



CONSTITUTIONAL CONVERSATIONS AND CIVIL DIALOGUE

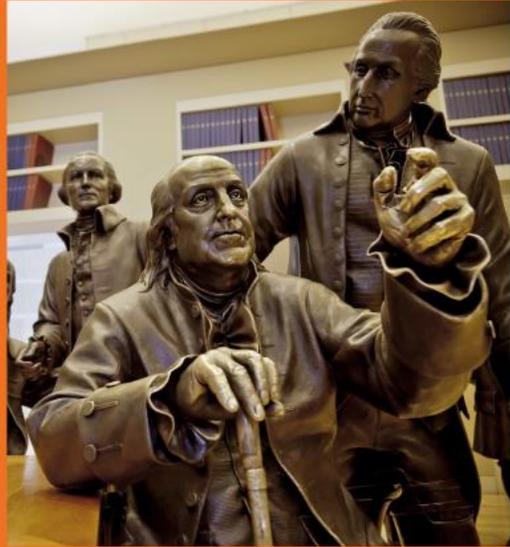


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PLURIBUS
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THE

People





CONSTITUTIONAL CONVERSATIONS AND CIVIL DIALOGUE

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COMPONENTS OF A CONSTITUTIONAL CONVERSATION

- 1. Building a historical foundation through storytelling**
- 2. Learning how to interpret the Constitution like a constitutional lawyer**
- 3. Developing the skills of civil dialogue and reflection**



CONSTITUTIONAL CONVERSATIONS AND CIVIL DIALOGUE



We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and seven Years a Citizen of the United States, and who, when elected, shall not be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and including Indian not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall direct. The Number of Representatives shall not exceed one for every thirty Persons, but each State shall have at least one Representative; and until such Enumeration shall be made the States of New Hampshire shall be entitled to three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall choose their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for a Term of six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three ClASSES. The Seats of the Senators of the first CLASS shall be vacated at the Expiration of the second Year, of the second CLASS at the Expiration of the fourth Year, and of the third CLASS at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Death, Resignation, or otherwise, during the Term of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator, who shall not have attained to the Age of thirty Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State, for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall have the Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and Disqualification to hold and enjoy any Office of Honor, Trust, or Profit under the United States; but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment according to Law.

Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Place of choosing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business, but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties, as each House may prescribe.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any Question shall, at the Desire of one fifth of the Members present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three Days, nor to any other Place than that in which the two Houses shall be sitting.

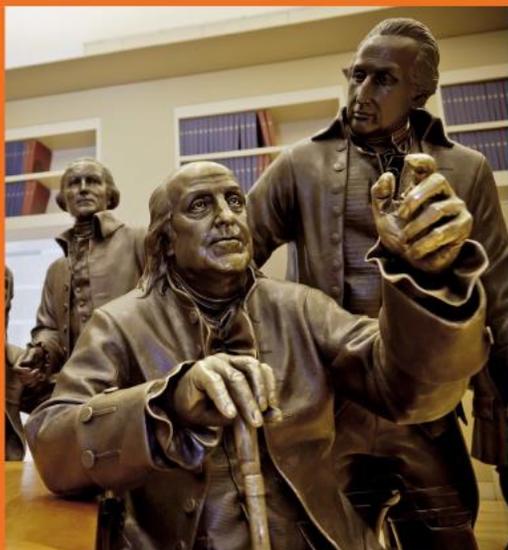
Section 6. The Senators and Representatives shall receive Compensation for their Services, as well as Allowances for Expenses actually incurred by them in the Discharge of their respective Duties, and in going to and returning home.

No Senator or Representative shall, during the Term for which he shall have been elected, be appointed to any civil Office of Honor, Trust, or Profit under the United States.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as to the Form of any Bill. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as to the Form of any Bill.

THE CONSTITUTION

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- **The Preamble**

Articles I through III: Basic structure of the national government:

- **Article I:** establishes the national government's legislative branch—Congress.
- **Article II:** establishes the national government's executive branch—headed by a single president.
- **Article III:** establishes the national government's judicial branch—the federal judiciary.

THE CONSTITUTION



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- **Article IV:** addresses the relationship between the states and their citizens, how to handle the admission of new states, and how to govern federal territories. (It also includes the infamous Fugitive Slave Clause.)
- **Article V:** sets out the process for amending the Constitution.
- **Article VI:** establishes the supremacy of national law over the laws of the states and it bans religious tests for national office.
- **Article VII:** sets out the process for ratifying the Constitution.

THE CONSTITUTION

The Amendments

Bill of Rights: The first 10 amendments protect free speech, a free press, religious freedom, and the right to a jury trial—among many other rights.

Reconstruction Amendments:

- **13th Amendment:** abolished slavery.
- **14th Amendment:** wrote the Declaration of Independence's promise of freedom and equality into the Constitution.
- **15th Amendment:** promised to end racial discrimination in voting.

The remaining amendments altered the Constitution in ways both big and small. To give just one example, the **19th Amendment** protected women against discrimination at the ballot box.



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Discussion Question:

WHAT DO YOU THINK ARE SOME OF THE MOST IMPORTANT IDEAS AND PRINCIPLES ENSHRINED IN THE CONSTITUTION? WHY?

THINK LIKE A CONSTITUTIONAL LAWYER

The key is to try to separate your political views (what should be done—a policy question) from your constitutional views (what can be done—a constitutional question).

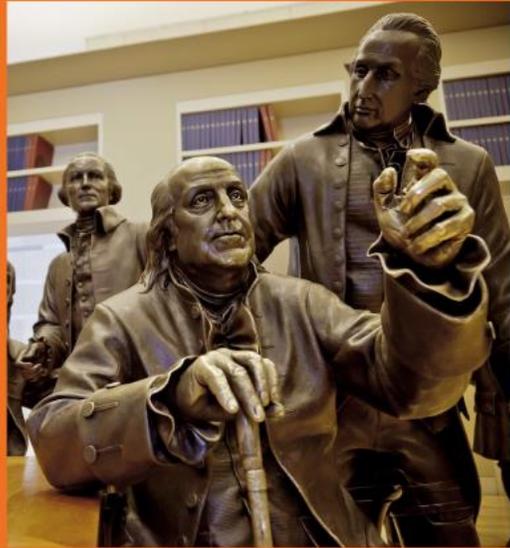
- **Policy question:** Should a public school principal search a student's locker?
- **Constitutional question:** Does the Fourth Amendment allow a government employee—like a public school principal—to search a student's locker?



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SIX FORMS OF CONSTITUTIONAL ARGUMENTS

- **Text:** The interpreter looks to the meaning of the Constitution's words, relying on common understandings of what the words meant at the time that the language was added to the Constitution.
- **History:** With this form of argument, the interpreter looks to the historical context of when the Constitution's text was drafted and ratified to shed light on its meaning.
- **Structure:** With this form of argument, the interpreter reads the Constitution holistically and tries to derive any structural principles embodied in its text.
- **Doctrine:** With this form of argument, the interpreter applies precedents established in earlier cases to new cases.
- **Prudence (or Consequences):** With this form of argument, the interpreter seeks to balance the costs and benefits of a particular ruling, including its consequences and any limits to a court's power or competence in a particular constitutional area.
- **Ethos:** With this form of argument, the interpreter looks to the American ethos—the nation's traditions, its laws, and its practices—to decide constitutional issues.

TIPS FOR ENGAGING IN CONSTITUTIONAL CONVERSATIONS



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- **First:** Be sure that you're asking constitutional questions, not policy questions.
- **Second:** Try to steer clear of "yes or no" questions. They rarely move the conversation forward.
- **Third:** Whenever possible, incorporate scholarly work into your answers. Scholarly evidence can help support your point. So, do your research. Take notes. And highlight information as you read through the materials.





BROWN V. BOARD OF EDUCATION



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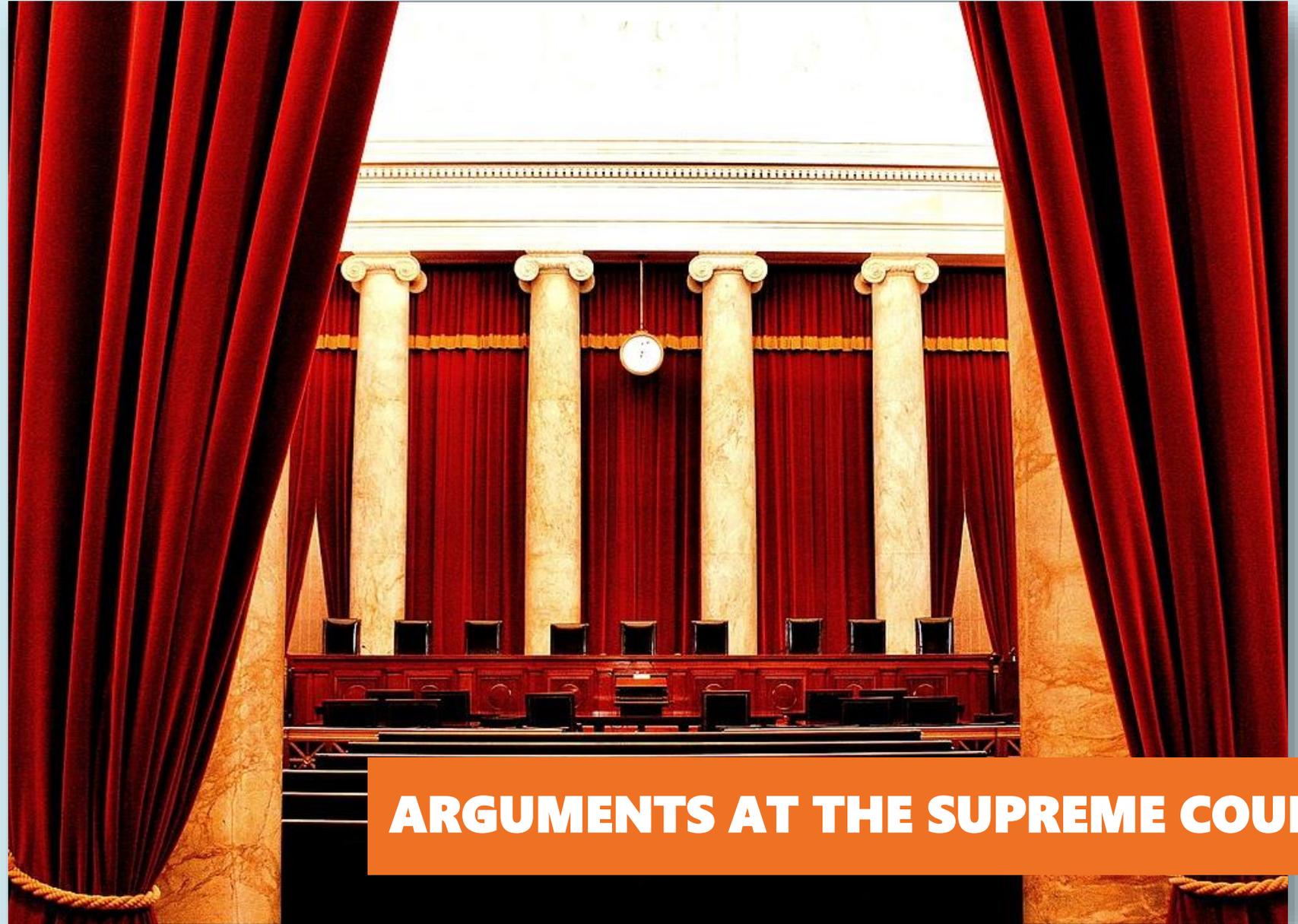


Applying the skills that we just learned, how do we analyze the case *Brown v. Board of Education* like a constitutional lawyer? What are the different constitutional arguments that you might make in the case?



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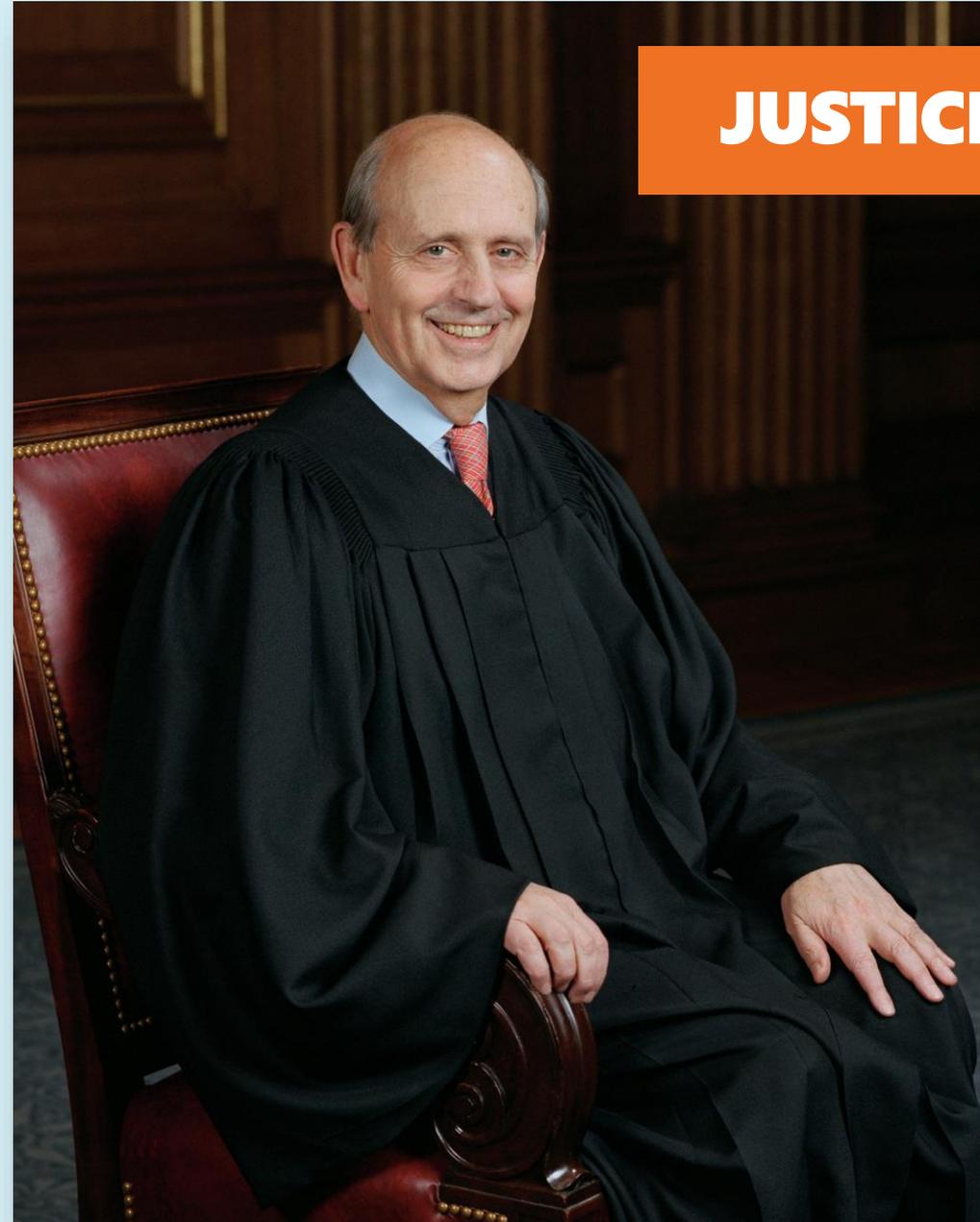


ARGUMENTS AT THE SUPREME COURT



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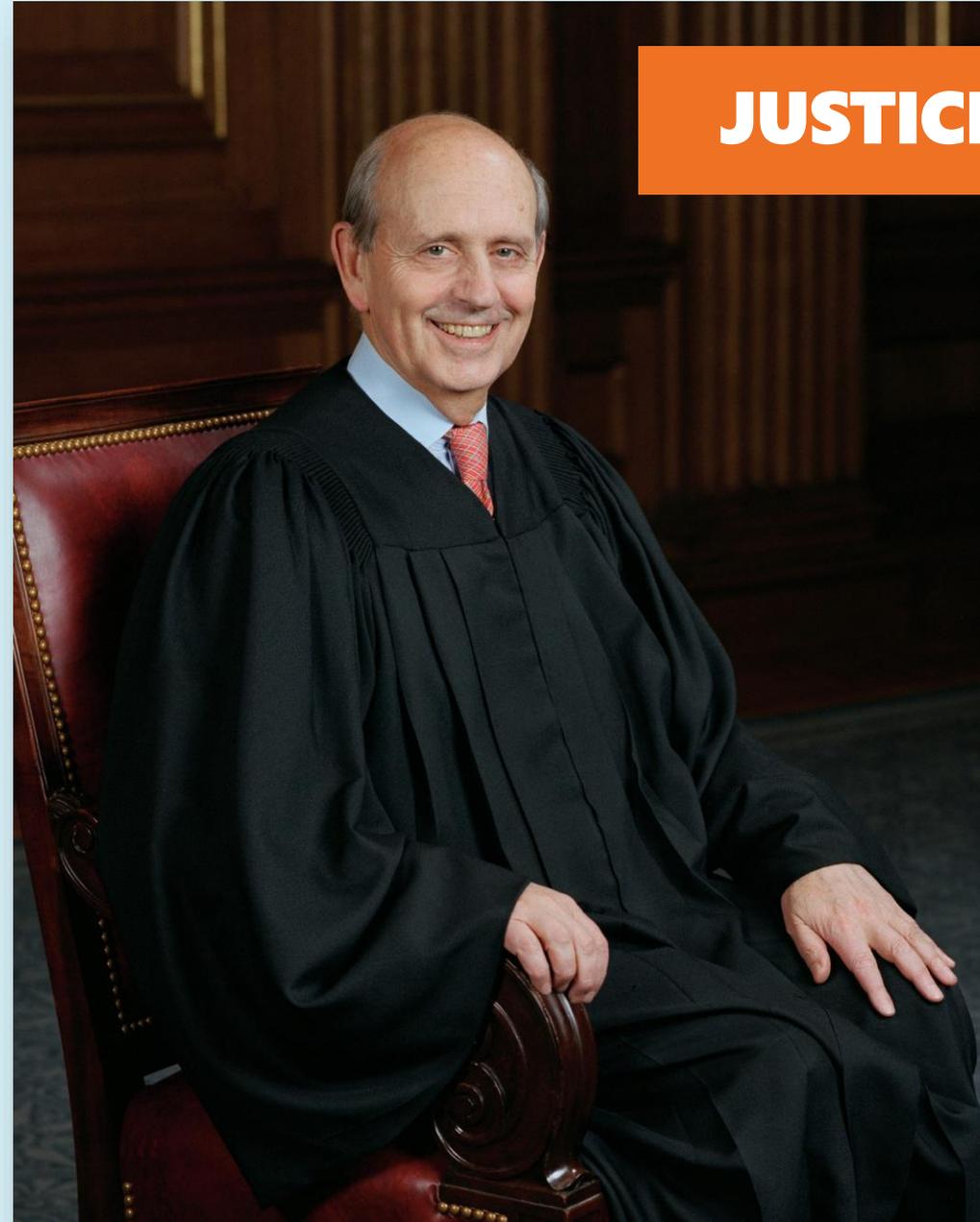


JUSTICE STEPHEN BREYER



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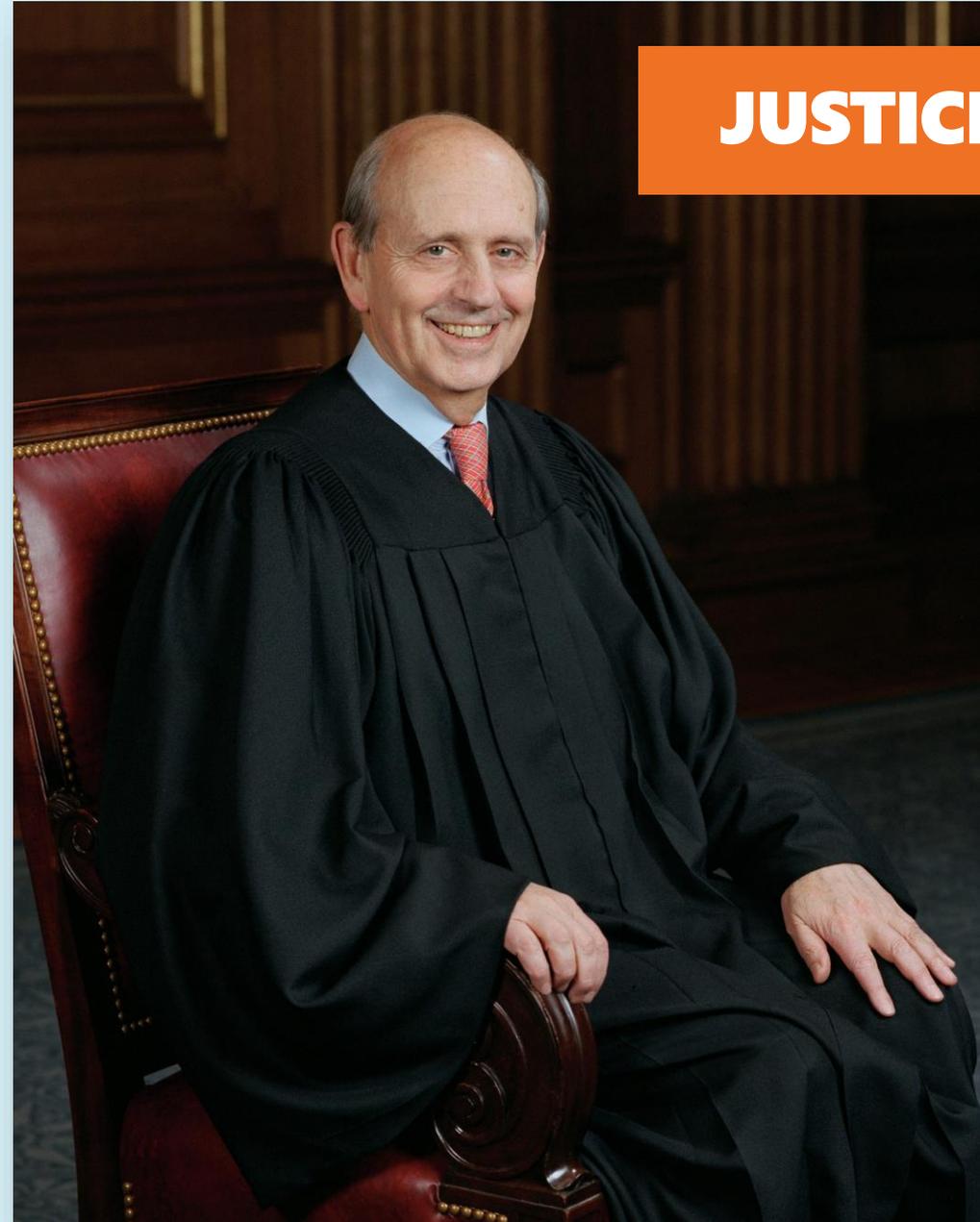
JUSTICE STEPHEN BREYER

The justices don't shout at each other. They aren't rude to one another. And they don't put each other down.



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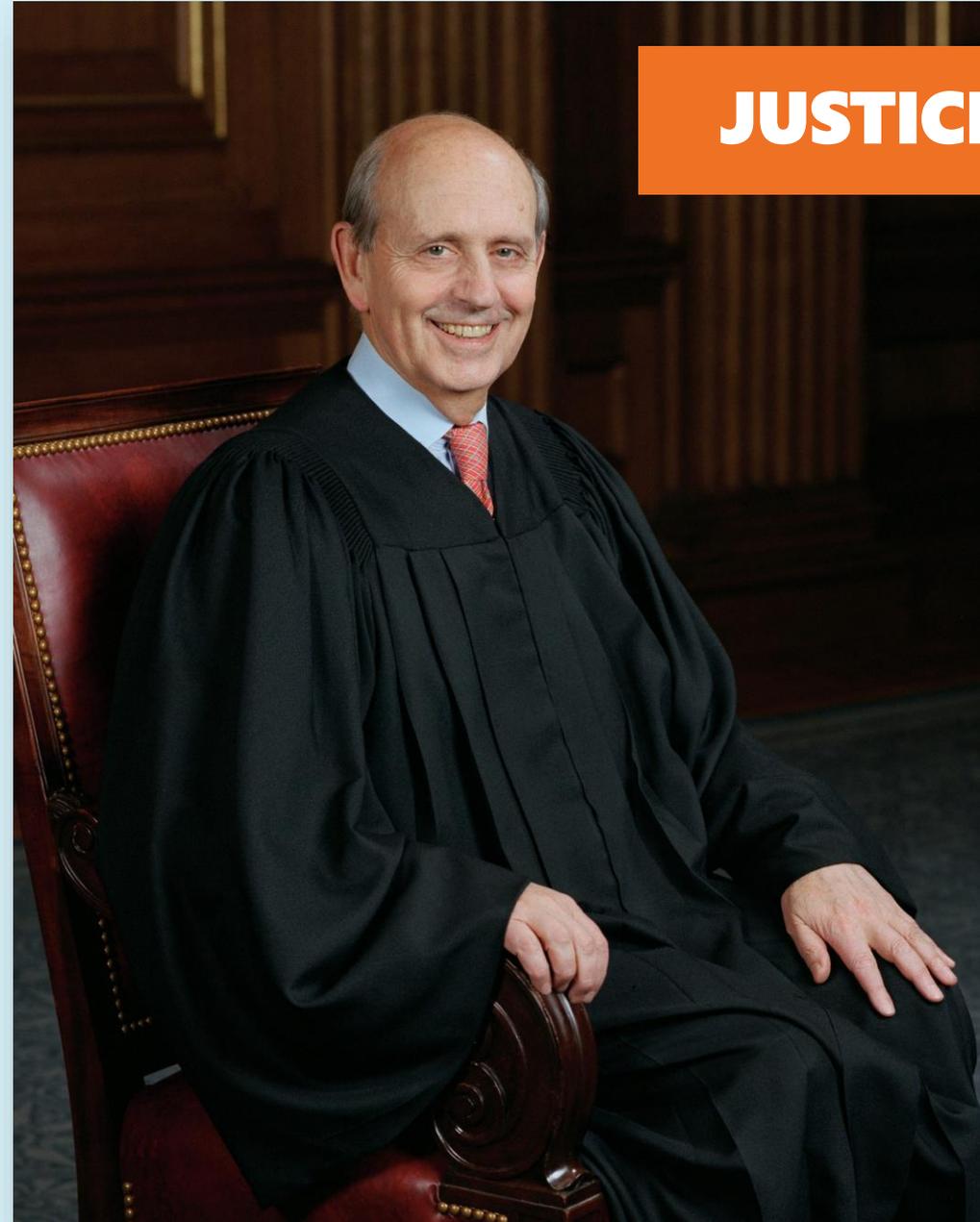
JUSTICE STEPHEN BREYER

Their conversations are civil, polite, and professional. And they listen to one another—even though they might strongly disagree.



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JUSTICE STEPHEN BREYER

**Advice for an argument:
Stay calm and listen to
others.**

