



The Dirty Dozen: How Twelve Supreme Court Cases Radically Expanded Government and Eroded Freedom

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From Reader Review **The Dirty Dozen: How Twelve Supreme Court Cases Radically Expanded Government and Eroded Freedom for online ebook**

Jeremy Hurren says

This is one of the best books on understanding the current interpretation of the Constitution. It details where the court has gone astray in protecting liberties and upholding the Constitution.

Sean Rosenthal says

Interesting Quotes:

"[T]wo federal government agencies recently examined gun controls and found no statistically significant evidence to support their effectiveness. In 2004 the National Academy of Sciences reviewed 253 journal articles, 99 books, 43 government publications, a survey of 80 gun-control measures, and its own empirical work. The researchers could not identify a single gun-control regulation that reduced violent crime, suicide, or accidents. A year earlier the Centers for Disease Control and Prevention reported on an independent evaluation of firearms and ammunition bans, restrictions on acquisitions, waiting periods, registration and licensing, child access prevention laws, and zero tolerance laws. Conclusion: None of the laws had a meaningful impact on gun violence.

"Proponents of gun control are not persuaded by the evidence, nor are they persuaded by the text of the Second Amendment; the history, purpose, and structure of the Constitution; or the intent of the framers. The enactment of antigun regulations has become an article of faith in some cities and states. Regulations persist and even spread in the face of compelling legal and policy arguments for their demise."

-Robert A. Levy & William Mellor, the Dirty Dozen

"[C]onservatives--usually strong proponent's of states' rights, who vigorously argue that abortion rules should be decided state-by-state--pushed for federal preemption of state decisions in the Schiavo affair. And liberals--who express outrage when state sovereignty arguments are advanced by pro-lifers in the abortion battles--invoked identical arguments to support Ms. Schiavo's right to die. The Schiavo case--when does life end?--is the flip side of Roe v. Wade--when does life begin? Neither decision is the province of the federal judiciary. Judges have no special moral authority on such matters."

-Robert A. Levy & William Mellor, the Dirty Dozen

Amanda says

If you value the constitution on which our country was founded this book will break your heart. The branch of our government that James Madison dubbed the "least dangerous" has become a threat to our freedoms as American citizens. An absolute must-read that thoroughly and intelligently explains its subject without resorting to text-book style lecturing.

Paul Bulger says

I plan on going to law school after I graduate college, so I've spent a lot of time reading books that pertain to law in some way, shape, or form (most recently I've read *A Civil Action*, which was spectacular). I'm moderately more liberal, so quite a few of the books I've been reading deal with topics that are typically deemed "liberal" concerns (such as the environmental and public health concerns of corporate activities, and how they detrimentally affect the economically disadvantaged in *A Civil Action*). But I do respect many more conservative viewpoints on certain matters, and I'm going to need to understand conservative positions on a multitude of topics, so I figured *The Dirty Dozen* would be a fine place to start.

I was wrong.

The Dirty Dozen is mainly hardline Libertarian fear mongering about the dangers of big government. It asserts itself as a study that reveals how select Supreme Court decisions after the 1930s have led to rapid expansion of federal power and trampled over individual rights, but it turns out that's just a fancy way of disguising that this book is really about how government regulations protecting economically disadvantaged citizens from things such as predatory lenders, from insurance companies that try to screw over their policy holders through overly long legal contracts filled with legal jargon incomprehensible to the average citizen, public programs protecting impoverished working class people, etc, are all just there to trample over the rights of those poor, defenseless, corporate shareholding billionaires.

Chapter 3, for example, uses hurricanes Andrew, Rita, and Katrina, as examples for how "government interference" led to the bankruptcy of a dozen different insurance companies because the government stepped in and retroactively altered insurance contracts and prevented them from backing out of covering the billions of dollars of damages the economically disadvantaged families living in the areas most affected by these disasters endured, with fairly heinous quotes such as "Corporate shareholders and employees are second -class citizens whose rights can be sacrificed to protect homeowners and farmers," and describing these corporate billionaires as "parties whose rights have been extinguished."

...

So you're telling me, that the billionaires who entered into a contract with their policy holders, agreeing to cover the financial damages, should disaster strike the homeowners whom they insure, are essentially "second hand citizens" because they went bankrupt after the government stepped in, and forced them to cover the damages they agreed to cover? You're kidding me, right? With the numerous occasions under which the courts have sided with corporate shareholders over the working class citizens whom they exploit (*A Civil Action* being just one example), you take it as a sign of a rampant, out of control government, on one of the few occasions when the courts sided with the working class, and a few billionaires went bankrupt as a result? You honestly believe that?

But it really isn't all bad, because this coauthor set of libertarian lawyers don't just have corporate shareholder's interest ms at heart, as chapter 4 expresses concern for the smaller businesses that went under trying to comply with regulations imposed by the EPA, which goes to demonstrate how obviously imperfect the system is, but their solution seems to lie within abolishing federal power and judicial power over fixing it. I get some smaller businesses have suffered when trying to comply with EPA regulations, and that needs to be addressed, but you can't isolate these failings from the successes, like the recently successful project to reintroduce wolves to Yellowstone, and the massive beneficial impacts that's had on the environment, the successful prosecution of corporations that have dumped toxic chemicals into water sources and poisoned families as a result, the decontamination of various water sources that had been poisoned with lead and mercury and arsenic, the exponentially improved air quality of major American cities such as LA from what

it was in the 1970s, and literally thousands of other examples of success that have resulted in a better quality of life for millions of people, in order to justify repealing governmental regulation.

(Part 3)

The policies year writers are advocating for comes dangerously close to creating an oligarchical society, as much as they outwardly champion the idea of "individual freedom." Even by omitting the successes of the system they're writing against, they still fail to make a substantial case for how much of what they're writing about adversely affects anybody outside of the billionaire class. Chapters 6, 7, 8, 9, 10 and 12 are the only topics discussed that actually affect common people.

Chapter 6 deals with gun control, which presents a very solid case for deregulation of gun control, but it's impossible to detangle what a tricky issue gun control is in a single chapter of a book, which results in an oversimplification of the issue through which they treat ending violent crime as a simple matter of deregulating guns. Even though I consider myself more liberal, I'm still pro-gun ownership, but I'm not going to fault the government for trying to grapple with the issue of keeping guns out of the hands of dangerous criminals, while allowing common citizens to remain armed. Violent crime and gun regulation is far more complicated than they make it seem.

Chapter 7 deals with how rights to privacy get trampled on in favor of "national security," chapter 8 deals with the most egregious flaw in our justice system (outside of police brutality), which is asset forfeiture without due process, and chapters 9 and 10 deal with eminent domain and how the government stiff arms people out of their property through regulation. All of these chapters are extremely solid and are definitely worth checking out.

But chapter 12, on the other hand, deals with how programs such as affirmative action violates equal protection under the laws of the United States, which I find to be the most ridiculous argument this book tries to make. This review is long enough as it is, and I don't want to end up writing an entire book out of how promoting diversity through programs such as affirmative action actually benefits our economy considerably, and helps to alleviate the systemic poverty that is still being inflicted on people of color to this very day, but even though I disagreed with the majority of this book's thesis, none of the other chapters actually made me angry the way this final chapter did, and I'm not up to discussing in depth just how fundamentally broken many of these points are right now.

Another thing I find bizarre in this book, is how the authors occasionally site The Federalist Papers when they're making their case for smaller government, when in one of the very first papers, Alexander Hamilton literally says that many will argue for a weak federal government under the pretense of "individual liberties," but that is a fallacious argument. I don't know why Libertarians continue to keep using quotes from the Federalist Papers, Alexander Hamilton was the opposite of a Libertarian.

I really do sound much more negative than I really am about The Dirty Dozen. While overall, I do disagree with a majority of the points presented in it, there are still lots of fairly compelling examples and arguments that are worth reading, even though I completely disagree with their solutions to the issues they present.

Jason S says

Biased attack on New Deal court decisions 26good for debate use

Annie says

Ugh. Sometimes I actively choose books I know I'm going to disagree with, just because I do think it's important to expose yourself to other opinions regularly, and not just constantly read people with the same worldview. But ughhhh sometimes it's hard not to shred such a book, even when it's a library book. But it's my own fault. I knew- I *knew*- just by the fact that Richard Epstein endorsed it on the back that it was going to be trash. I am **just *that* masochistic**.

Scalia, if he were still kicking, would heart this book. Textualism! Originalism! Fossilization! Single-minded libertarian streaks! Pretending to be judicially restrained when, actually, you're not! Yes, my friends. Dolly Parton has Dollywood, and this book is the paper version of ScaliaLand. I did not enjoy my stay.

For one thing, it pretends that textualism is the only valid constitutional theory. It's one of many. **It's fine to write a book from one theory's point of view, but don't hold yourself out as the definitive truth.**

For example, it loves the Heller/McDonald cases (striking down gun laws federally and state-wise, respectively) because the second amendment says a right to bear arms, damn it. Right, okay, but this is post-hoc justifying, because everyone knows that right is the right to have a militia, not to run around a city with a handgun in your pocket. Handguns weren't even a thing in the 18th century. You couldn't reasonably have "concealed carry" of any firearms (muskets don't fit in your pocket, fun fact). The world has changed in the past 200+ years, and a lot of language in the Constitution reflects prescient awareness of that, and (personally I think) a lot of the language is intentionally worded so as to be abstract enough to stretch to fit new situations as they come up.

Note, that is my personal view. See how I don't say that it's the definitive answer, just a theory? This is my bone with this book.

Now, look. I appreciate, really and truly I do, the problem with giving this much power to an unelected group of nine elitist judges. It's a scary thought to have those 9 monarch-like human beings nomming on their power looming over you, when it's supposed to be a democratic system of government. But, you know, the thing is... these judges are nominated by someone we *did* elect democratically (...even when that someone is a box of tools). If you really <3 democracy so much that you worry about SCOTUS being a threat to it... if you love it that much, you should trust it. Because SCOTUS judges are practically elected by proxy. It's not that different from the electoral college system (voting for electors who will vote for the person we want to be president). If there's a vacancy on the court, you bet a lot of people will be thinking about that when they decide who to vote for. So if you trust democracy, you should probably also trust SCOTUS. (Yeah, I get that they have life tenure so it's not a perfect thing, but you should invest some trust in them).

I say that even now, when we have someone like Trump on the presidency and potentially some upcoming SCOTUS vacancies. I don't have to like it, but the country picked Trump, and so the country picked his SCOTUS nominations, too. We made our bed, and there's no sense acting like we didn't.

I don't love the Heller/McDonald decision for political reasons (I fucking LOVE gun control) and I think it's funny they call it a Constitution-based decision when, like ALL the cases they denounce in this book, it's a balancing test between individual and governmental interests- but I don't think that Heller/McDonald, in doing that balancing test, was overreaching. I don't like it, but I think it's a valid exercise of SCOTUS's power.

I suppose the issue is that the decisions in this book are largely made to protect minorities from the majority will. This is... kind of... the point of SCOTUS- they're the countermajoritarian branch of government. I don't think they can realistically do that without the balancing tests made here.

I'm not saying all the decisions here look constitutionally valid (Lochner wasn't protecting anybody, it was

about some capitalist judges who *really love capitalism*, and Korematsu was horrifying- but that's not about the fact that they *did* a balancing test, but that they messed it up).

But I am saying these authors seem naive in spite of their credentials (you think human beings can be objective on political issues? I'd rather take my chances with someone who admits they can't be than on someone who pretends they are) and just too, too happy to trust majority will. (Hate to make ad hominem attacks but they're also two straight, rich old white guys- it's just common sense for them to believe in the majority will, since it's probably always going to favour their interests).

Also, it's funny they seem to lionize Scalia for being so "judicially restrained." Fact check: if you count up the decisions made over the duration of the last complete chief justice tenure (Rehnquist), Ruth Bader Ginsburg (she who is so often accused of "judicial activism" by the way) struck down the fewest laws. Followed by Breyer (also liberal, also accused of judicial activism- by name, in this book), followed by Rehnquist himself (conservative, and made some calls I don't like, but overall good judge and great chief justice). In contrast, Scalia-the-originalist and Thomas-the-textualist were among the *most judicially activist*-y, surpassed only by O'Connor (conservative) and Kennedy (weirdo- but most people call him moderate).

I'm juuuuuuust saying. Glass fucking houses.

Patricia Shragin says

The Dirty Dozen:

How Twelve Supreme Court Case Expanded Government and Eroded Freedom

By Robert A. Levy and William Mellor

Start Date: 2010

End Date: 2010

Rating: Very Good

If you want to learn about how political ideology shapes our constitution and affects our everyday lives, this book is a well worth reading.

For over 200 years, the Constitution of the United States of America provided a legal framework for how our government is structured, how responsibilities are assigned, how power is apportioned, what rights are considered sacrosanct and how laws are created. During the ratification process, the constitution's writers battled over almost every word in an effort to do it right, and we know this because we have their arguments and intentions preserved in The Federalist Papers.

In the Dirty Dozen, the authors, Robert Levy and William Mellor argue that the Supreme court has strayed from the Constitution's original ideals and in the process has sent the country on not just an unintended course but on a course intentionally avoided by the framers.

The authors have chosen 12 Supreme court decisions to argue their case. By examining these twelve decisions, they touch on almost every core principle the constitution was designed to uphold. They examine the general welfare clause, the boundaries of eminent domain, and the interstate commerce clause.

Miles Fowler says

1CSo many bad cases; so little space to examine them. 1D 13 1CThe Dirty Dozen, 1D page 5

In September 2008, Katie Couric interviewed both major parties 19 vice-presidential candidates on television and asked each of them the same question: Which Supreme Court rulings do you disagree with? Republican Sarah Palin was embarrassed to admit that aside from *Roe v. Wade*, she could not think of any, while Democrat Joe Biden was more voluble, coming up with several, including a ruling that struck down a measure of his own that would have stretched the meaning of the Constitution 19s already far-stretched 1Ccommerce clause. 1D This led one wag to observe that 1CSarah Palin has no idea about the Constitution at all, and Joe Biden has no idea about the Constitution that isn't scary. 1D

18The Dirty Dozen, 1D which is subtitled 1CHow Twelve Supreme Court Cases Radically Expanded Government and Eroded Freedom, 1D is the book that should have been on Palin 19s summer reading list in 2008. Written by attorneys Robert A. Levy and William Mellor, it was published in early 2008 14plenty of time for the then-governor of Alaska to have bopped down to the Barnes & Noble in Anchorage and picked up this relatively accessible book. (It was also available online from Amazon.com, of course.)

While the former governor might not have agreed with every opinion expressed, this book is a good starting place for anyone to think about what makes a bad legal opinion. The authors 19 explicitly lay out their criteria. (And they only deal with cases since 1933 because, while there were plenty of bad rulings before that, many of them no longer have any force of law; for example, *Dred Scott v. Sandford* (1857), which upheld slavery, 1Cwas superseded by the Fourteenth Amendment (1868). 1D) They openly take a libertarian-conservative approach in analyzing what humorist P.J. O'Rourke says on this book 19s flyleaf are 1Cthe twelve worst Supreme Court rulings so far. 1D Actually, the book discusses more than twelve high court rulings; there are at least twenty-one decisions given special attention by Levy and Mellor. There is also a 1CTable of Cases 1D that lists some 100 rulings that are at least mentioned in the book. Further, in his preface, distinguished law professor Richard A. Epstein gives his opinions about the authors 19 choices and disagrees in two or three instances, substituting some decisions that he would put on his own list of worst Supreme Court rulings.

The book is neatly arranged so that you can see from the table of contents what the authors are getting at. Part One is entitled 1CExpanding Government, 1D and Part Two is called 1CEroding Freedom. 1D The chapter headings give further telling clues. In Part One we have 1CPromoting the General Welfare 1D referring to *Helvering v. Davis* (1937) where the Supreme Court not only expanded the meaning of that phrase in the Constitution but essentially said that Congress can pass any law it wants and the Supreme Court won't necessarily scrutinize it to see whether or not it's Constitutional. (Isn't that their number one job?) It should be noted that conservative jurists have often taken that very approach, trusting the legislature or even un-elected administrators to know what they are doing when they make up laws and rules for which the Constitution has given them no authority. In one of the few cases where Justice Clarence Thomas disagreed with Justice Antonin Scalia 14*United States v. Bajakajian* (1998) 14the case turned on just such an issue. Scalia more or less argued that U.S. Customs is entitled to make whatever administrative rules they think are necessary, whereas Thomas countered that they are not entitled to make up rules that violate constitutional protections.

In almost every chapter, the authors list not only the case that made their Dirty Dozen list but also a similarly bad ruling that they award 1Cdishonorable mention. 1D For example, in chapter nine, they feature *Kelo v. City of New London* (2005), a case in which the high court ruled that a local government was within its

rights to seize people's homes and then turn them over to private developers, but the authors also discuss another ruling in the same area of law (called eminent domain), *Berman v. Parker* (1954), which they consider almost as bad.

So here are some of the case names along with their respective issues: The first three the authors call misinterpretations of Article I of the body of the Constitution. The rest are said to be violations of amendments to the Constitution, and I'll put each relevant amendment in brackets []. *Helvering v. Davis* (1937) expanded the meaning of "general welfare" to promote redistribution of wealth; *Wickard v. Filburn* (1942) expanded the meaning of "interstate commerce" to cover activities that are not interstate or commerce or even legal; *Home Building & Loan Association v. Blaisdell* (1934) not only interfered with private contracts, but it could be seen as the first in the series of steps leading ultimately to the recent mortgage meltdown and our current economic crisis; *McConnell v. Federal Election Commission* (2003) [First Amendment] eroded free speech by interfering with the right to support or criticize political candidates; *United States v. Miller* (1939) [Second Amendment] undermined the right to possess firearms; *Korematsu v. United States* (1944) [Fifth Amendment] upheld the arrest and detention of American citizens without charge indefinitely; *Benisek v. Michigan* (1996) [Fifth and Fourteenth Amendments] your property can be confiscated and not recovered even if you are never charged with a crime; *United States v. Carolene Products* (1938) [Ninth Amendment] enshrined the idea that you can be engaged in a legal business selling goods at a fair price but your competitors can claim that you're engaging in unfair competition and the Supreme Court will back them up; *Grutter v. Bollinger* (2003) [Fourteenth Amendment] held that it is necessary to practice discrimination in order to end discrimination.

Included in the after matter are two postscripts discussing why *Roe v. Wade* (1973) and *Bush v. Gore* (2000) did not make the "dirty dozen" cut. The reason has to do with the authors' criteria for choosing their cases. To make the list, cases should be defined in terms of their outcome, not merely bad legal reasoning. Outcome does not just mean that you don't like the result but that, for example, the ruling decided public policy in a way that would not have happened otherwise if the court had not stepped outside of its constitutional bounds. In *Roe v. Wade*, the authors conclude that most of the fifty state legislatures might well have reached a similar solution in handling the political-football issue of where life legally begins. The constitutional problem was that the legislatures and not the Supreme Court should make that kind of decision. So they left out *Roe v. Wade* not because they consider it a good decision but because it did not, in their view, change the fact that first-trimester abortions were becoming increasingly acceptable to the majority in many states. (Not exactly what Palin might like to hear, but the authors are lawyers, and lawyers parse things differently than soccer moms do.)

One point that jumped out at me as I read this book was how often a bad Supreme Court decision is based not only on erroneous legal reasoning but on a misapprehension of the basic facts of the case. For example, in the *Carolene Products* case, the opinion of the Court wrongly regarded the defendant's product as bad for customers' health and that factual error influenced the Court's ruling against *Carolene*.

The authors are trying to reach the educated non-lawyer who is not necessarily familiar with the U.S. Constitution, so they include a copy of the Constitution, and each chapter begins with a relevant quote from that document, so that the reader will know what portion of the Constitution has been affected by the decision(s) about to be discussed. The Introduction also briefly outlines the cases and the issues they raise. This kind of redundancy should be welcome to the layman reader or the person who wants to refresh his or her memory, say, before an interview with Katie Couric.

Ed Charnock says

An excellent look, for the layperson or attorney, about how we have lost much of the personal liberty that was so precious to our founders. Richard Epstein's intro is very informative as is his book along the same lines, *How Progressives Rewrote the Constitution*. Whether you are Progressive or Libertarian or somewhere in between, you need to understand how we got where we are and what it means for our future.

thethousanderclub says

Adam C. Zern shares his thoughts . . .

"In my ongoing quest to better understand the United States Constitution and American history, I have been spending a great deal of time reading books that deal with American history and/or the Constitution in some way. I have recently become very interested in America's judicial system, especially on a federal level. *The Dirty Dozen* is a libertarian commentary on the twelve worst, according to the opinion of the authors, supreme court decisions. The authors make their opinion and viewpoint on American constitutionalism very, very clear at the beginning of the book, which I appreciated. I was already aware of their ideological feelings when I bought the book, but I think it's good practice to do as the authors did and make sure the reader understands completely the source of much of their reasoning.

I'm prone to relate to and agree with much of libertarian thinking. I learned about *The Dirty Dozen* because I am a frequent visitor to cato.org and Robert Levy is the Cato Institute's Chairman. I chose to read *The Dirty Dozen* specifically because it was written by Libertarian thinkers (William Mellor is with the Institute for Justice). I wanted that type of a perspective on the Supreme Court cases they chose. The authors are not neophytes to the area of constitutional law and the Supreme Court. Their logic is reasonable, well-stated, and worth understanding for all concerned citizens from both sides of the ideological spectrum.

The book is perfectly readable. It only gets lost in the legal weeds several times, but even then you can find your way out if your patient and stretch your intellectual muscle. However, like Antonin Scalia's *A Matter of Interpretation*, which I also read recently, if you are not particularly interested in the Supreme Court or the significant decisions they have made, this book will be difficult to get through. In a sense, I feel like a topic such as the Supreme Court should be of some interest to everyone, but I know that's not the case. Read it if your interested, which you should be on some level; if not, it will be a slog."

<http://thethousanderclub.blogspot.com/>

Heron says

Interesting. VERY libertarian. This book challenged my ability to defend my constitutional views more than it challenged my legal reasoning.

David says

Not for the faint of heart (unless, I suppose, one is a big-government Progressive/cultural-marxist/social-democrat, and otherwise is in favor of monolithic, central-planning government).

A sad but indispensable book, for those who love individualism and liberty and want to understand the myriad of crossroads where SCOTUS blew-it and took us down the wrong path (translation: undermined

either individual liberty, or Federalism, or states' rights (which was itself an integral aspect of the original system of Federalism).

Most of the reasons for the sell-out are political, in my opinion. And the mistakes usually flow from the 3 biggest loopholes in the Constitution: The Necessary & Proper Clause; The Commerce Clause; and The General Welfare Clause.

Jim says

This book is a good complement to Randy Barnett's *Restoring the Lost Constitution*. *The Dirty Dozen* looks at twelve bad Supreme Court decisions that have effectively erased some of the explicit constitutional limits on the federal government and reduced individual freedom. The preface by Richard Epstein expresses a few minor disagreements about some of the cases chosen, and the end of the book explains why *Roe v. Wade* and *Bush v. Gore* didn't make the cut. Those that did include *Korematsu v. United States* (1944), which said that the U.S. program of internment for Japanese Americans was constitutional, *Kelo v. City of New London* (2005), which said that governments can seize private property in order to give it to other private hands, *Home Building & Loan Association v. Blaisdell* (1934), which said that the government can unilaterally void parts of private contracts despite Article I Section 10's explicit language to the contrary, and *Bennis v. Michigan* (1996), which said that government can use civil forfeiture to take property without compensation that is involved in a crime even if the owner of the property has no involvement in that crime.

Paul says

The book was clearly written with a libertarian viewpoint and as such, the opinions expressed may not be instinctively or unreservedly agreed to by everyone. That's okay though. It was fun to see the positions and then read the actual opinions (and dissents when available) as a side endeavor to complement this book. With that disclaimer out of the way, "The Dirty Dozen" takes selections of Supreme Court cases that the authors (and those they solicited for input) believe were the worst post 1930's decisions that defied the Constitution and eroded individual freedoms in the United States.

The book is definitely not a populist polemic nor is it intended to be so. The authors do well to avoid the same old arguments we hear from pundits and don't necessarily align with any one traditional political party. Those with more liberal viewpoints will enjoy the cases regarding civil-liberties while conservatives will enjoy the expansion of government criticisms. Some criticisms will leave both sides feeling uncomfortable, and they should. The association between *Korematsu* with the modern case of *Jose Padilla* will make traditional conservatives cringe. At the same time, the textual redefinition in *Kelo* may give liberals some pause.

The greatest strength of this book is the unease that is elicited should give readers from either side to take a moment to reflect upon their existing assumptions and convictions. There are certainly moments of "wow, I didn't know that" throughout and any reader will find themselves better off because of that.

If you approach this with the assumption that each argument is honestly made, you'll get much more out of it than trying to twist it to a particular ideology. At the very least, there was tremendous educational value from seeing the consequences that stem from the rulings of a handful of unelected individuals and the power the judicial branch of government truly wields.

Jeff Walden says

Libertarians Levy and Mellor survey the Supreme Court's cases from approximately the last eighty years to pick out the dozen cases having perhaps the worst effects. I note *libertarian* particularly, because these "dirty dozen" would in no way be a consensus pick among any well-informed cross-section of society. You should be aware what you're getting here. If you're looking for something to agree with instinctively, wholeheartedly, and unreservedly, this is probably not the book you're looking for.

If you're well-read in Supreme Court jurisprudence, their selections will mostly be familiar. If you're less well-read, some of their selections will be familiar, but many will be obscure. The cases aren't the ones that engender vocal complaint (although a few are in the list: *Korematsu v. United States* as the decision enabling internment of Japanese-Americans during World War II, *Kelo v. City of New London* as the recent decision permitting eminent-domain transfer of property from one private party to another for no public use, and *Grutter v. Bollinger* as the slightly-less-recent decision permitting use of race in the public college admissions process); notably, you won't find *Roe v. Wade* or *Bush v. Gore* on the list, although the authors go out of their way to explain why each was not included.

The authors' criticisms range from the reasonably predictable and somewhat commonplace to the utterly esoteric. Resort to the non-delegation doctrine as a legal principle, for example, is highly unusual these days, to say the least. The authors instead concern themselves with what is "right", regardless whether it is or isn't popular (as you might expect of a book published by the Cato Institute). This book is a voice in the wilderness, not a populist polemic. One advantage of this tactic is that, because you won't approach these cases with quite the same tired arguments you'll hear day in and day out among pundits and the chattering classes, it's easier to seriously approach the arguments and consider them on their merits: not simply on who wins or loses the political battle of the day. One disadvantage is that it's not always easy to slog through the sometimes-arcane legal principles expounded.

Because this book doesn't hew to any particular party line, pretty much everyone is likely to find something to like in the criticisms presented here. Liberals will enjoy the civil-liberties criticisms; conservatives will enjoy the expansion-of-government criticisms. Yet beyond that, each will find criticisms that are discomfiting or even disagreeable. The way the authors associate *Korematsu* with the modern-day case of Jose Padilla will leave many conservatives feeling uneasy. Similarly, the textual redefinition involved in *Kelo* may give liberals some pause where the textual redefinition in *Wickard v. Filburn* did not. Perhaps this unease will give both sorts of readers pause to more deeply consider their existing assumptions and convictions. This is a strength of the book: it makes you think about the reasons why you believe what you believe.

But it's only a strength if you're willing to approach each criticism with an open mind. And that's a broader note to make on the book: if you approach this planning to believe it's an ideological screed, you'll get much less from it than if you approach it assuming each argument is honestly made.
