

# Contents

Acknowledgments ix

## PART ONE In the Beginning

1. Higher Lawmaking 3
2. Reframing the Founding 32
3. The Founding Precedent 69

## PART TWO Reconstruction

4. Formalist Dilemmas 99
5. Presidential Leadership 120
6. The Convention/Congress 160
7. Interpreting the Mandate 186
8. The Great Transformation 207

## PART THREE

## Modernity

- 9. From Reconstruction to New Deal 255
- 10. Rethinking the New Deal 279
- 11. The Missing Amendments 312
- 12. Rediscovery or Creation? 345
- 13. Reclaiming the Constitution 383

Frequently Cited Works 423

Notes 425

Index 495