill of Rts. J. 733, 751-752 (1998), 1102
- Dworkin, Assisted Suicide: The Philosophers' Brief, N.Y. Rev. Books, Mar. 27, 1997, 41, 1046
- _____, In Praise of Theory, 29 Ariz. St. L.J. 353 (1997), 75
- Easton, Two Wrongs Mock a Right: Overcoming the Cohen Maledicta That Bar First Amendment Protection for Newsgathering, 58 Ohio St. L.J. 1135, 1215 (1997), 1495
- Eisgruber & Sager, Unthinking Religious Freedom, 74 Tex. L. Rev. 577 (1996), 1567
- Ely, If at First You Don't Succeed, Ignore the Question Next Time? Group Harm in *Brown v. Board of Education* and *Loving v. Virginia*, 15 Const. Comm. 215 (1998), 528
- Ely, Standing to Challenge Pro-Minority Gerrymanders, 111 Harv. L. Rev. 576 (1997), 121
- Epps, What We Talk About When We Talk About Free Exercise, 30 Ariz. St. L.J. 563, 576, 577-78 (1998), 1590
- Epstein, Rethinking the Constitutionality of Ceremonial Deism, 96 Colum. L. Rev. 1083 (1996), 1569
- Eskridge, Relationships between Formalism and Functionalism in Separation of Powers Cases, 22 Harv. J.L. & Pub. Pol'y 21, 24 (1998), 406
- Estlund, Freedom of Expression in the Workplace and the Problem of Discriminatory Harassment, 75 Tex. L. Rev. 687 (1997), 1317
- Farber & Sherry, The Pariah Principle, 13 Con. Comm. 257 (1996), 780
- Feldman, Principle, History, and Power: The Limits of the First Amendment Religion Clauses, 81 Iowa L. Rev. 833 (1996), 1570, 1626
- Fisher, Presidential War Power (1995), 481
- Fitts, The Paradox of Power in the Modern State: Why a Unitary, Centralized Presidency May Not Exhibit Effective or Legitimate Leadership, 144 U. Pa. L. Rev. 827 (1996), 470
- Flaherty, The Most Dangerous Branch, 105 Yale L.J. 1725 (1996), 425
- Foster, Intent and Incoherence, 72 Tul. L. Rev. 1065 (1998), 632
- Friedman, Valuing Federalism, 82 Minn. L. Rev. 317 (1997), 153
- Gardbaum, Rethinking Constitutional Federalism, 74 Tex. L. Rev. 795 (1996), 154
- Garrett, Enhancing the Political Safeguards of Federalism? The Unfunded Mandates Reform Act of 1995, 45 U. Kan. L. Rev. 1113 (1997), 188
- Garvey, An Anti-Liberal Argument for Religious Freedom, 7 J. Contemp. Legal Issues 275 (1996), 1543, 1609
- Gedicks, F., The Rhetoric of Church and State: A Critical Analysis of Religion Clause Jurisprudence (1995), 1586
- Gormley, An Original Model of the Independent Counsel Statute, 97 Mich. L. Rev. 601 (1998), 470

- Gormley, Impeachment and the Independent Counsel: A Dysfunctional Union, 51 Stan. L. Rev. 309, 313 (1999), 424
- Gray, Public and Private Speech: Toward a Practice of Pluralistic Convergence in Free-Speech Values, 1 Tex. Wesleyan L. Rev. 1 (1994), 1452
- Greenawalt, Religious Law and Civil Law: Using Secular Law to Assure Observance of Practices With Religious Significance, 71 S. Cal. L. Rev. 781, 793-96 (1998), 1623
- Greene, The Pledge of Allegiance Problem, 64 Fordham L. Rev. 451 (1995), 1466
- Halbrook, S., That Every Man Be Armed, The Evolution of a Constitutional Right (1984), 287
- Hall, Separating Church and State: Roger Williams and Religious Liberty 158, 159-160 (1998), 1557
- Hamilton, Art Speech, 49 Vand. L. Rev. 73 (1996), 1252
- Heins, Viewpoint Discrimination, 24 Hast. Const. L.Q. 99 (1996), 1253, 1375
- Heinzerling, The Commercial Constitution, 1996 Sup. Ct. Rev. 217, 316
- Hellerstein, Commerce Clause Restraints on State Tax Incentives, 82 Minn. L. Rev. 413 (1997), 323
- Hellerstein & Coenen, Commerce Clause Restraints on State Business Development Incentives, 81 Cornell L. Rev. 789 (1996), 323
- Heyman, Righting the Balance: An Inquiry into the Foundations and Limits of Freedom of Expression, 78 B.U. L. Rev. 1275, 1378-1379 (1998), 1154
- Hills, Jr., The Political Economy of Cooperative Federalism: Why State Autonomy Makes Sense and Dual Sovereignty Doesn't, 96 Mich. L. Rev. 813, 819-821 (1998), 287
- Hundt, The Public's Airwaves: What Does the Public Interest Require of Television Broadcasters? 45 Duke L.J. 1089 (1996), 1518
- Issacharoff & Karlan, Standing and Misunderstanding in Voting Rights Law, 111 Harv. L. Rev. 2276 (1997), 121
- Jackson, Federalism and the Uses and Limits of Law: *Printz* and Principle?, 111 Harv. L. Rev. 2121-22, 2180, 2217, 2218-19, 2251, 2253-54 (1998), 153, 287
- Jeffries & Levinson, The Non-Retrogression Principle in Constitutional Law, 86 Cal. L. Rev. 1211 (1998), 780
- Kagan, Private Speech, Public Purpose: The Role of Governmental Motive in First Amendment Doctrine, 63 U. Chi. L. Rev. 415 (1996), 1139, 1185, 1330, 1395, 1419
- Kamm, Frances Myrna, Abortion and Creation (1992), 1016
- Klarman, Antifidelity, 70 S. Cal. L. Rev. 381 (1997), 43
- Korobkin, The Local Politics of Acid Rain: Public Versus Private Decision-making and the Dormant Commerce Clause in a New Era of Environmental Law, 75 B.U. L. Rev. 689 (1995), 323

Table of Authorities

- Kramer, But When Exactly Was Judicially-Enforced Federalism “Born” in the First Place?, 22 Harv. J.L. & Pub. Pol’y 123, 127-28, 131, 133, 134-35, 136 (1998), 185, 186
- Krent, Turning Congress into an Agency: The Propriety of Requiring Legislative Findings, 46 Case W. Res. L. Rev. 731 (1996), 228
- Krieger, Civil Rights Perestroika: Intergroup Relations after Affirmative Action, 86 Cal. L. Rev. 1251, 1264, 1267-68, 1294, 1331 (1998), 696
- Laylock, Religious Liberty as Liberty, 7 J. Contemp. Legal Issues 313 (1996), 1543
- Laycock, The Underlying Unity of Separation and Neutrality, 46 Emory L.J. 49, 49, 69-71 (1997), 1543
- Lawrence, Toward a More Coherent Dormant Commerce Clause: a Proposed Unitary Framework, 21 Harv. J.L. & Pub. Pol’y 395, 416-17 (1998), 298
- Lessig, Translating Federalism: United States v. Lopez, 1995 Sup. Ct. Rev. 125, 228
- Levinson, The Embarrassing Second Amendment, 99 Yale L.J. 637 (1989), 287
- Logan, Getting Beyond Scarcity: A New Paradigm for Assessing the Constitutionality of Broadcast Regulation, 85 Cal. L. Rev. 1687, 1709-1714 (1997), 1517
- Malcolm, J., To Keep and Bear Arms, The Origins of an Anglo-American Right (1994), 287
- Marcosson, Colorizing the Constitution of Originalism: Clarence Thomas at the Rubicon, 16 Law & Ineq. J. 429 (1998), 602
- Marshall, In Defense of the Search for Truth as a First Amendment Justification, 30 Ga. L. Rev. 1 (1995), 1080
- Massaro, Gay Rights, Thick and Thin, 49 Stan. L. Rev. 45 (1996), 780
- McGinnis, The Once and Future Property-Based Vision of the First Amendment, 63 U. Chi. L. Rev. 49 (1996), 1086
- McGinnis & Rappaport, The Constitutionality of Legislative Supermajority Requirements: A Defense, 105 Yale L.J. 483 (1995), 451
- Meister, Sojourners and Survivors: Two Logics of Constitutional Protection, 9 Studies in American Political Development 229 (1995), 1539
- Moore, *Loving’s* Legacy: The Other Antidiscrimination Principle, 34 Harv. C.R.-C.L. L. Rev. 163 (1999), 646
- Myerson, Authors, Editors, and Uncommon Carriers: Identifying the “Speaker” Within the New Media, 71 Notre Dame L. Rev. 79 (1995), 1528
- Nagel, The Future of Federalism, 46 Case W. Res. L. Rev. 643 (1996), 228
- Nagle, The Commerce Clause Meets the Delhi Sands Flower-Loving Fly, 97 Mich. L. Rev. 174, 190-191, 204 (1998), 151
- Nagle, Corrections Day, 43 UCLA L. Rev. 1267 (1996), 442

- Nourse, Toward a “Due Foundation” for Separation of Powers: The Federalist Papers as Political Narrative, 74 Tex. L. Rev. 447 (1996), 468
- O’Sullivan, The Interaction between Impeachment and the Independent Counsel Statute, 86 Geo. L.J. 2193 (1998), 424
- Peters, Adjudication as Representation, 97 Colum. L. Rev. 312 (1997), 75
- Pildes & Niemi, Expressive Harms, “Bizarre Districts,” and Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno, 92 Mich. L. Rev. 483 (1993), 121
- Posner, R., Aging and Old Age (1995), 1046
- Posner, The Trial and Impeachment of William Jefferson Clinton (1999), 419
- Posner, Unfunded Mandate Reform: 1996 and Beyond, 27 Publius 53 (1997), 188
- Post, Recuperating First Amendment Doctrine, 47 Stan. L. Rev. 1249, 1249-50 (1995), 1404, 1529
- Post, Subsidized Speech, 106 Yale L.J. 151 (1996), 1385
- Powe, Guns, Words, and Constitutional Interpretation, 38 William & Mary L. Rev. 1311 (1997), 287
- Powell, As Justice Requires/Permits: The Delimitation of Harmful Speech in a Democratic Society, 16 Law & Ineq. J. 97, 103, 147-149 (1998), 1303
- Raven-Hansen & Banks, From Vietnam to Desert Shield: The Commander in Chief’s Spending Power, 81 Iowa L. Rev. 79 (1995), 489
- Redish, Tobacco Advertising and the First Amendment, 81 Iowa L. Rev. 589 (1996), 1243
- Redish and Kessler, Government Subsidies and Free Expression, 80 Minn. L. Rev. (1996), 1385
- Regan, How to Think About the Federal Commerce Power and Incidentally Rewrite *United States v. Lopez*, 94 Mich. L. Rev. 554 (1995), 188
- Rothchild, Menacing Speech and the First Amendment: A Function Approach to Incitement that Threatens, 8 Tex. J. Women & L. — (1999), 1133
- Rubin, Equal Rights, Special Rights, and the Nature of Antidiscrimination Law, 97 Mich. L. Rev. 564 (1998), 780
- Rubin, The Fundamentality and Irrelevance of Federalism, 13 Ga. St. U. L. Rev. 1009, 1057-1061 (1997), 153
- Schacter, The Pursuit of ‘Popular Intent’: Interpretive Dilemmas in Direct Democracy, 105 Yale L.J. 107 (1995), 22
- Schauer, Giving Reasons, 47 Stanford L. Rev. 633 (1995), 146
- Schultz & Gottlieb, Legal Functionalism and Social Change: A Reassessment of Rosenberg’s The Hollow Hope: Can Courts Bring About Social Change?, 12 J. L. & Pol. 63 (1996), 558
- Seidman, *Romer’s* Radicalism: The Unexpected Revival of Warren Court Activism, 1996 Sup. Ct. Rev. 67, 780

Table of Authorities

- Shapiro, David L., *Federalism: A Dialogue* (1995), 149
- Smith, Converting the Religious Equality Amendment into a Statute with a Little "Conscience," 1996 *BYU L. Rev.* 645, 1546
- Smith, Money Talks: Speech, Corruption, Equality and Campaign Finance, 86 *Geo. L.J.* 45, 71 (1997), 1420
- Smith, "Nice Work if You Can Get It": "Ethical" Jury Selection in Criminal Defense, 67 *Fordham L. Rev.* 523 (1998), 618
- Sofaer, The Power over War, 50 *Miami L. Rev.* 33 (1995), 477
- Spann, Affirmative Action and Discrimination, 39 *How. L. Rev.* 1 (1995), 696
- Stacy, Whose Interests Does Federalism Protect?, 45 *U. Kan. L. Rev.* 1185, 1190 (1997), 153
- Strauss, Affirmative Action and the Public Interest, 1995 *Sup. Ct. Rev.* 1, 688, 692
- Stromseth, Collective Force and Constitutional Responsibility: War Powers in the Post-Cold War Era, 50 *Miami L. Rev.* 145 (1995), 481
- Sullivan, Cheap Spirits, Cigarettes, and Free Speech: The Implications of 44 *Liquormart*, 1996 *Sup. Ct. Rev.* 123, 1244
- Sullivan, Political Money and Freedom of Speech, 30 *U.C. Davis L. Rev.* 663, 664, 667-673 (1997), 1420
- Sunstein, Impeaching the President, 147 *U. Pa. L. Rev.* (1998), 419
- Sunstein, Informational Regulation and Informational Standing: Akins and Beyond, 147 *U. Pa. L. Rev.* 613 (1999), 121
- Sunstein, Leaving Things Undecided, 110 *Harv. L. Rev.* 4 (1996), 75, 780
- Sunstein, One Case At A Time: Judicial Minimalism on the Supreme Court (1999), 75
- _____, The Right to Die, 106 *Yale L.J.* 1123 (1997), 1046
- Symposium, Gay Rights and the Courts: The Amendment 2 Controversy, 68 *U. Colo. L. Rev.* 285 (1996), 780
- Tushnet, The Hardest Question in Constitutional Law, 81 *Minn. L. Rev.* 1 (1996), 22
- Tushnet, Taking the Constitution Away From the Courts (1999), 39
- Tushnet, The Possibilities of Comparative Constitutional Law, 108 *Yale L.J.* 1225, 1299-1300 (1999), 390
- Ulen, Economic and Public-Choice Forces in Federalism, 6 *Geo. Mason L. Rev.* 921, 943 (1998), 182
- Van Alstyne, The Second Amendment and the Personal Right to Arms, 43 *Duke L.J.* 1236 (1994), 287
- Volokh, Freedom of Speech, Permissible Tailoring and Transcending Strict Scrutiny, 144 *U. Pa. L. Rev.* 2417 (1996), 1168
- Volokh, Freedom of Speech, Shielding Children, and Transcending Balancing, *Sup. Ct. Rev.* 141, 148-149, 156-157, 165-166, 169, 172, 185 (1997), 1298

- Volokh & McDonnell, Freedom of Speech and Independent Judgment Review in Copyright Cases, 107 Yale L.J. 2431 (1998), 1495
- Weinberg, Fear and Federalism, 23 Ohio N.U. L. Rev. 1295, 1323-1324 (1997), 181
- Wells, Abortion Counseling as Vice Activity: The Free Speech Implications of *Rust v. Sullivan* and *Planned Parenthood v. Casey*, 95 Columbia L. Rev. 1724 (1995), 1385
- Wells, Reinvigorating Autonomy: Freedom and Responsibility in the Supreme Court's First Amendment Jurisprudence, 32 Harv. C.R.-C.L. L. Rev. 159, 163-168 (1997), 1085
- Werhan, Normalizing the Separation of Powers, 70 Tulane L. Rev. 2681 (1996), 425
- White, The First Amendment Comes of Age: The Emergence of Free Speech in Twentieth Century America, 95 Mich. L. Rev. 299 (1996), 1114
- White, The Transformation of the Constitutional Regime of Foreign Relations, 85 U. Va. L. Rev. 1 (1999), 476
- Williams, Civic Republicanism and the Citizen Militia: The Terrifying Second Amendment, 101 Yale L.J. 551 (1991), 287
- Yoshino, Assimilationist Bias in Equal Protection: The Visibility Presumption and the Case of "Don't Ask, Don't Tell," 108 Yale L.J. 487, 492 (1998), 779

Acknowledgments

- Bezanson, Randall. Institutional Speech, 80 Iowa L. Rev. 735, 736, 755, 761, 739 (1995). Copyright © 1995 Iowa Law Review. Reprinted with permission.
- Balkin, Media Filters, The V-Chip and The Foundations of Broadcast Regulations, 45 Duke L.J. 1131, 1139, 1142, 1148, 1150, 1157, 1165, 1173 (1996). Copyright © 1996 Duke Law Journal. Reprinted with permission.
- Brownstein, Rules of Engagement for Culture Wars: Regulating Conduct, Unprotected Speech, and Protected Expression in Anti-Abortion Protests, 29 U.C. Davis L. Rev. 553, 586-588, 628 (1996). Copyright © 1996 Regents of The University of California. Reprinted with permission.
- Estlund, Freedom of Expression in the Workplace and The Problem of Discriminatory Harassment. Published originally in 75 Texas Law Review 697 (1997). Copyright © by The Texas Law Review Association. Reprinted by permission.
- Flaherty, Martin. The Most Dangerous Branch, 105 Yale Law Journal 1925, 1729-1730 (1996). Copyright © 1996 Yale Law Journal. Reprinted with permission.
- Kagan, Private Speech, Public Purpose: The Role of Governmental Motive in First Amendment Doctrine, 63 U. Chi. L. Rev. 415, 467-475 (1996). Copyright © 1996 University of Chicago Law Review. Reprinted with permission.
- Post, Subsidized Speech. Reprinted by permission of The Yale Law Journal and Fred B. Rothman & Company from The Yale Law Journal, Vol. 106, 151-191.
- Strauss, Affirmative Action and the Public Interest, 1995 Sup. Ct. Rev. 1, 3-4, 12-13. Copyright © 1996 University of Chicago Press. Reprinted with permission.

1999 Supplement

CONSTITUTIONAL LAW

Table of Cases

Italics indicate principal and intermediate cases.
All references are to page numbers in the main text.

Abood v. Detroit Board of Educ., 1471
Agostini v. Felton, 1584
American Civil Liberties Union v. Reno, 1297, 1528
Arkansas Educational Television Commission v. Forbes, 1376
Bennis v. Michigan, 1048
BMW of North America v. Gore, 1048
Board of County Commr., Wabaunsee County, Kansas v. Umbehr, 1453, 1456
Bowers v. Hardwick, 1084
Buckley v. American Constitutional Law Foundation, 1425, 1477
Bush v. Vera, 121, 635, 694, 696, 780, 892
Butler v. Michigan, 1298
Campbell v. Louisiana, 617
Camps Newfound/Owatonna, Inc. v. Town of Harrison, 323
Central Hudson Gas v. Public Serv. Commn. of N.Y., 1246
Central State University v. American Association of University Professors, 574
City of Boerne v. Flores, 258, 1591, 1610
Clinton v. City of New York, 453
Clinton v. Jones, 419
Colorado Republican Fed. Campaign Comm. v. Federal Election Commn., 1425
Craig v. Boren, 780
Denver Area Educ. Telecommunications Consortium, Inc. v. Federal Communications Commn., 1298, 1375, 1472, 1526
Department of Commerce v. U.S. House of Rep., 121
Edmond v. United States, 469
Federal Election Commission v. Akins, 121
44 Liquormart, Inc. v. Rhode Island, 1244, 1297
General Motors Corp. v. Tracy, 319
Glickman v. Wileman Brothers & Elliott, Inc. 1246, 1471