

WHAT THE CONSTITUTIONS

OF THE UNITED STATES,

MEANS ACCORDING TO LATEST AMENDMENTS:

TO WHICH ARE ANNEXED THE DECLARATION OF INDEPENDENCE

by Heidi Schreck

FEDERAL CONSTITUTION,

WITH THE AMENDMENTS THERE TO.

STUDY GUIDE

What the Constitution Means to Me

By Heidi Schreck

28 September-26 October, 2024, in the Founders Theater

Presented by Pamela Friedman & Ronald Bailey

Sponsored by The Caplin Foundation and Molly & Matthew Shadel

Directed By Cady West Garey



Promotional photo by Madison Patterson featuring (l-r): Cleopatra Howell, Tovah Close

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*Dramaturgical research by WHAT THE CONSTITUTION MEANS TO ME Dramaturg Ashton Botts
Study Guide compiled for Live Arts by Education Director Daniel Kunkel*



SEPT 28-OCT 26

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Plot Summary

Winner of 2019 and New York Drama Critics' Circle Awards for Best New American Play, Heidi Schreck's WHAT THE CONSTITUTION MEANS TO ME is at once hilarious, touching, inspiring and thought-provoking. The playwright takes us back to her teenage years when she traveled the country giving speeches about the Constitution at American Legion halls to help her pay for college. Using her very personal journey, along with the stories of her mother and grandmother, she dissects the document penned by our "founding fathers" over 200 years ago. Act Two forefronts a live debate judged by an audience member: Should we keep or abolish the United State Constitution?

Characters

- Heidi
- Legionnaire
- Debater 1
- Debater 2

About the Author



Heidi Schreck is a writer and performer whose critically-acclaimed play **WHAT THE CONSTITUTION MEANS TO ME** was nominated for two Tony Awards and named Best of the Year by *The New York Times*, *The Los Angeles Times*, *The Chicago Tribune*, *Time Magazine*, *The Hollywood Reporter*, and *The New Yorker*. A filmed version of the play premiered on Amazon Prime Video, and was nominated for a Critics Choice Award, a PGA Award and DGA Award. Schreck's other plays include *Grand Concourse*, *Creature*, and *There Are No More Big Secrets*. Screenwriting credits include *I Love Dick*, *Billions*, *Nurse Jackie*, *Dispatches from Elsewhere* and shows in development with Amazon Studios, Plan B and A24. She is the recipient of three Obie Awards, a Drama Desk Award and a Theatre World Award, as well as the Horton Foote Playwriting Award, the Hull-Warriner Award from the Dramatists Guild and *Smithsonian Magazine's* 2019 American Ingenuity Award for her work in the Performing Arts.

About the Director

Cady West Garey (Director, WHAT THE CONSTITUTION MEANS TO ME) has been a director, actor, and theater educator for the last 30+ years. She has worked on the East Coast and Midwest in artistic areas including stage, film, podcast voice over, radio drama, and improvisation. Currently, Cady teaches in the UVA Department of Drama and Dance. The last Live Arts production Cady acted in was THE MEMORY OF WATER, many, many seasons ago. She is excited to work with Live Arts again and to share WHAT THE CONSTITUTION MEANS TO ME with the Charlottesville community.

About the Dramaturg

Ashton is an attorney, actor, and director based out of Kansas City, Missouri. She has served as dramaturg for theater companies across the country for their productions of WHAT THE CONSTITUTION MEANS TO ME and is an active volunteer with Abortion Action Missouri. Ashton is represented by Moxie Talent Agency.

Performance History

Commissioned by True Love Productions, **WHAT THE CONSTITUTION MEANS TO ME** was produced by Clubbed Thumb and True Love at the Wild Project in New York City in 2017. The play premiered on the West Coast at Berkeley Repertory Theatre in 2018, and received its Off-Broadway premiere later that same year at New York Theatre Workshop, transferring to Broadway in 2019. The Broadway production subsequently opened at Washington DC's Kennedy Center and began a national tour in 2021 at the Guthrie Theater in Minneapolis.

[The Sections of the 14th Amendment](#)

The 14th Amendment was passed on June 8, 1866, and ratified on July 9, 1868, and grants citizenship to all persons “born or naturalized in the United States. More specifically, there are five sections:

- Section One: Granted national citizenship, addresses privileges and immunities, substantive due process, and equal protection
- Section Two: Repealed the three-fifths compromise but did not give freedmen the right to vote
- Section Three: Disqualified from federal office any person who broke the oath to uphold the Constitution by aiding the rebellion
- Section Four: Denied slave owners compensation for loss of slaves after emancipation
- Section Five: Granted Congress the ability to pass laws to enforce the other sections

[Notable Cases Involving the 14th Amendment](#)

Dred Scott v. Sandford (1857)

Handed down before the passing of the 14th Amendment, *Dred Scott* is recognized as one of the worst decisions handed down by the Supreme Court, and is recognized as one of the factors that led to the Civil War. Dred Scott was living as a free man in Illinois and the law stated that slaves were free once they entered a free state. Scott later returned to Missouri, which was a slave State, but the Missouri Compromise stated that if you are a freed slave in another State, and you return to a slave State, in this case, Missouri, you remain a freedman.



*Dred Scott. Library of Congress,
Washington, D.C.
(digital file no. 3a08411u)*

Chief Justice Roger B. Taney in the majority opinion claimed that the framers of the Constitution never intended for slaves to be citizens of the States, and because slaves were not citizens of the States, they could therefore not be citizens of the United States at the time. The

Constitution said that citizens of each State at the time of constitutional ratification were citizens of the United States. Because Scott wasn't a citizen of any State, he could not be a citizen of the United States and could therefore not bring a case in federal court.

Dred Scott was overturned by the 14th Amendment that granted citizenship regardless of race or past enslavement.

Slaughterhouse Cases (1873)

Focused on a New Orleans slaughterhouse which limited operations to one plant in the city. A group of butchers sued and argued, among other things, that the statute abridged their privileges and immunities because they were unable to practice their trade and earn a living. They either had to work in those already operational slaughterhouses, or they had to leave New Orleans altogether.

The workers were all white, but invoked the 14th Amendment, specifically the Privileges and Immunities clause. The Court reasoned that the privileges and immunities clause only prohibited States from depriving the rights of freed slaves. The clause only protected areas controlled by the Federal Government and did not require the State to guarantee economic privileges. This ruling complicated the privileges and immunities clause, and made it vague what a privilege or immunity actually was.

Griswold v. Connecticut (1965)

During the 1960s, Connecticut state law prevented the use and distribution of contraceptives. Estelle Griswold was arrested for providing birth control to poor women in her Connecticut Planned Parenthood. In this case the question before the Supreme Court was: Does the Constitution protect the right of marital privacy against State restrictions on a couple's ability to be counseled in the use of contraceptives?

The majority decision was written by Justice William O. Douglas and stated that the ban was unconstitutional because it infringed on an individual's right to privacy. It was argued that this right was created by the 1st, 3rd, 4th, and 9th amendments. While the Court explained that the Constitution does not explicitly protect a general right to privacy, the various guarantees within the Bill of Rights create penumbras, or zones, that establish a right to privacy. Justice

Goldberg argued that the 9th and 14th amendments, particularly the due process clause protected the right to privacy.

Eisenstadt v. Baird (1972)

In this case a Massachusetts law prohibited anyone except physicians from prescribing contraceptives to married persons. The issue in this case was whether there was some reason to treat married people and unmarried people differently

This Supreme Court had not yet sworn in two members, so the decision was six-to-one. Justice Brennan argued that contraception was an individual right as well as a married right. If the right to privacy means anything, it is the right of the individual, married or single, to be free from unwanted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear and beget a child."



AJCP178-009k, Atlanta Journal Constitution Photographic Archives. Special Collections and Archives, Georgia State University Library.

Roe v. Wade (1973)

Texas had made it a crime to procure an abortion or attempt one, except with respect to an abortion procured or attempted by medical advice, for the purpose of saving the life of the mother. This had the effect of prohibiting all abortion, except to save the life of the pregnant person. Norma McCorvey, who was Jane Roe in this case, was a pregnant woman who challenged the statute as unconstitutionally vague, and stated that the statute infringed on her right to privacy as protected by the 1st, 4th, 5th, and 9th Amendments and the 14th Amendment. The circumstances surrounding Norma McCorvey's lawsuit, and the way that she was treated by her attorneys has come under a lot of scrutiny over the years.

Texas claimed in their argument to the Supreme Court that the statute was constitutional, because the 14th Amendment protected "persons," and the unborn child was protected as a person, so the statute needed to stand. However, the Supreme Court disagreed with Texas, citing Section 1 of the 14th Amendment, which states that all persons "born" are citizens of the United States. Fetal beings had never been afforded personhood and were not "persons" under the 14th Amendment.

In writing for the majority in a seven-to-two decision. Justice Blackman said, a woman's right to have an abortion is a fundamental right, so recognized as fundamental under that framework that Justice Douglas gave us in *Griswold* with the broader right to privacy. The Government may not prohibit abortions prior to viability and the government regulation of abortions has to meet strict scrutiny.

Strict Scrutiny is a test used by the court when a case involves fundamental rights. It requires that a statute do two things: (1) serve a compelling state interest and (2) be tailored to meet that State's interest.

Planned Parenthood v. Casey (1992)

This case reaffirmed *Roe* and created a test to determine whether restrictions on abortion were constitutional, the "undue burden test," which prohibited laws which imposed an undue burden or substantial obstacle to a woman's ability to obtain an abortion.

Violence Against Women Act (1994)

Signed into law by President Clinton in 1994, the VAWA provided \$1.6 billion dollars for investigation and prosecution of violent crimes against women. This helped create the national hotline which receives as many as 3,000 calls and texts everyday.

VAWA includes a federal criminal law against battering women. It required every State to afford full faith and credit to orders of protection issued anywhere in the United States. Additionally, it allowed victims of gender-based violence to sue their attackers in civil court, even if prosecutors did not press criminal charges. This, however, was eliminated by *United States v. Morrison*, which ruled that section 5 of the 14th Amendment did not allow Congress to provide for civil lawsuits, as VAWA was designed to protect against State action, not private action.



AJCP178-009k, Atlanta Journal Constitution Photographic Archives. Special Collections and Archives, Georgia State University Library.

Castle Rock v. Gonzales (2005)

Copied from Oyez.org

Jessica Gonzales requested a restraining order against her estranged husband, which prohibited the husband from seeing Gonzales or their three daughters except during pre-arranged visits. A month later, Gonzales's husband abducted the three children. Gonzales repeatedly urged the police to search for and arrest her husband, but the police told her to wait until later that evening and see if her husband brought the children back.

During the night Gonzales's husband murdered all three children and then opened fire inside a police station, where police returned fire and killed him. Gonzales brought a complaint in federal District Court, alleging that the Castle Rock police had violated her rights under the Due Process Clause of the Constitution by willfully or negligently refusing to enforce her restraining order.

The Due Process Clause states: "No state shall...deprive any person of life, liberty, or property, without due process of law..." The District Court dismissed the complaint, ruling that no principle of substantive or procedural due process allowed Gonzales to sue a local government for its failure to enforce a restraining order.

The case eventually reached the Supreme Court. In a seven-to-two decision, the Court ruled that Gonzales had no constitutionally-protected property interest in the enforcement of the restraining order, and therefore could not claim that the police had violated her right to due process (Oyez, n.d.). The majority argued that a restraining order is not the kind of property that allows due process protections under the Constitution (Teitelbaum et al., 2006).

On appeal, however, a panel of the Court of Appeals for the Tenth Circuit found that Gonzales had a legitimate procedural due process claim. A rehearing by the full appeals court agreed, ruling that Gonzales had a "protected property interest in the enforcement of the terms of her restraining order," which the police had violated (Oyez, n.d.).

Dobbs v. Jackson Women's Health Organization (2022)

Dobbs began as a review of Mississippi's Gestational Age Act which banned most abortions after 15 weeks of pregnancy with exceptions for medical emergencies and fetal abnormalities.

The Court upheld the act and overturned *Roe v. Wade* and *Planned Parenthood v. Casey*. The opinion handed down by Justice Samuel Alito argued that the Constitution did not specifically mention abortion and is therefore not a right.

Excerpt from Justice Alito's Opinion:

"We hold that Roe and Casey must be overruled. The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision, including the one on which the defenders of Roe and Casey now chiefly rely — the Due Process Clause of the Fourteenth Amendment. That provision has been held to guarantee some rights that are not mentioned in the Constitution, but any such right must be 'deeply rooted in this Nation's history and tradition' and 'implicit in the concept of ordered liberty.'"

Originalism

Originalism refers to the idea that the Constitution is similar to a set of instructions and should be interpreted by the letter and meaning of the words and the original desire of the creators. This includes an understanding of both the text itself, as well as the context an amendment was created in (Calabresi, n.d.).

Talkback Information

The audience talkback with members of the cast and crew of WHAT THE CONSTITUTION MEANS TO ME is scheduled for 9:30pm on Thursday, October 24, 2024, in the Founders Theater (123 E. Water Street, 2nd floor), facilitated by Education Director Daniel Kunkel. You do not need to purchase a ticket to the October 24 show to attend the talkback. This program is provided free of charge to the Charlottesville community.

Please email Daniel at daniel@livearts.org with questions about the event.

Works Cited

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