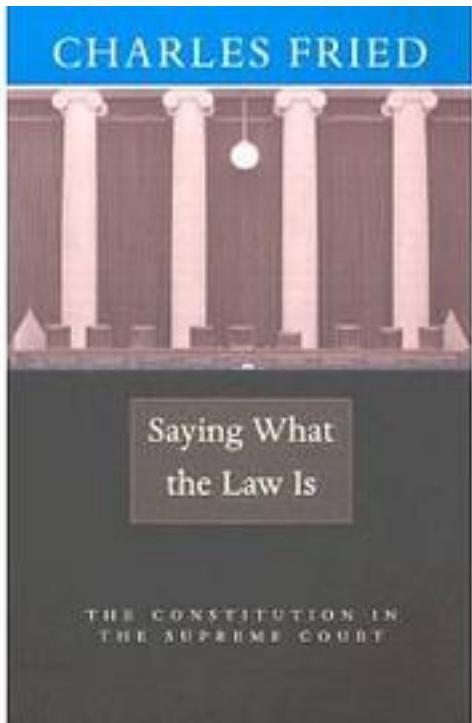


# Saying What the Law Is



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著者:Fried, Charles

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Charles Fried has been, by turns, advocate, judge and scholar in the field of constitutional law. He has now given us a wonderful book on the subject, a work of sparkling intelligence and moral maturity. Fried believes in the possibility of constitutional doctrine, in the careful and reasoned elaboration of constitutional principles over time. For those who think that the work of the Supreme Court is just politics in disguise, Fried's defense of the rule of reason in doctrinal development is a compelling riposte. Never giving up on reason's ambition while remaining clear-eyed about its limits, Fried offers a guide and model for those who hope to understand the work of the Supreme Court as it strives patiently to say what the law is.

--Anthony T. Kronman, Dean, Yale Law School (20040316)

Charles Fried is the ideal guide for the nonspecialist who wants to understand the decisions of the Supreme Court. The book's brilliant exposition ranges from the fundamental principles of constitutional law to the Court's most recent landmark cases. Fried's experience as a professor, a judge, and a frequent practitioner before the Supreme Court makes this an authoritative as well as a very personal volume. It should be read by anyone who wants a deep understanding of how the Supreme Court influences the law and our daily lives.

--Martin Feldstein, Professor of Economics, Harvard University and President, National Bureau of Economic Research (20040503)

To read this book is to enter into a fascinating conversation about the most important constitutional puzzles with a legal thinker of uncommon wisdom, unique experience, and a most unusual immersion in the real world. In *Saying What the Law Is*, Charles Fried draws brilliantly and elegantly on the unparalleled mix of perspectives that his remarkable life in the law has made possible--a mix that gives rich texture and broadly illuminating power to his understanding both of the basic architecture and of the fascinating oddities of the legal rules and principles through which our Constitution's generalities assume concrete meaning. I find myself no less enlightened by Fried's prose when he is pursuing a line of thought with which I disagree than when he is echoing my own views perfectly. At the same time, he portrays and illustrates the sweeping landscape of constitutional law in a way that should prove accessible as well as intriguing to intelligent non-specialists. This is a book that no one who cares about the United States Constitution should fail to read.

--Laurence H. Tribe, Tyler Professor of Constitutional Law, Harvard Law School (20040514)

One-time prosecutor, judge, and now Constitutional theorist Fried creates a framework for understanding the role of Constitutional doctrine in dictating and guiding the intricate relationships between government and the political and social structures it purports to control. Fried addresses one of the toughest challenges facing the student of federalism: aside from the powers specifically granted by the Constitution to Congress and the President, what becomes of the rest of the balance of powers that a government might enjoy?...Fried strongly advances the theory that the Constitution was the creation of the states, which transferred some part of their sovereignty to the new national government, rather than an original creation of the sovereign people of the nation as a whole.

--Philip Y. Blue (Library Journal)

*Saying What the Law Is* offers moderation in almost every sense. Fried dispassionately discusses recent controversies in constitutional law while also spelling out a theory about how the Supreme Court should go about its work. By giving paramount importance to modest and principled judicial decision making, Fried's theory simply continues a distinguished tradition of searching for a principled approach to constitutional law...*Saying What the Law Is* is important not only for the renewed case it makes for the process tradition, but for its accessibility to the educated layperson.

--Andrew J. Morris (Legal Times)

*Saying What the Law Is* is an excellent primer on constitutional adjudication...The book

is a nuanced presentation of law not just as a set of concepts, but also as a discipline practiced by courts that must translate concepts into doctrine, and apply that doctrine to decide cases. Professor Fried's goal is not simply to lay out the current black letter law, though he does this very well. Rather, it is to convey an understanding of the doctrine...The result is a sophisticated review of the Court's jurisprudence, coupled with insightful proposals for restoring principle to the law in areas where it falls short...In this time of polarizing debate, Fried's book represents a mature reflection on principles, rather than just another salvo in partisan wars. As such, it is a valuable and refreshing contribution.

--Kevin J. Doyle (FindLaw)

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