



Curriculum Units by Fellows of the Yale-New Haven Teachers Institute
1988 Volume I: The Constitution in Public Schools

Introduction

When I first proposed this seminar, its title was “The Courts, Congress and the Constitution.” I expected that the Fellows and I would explore the different constitutional interpretive roles of the courts and the Congress in a variety of contexts: foreign affairs, the abortion issue, the proposed impeachment of Richard Nixon and the confirmation proceedings regarding Robert Bork’s nomination as a Supreme Court Justice. Much more than traditional seminars, however, the Yale-New Haven Teachers Institute is a collaborative enterprise. The seminar Fellows were most interested in exploring the role of courts in public education, not only because the subject was immediately relevant to their daily working lives but even more because their students would readily see the intimate connections between their own lives and these otherwise apparently remote governmental institutions.

in the best tradition of collaborative enterprises, the Fellows and I found a mutually satisfying middle ground. We began our seminar discussions with a general consideration of relations between Court and Congress, using an important foreign policy controversy as the illustrative example: President Truman’s action in the midst of the Korean War seizing the nation’s steel mills to avert a labor strike, and the Supreme Court’s quick response overturning his action. With the background developed in our discussion of this case, we then turned to consider the reasons why social institutions are today increasingly (and perhaps excessively) inclined to turn to judges to resolve thorny moral dilemmas, and the difficulties that this inclination presents to judges. For this purpose we closely examined the trial transcript of a case in which a judge ordered a caesarean operation on a terminally ill woman in an attempt to save her fetus, notwithstanding her apparent objections, the clear protests of her husband and family and the fact that the operation would shorten this woman’s life.

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