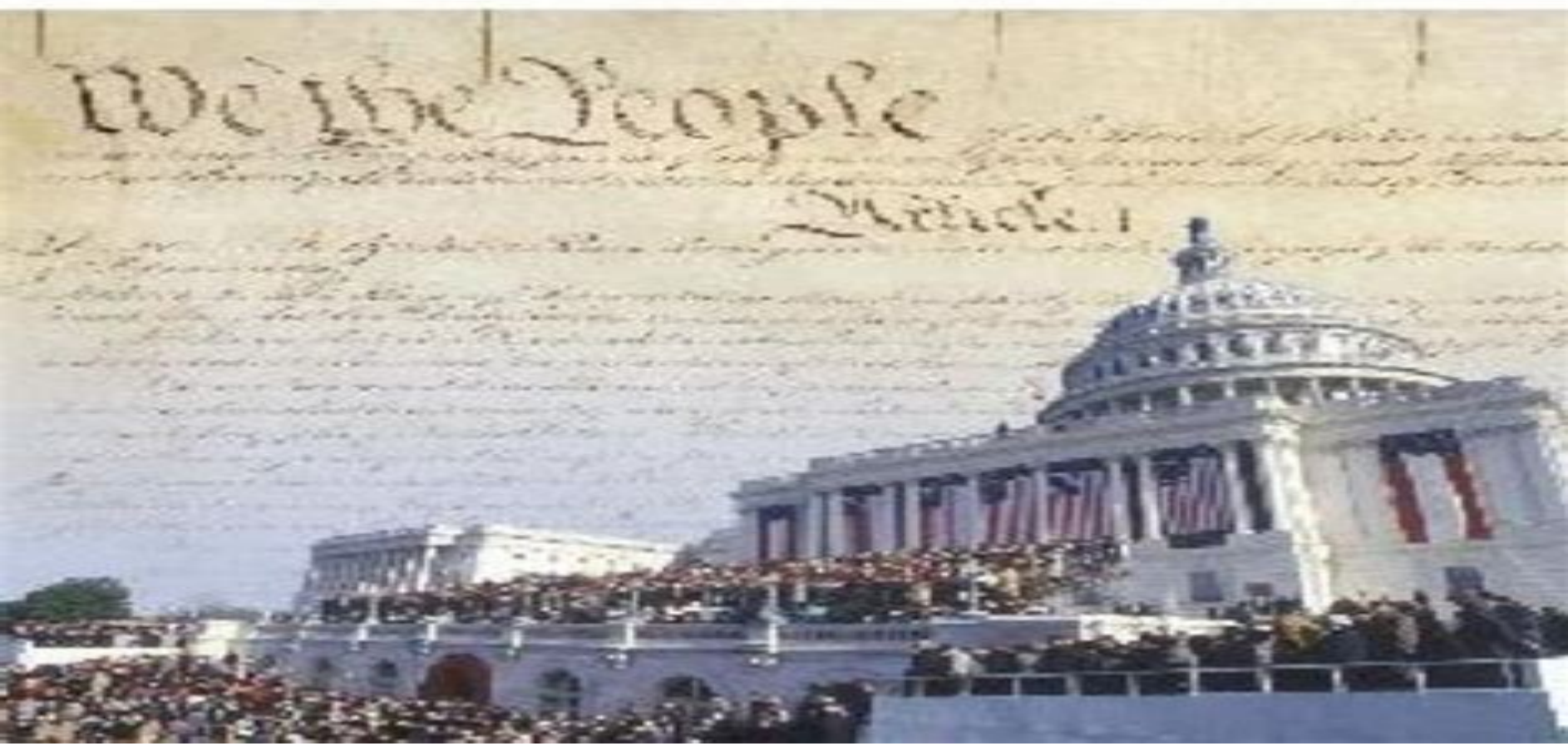

PEOPLING THE CONSTITUTION

JOHN E. FINN



Peopling The Constitution

J. M. Balkin



Peopling The Constitution:

Peopling the Constitution John E. Finn, 2014-03-24 The U S Constitution begins with the soaring words We the People but we the people have little to do with the document as most of us have come to know it When most people think of the constitution they think of it as a legal instrument the province of judges and lawyers who alone possess the expertise and knowledge necessary to discern its elusive and complex meaning This book outlines a very different view of the Constitution as a moral and philosophical statement about who we are as a nation This Civic Constitution constitutes us as a civic body politic transforming the people into a singular political entity Juxtaposing this view with the legal model the Juridic Constitution John E Finn offers a comprehensive account of the Civic Constitution as a public affirmation of the shared principles of national self identity and as a particular vision of political community in which we the people play a significant and ongoing role in achieving a constitutional way of life The Civic Constitution is the constitution of dialogical engagement of contested meanings of political principles of education of conversation Peopling the Constitution seeks nothing less than a new interpretation of the American constitutional project in an effort to revive a robust understanding of citizenship It considers the entire constitutional project from its founding and maintenance to its failure with insights into topics ranging from the practice of deliberative democracy and the meaning of citizenship to constitutional fidelity civic virtue the separation of powers federalism and constitutional interpretation The Civic Constitution in Finn s telling is primarily a political project requiring an active engaged and most importantly constitutionally educated citizenry committed to the civic virtues of civility and tending When we as citizens are unwilling or unable to tend to and sustain the Constitution and when constitutional questions reduce to legal questions and obscure civic interests constitutional rot results And in post 9 11 America Finn argues constitutional rot has begun to set in With its multi dimensional vision of constitutional governance Finn s book stands as a corrective to accounts that locate the Constitution in and conceive it essentially as a legal instrument making a powerful and impassioned argument for restoring the people to their rightful place in the politics and practice of the Constitution

Fracturing the Founding John E. Finn, 2019-03-15 Many in the radical right including the Tea Party the militia movement the Alt right Christian nationalists the Oath Keepers neo Nazis and a host of others brand themselves as constitutional patriots In Fracturing the Founding How the Alt Right Corrupts the Constitution John E Finn one of America s leading constitutional scholars argues that these professions of constitutional devotion serve an important function in mainstreaming the radical right s ideological and policy agenda to camouflage its racism bigotry and sexism to appeal to a broader audience The constitution the extreme right holds as its faith is an odd admixture of the forgotten the rejected the racist and the bizarre Finn illuminates the central precepts of the Alt constitution and shows how and where it differs from the true American Constitution The differences are disturbing The Alt constitution emphasizes absolute rights and unassailable liberties especially for freedom of speech and guns no matter the public interest states rights and a

corresponding suspicion of the federal government racial classifications recognized and legitimated by law and privilege for white Christians Finn's book will appeal to all readers interested in contemporary American politics the contemporary radical right the Founding and the history of America's constitution *The Oxford Handbook of the U.S. Constitution* Mark Tushnet, Mark A. Graber, Sanford Levinson, 2015-07-31 The Oxford Handbook of the U S Constitution offers a comprehensive overview and introduction to the U S Constitution from the perspectives of history political science law rights and constitutional themes while focusing on its development structures rights and role in the U S political system and culture This Handbook enables readers within and beyond the U S to develop a critical comprehension of the literature on the Constitution along with accessible and up to date analysis The historical essays included in this Handbook cover the Constitution from 1620 right through the Reagan Revolution to the present Essays on political science detail how contemporary citizens in the United States rely extensively on political parties interest groups and bureaucrats to operate a constitution designed to prevent the rise of parties interest group politics and an entrenched bureaucracy The essays on law explore how contemporary citizens appear to expect and accept the exertions of power by a Supreme Court whose members are increasingly disconnected from the world of practical politics Essays on rights discuss how contemporary citizens living in a diverse multi racial society seek guidance on the meaning of liberty and equality from a Constitution designed for a society in which all politically relevant persons shared the same race gender religion and ethnicity Lastly the essays on themes explain how in a globalized world people living in the United States can continue to be governed by a constitution originally meant for a society geographically separated from the rest of the civilized world Whether a return to the pristine constitutional institutions of the founding or a translation of these constitutional norms in the present is possible remains the central challenge of U S constitutionalism today *Prohibition, the Constitution, and States' Rights* Sean Beienburg, 2019-06-27 Colorado's legalization of marijuana spurred intense debate about the extent to which the Constitution preempts state enacted laws and statutes Colorado's legal cannabis program generated a strange scenario in which many politicians including many who freely invoke the Tenth Amendment seemed to be attacking the progressive state for asserting states rights Unusual as this may seem this has happened before in the early part of the twentieth century as America concluded a decades long struggle over the suppression of alcohol during Prohibition Sean Beienburg recovers a largely forgotten constitutional debate revealing how Prohibition became a battlefield on which skirmishes of American political development including the debate over federalism and states rights were fought Beienburg focuses on the massive extension of federal authority involved in Prohibition and the passage of the Eighteenth Amendment describing the roles and reactions of not just Congress the presidents and the Supreme Court but political actors throughout the states who jockeyed with one another to claim fidelity to the Tenth Amendment while reviling nationalism and nullification alike The most comprehensive treatment of the constitutional debate over Prohibition to date the book concludes with a discussion of the

parallels and differences between Prohibition in the 1920s and debates about the legalization of marijuana today The Founders and the Idea of a National University George Thomas, 2015 Constituting the American Mind is about early efforts to establish a national university and what those efforts say about the nature and logic of American Constitutionalism This book offers the first in depth study of the efforts to establish a national university from a constitutional perspective While mostly noted in passing the national university was put forward by every president from Washington to John Quincy Adams as a necessary supplement to the formal institutions of government it would help constitute the American mind in a manner that carried forward the ideas the constitution rested on including for example the separation of the civic from the theological

Democracy, the Courts, and the Liberal State David Miles, 2020-10-26 Reformulating a problem of both constitutionalism and liberalism discussed in the works of Ernst Wolfgang B ckenf rde Hannah Arendt and Alexis de Tocqueville the book examines one generally overlooked manifestation of constitutionalism the role of the courts in shaping democratic politics and the inter relationship between citizens and state Drawing on constitutional history law and political theory David Miles argues that constitutionalism cannot be seen merely as an institutional mechanism to limit government as it also has a crucial civic dimension upon which the liberal state depends Utilising the works of B ckenf rde Arendt and Tocqueville constitutionalism is conceived in the book as part of a broader system of communal norms which sustains representative democracy and liberalism Through an analysis of judicial interventions in the electoral processes of the United States and Germany Miles explores the role of civil society actors in transforming constitutionalism through legal challenges to oligarchical or exclusionary practices He assesses how in adjudicating these cases the US Supreme Court and the German Constitutional Court have mediated the tension between threats to stability and the imperative of democratic renewal Democracy the Courts and the Liberal State will be of interest to scholars students and practitioners interested in comparative politics political theory and constitutional law and history The Cycles of Constitutional Time J. M. Balkin, 2020 The Cycles of Constitutional Time shows where American democracy has been and projects where it is going Jack Balkin explains why our politics seems so dysfunctional and why fights over the courts seem so bitter and unhinged He portrays our present troubles in terms of longer constitutional trends In doing so he also offers a message of hope for the future The same trends that put us in this predicament are slowly changing Our political system can get better if Americans mobilize to change it *Cords of Affection* Emily Pears, 2022-01-05 In Cords of Affection Constructing Constitutional Union in Early American History Emily Pears investigates efforts by the founding generation s leadership to construct and strengthen political attachments in and among the citizens of the new republic These emotional connections between citizens and their institutions were critical to the success of the new nation The founders recognized that attachments do not form automatically and require constant tending Emily Pears defines and develops a theory of political attachments based on an analysis of the approaches used in the founding era In particular she identifies three methods of political attachment a

utilitarian method a cultural method and a participatory method Cords of Affection offers a comparative analysis of the theories and projects undertaken by a wide array of political leaders in the early republic and antebellum periods that exemplify each of the three methods The work includes new historical analysis of the implementation of projects of nationalism and attachment ranging from data on federal funding for internal improvements to analysis of Whig orations In Cords of Affection Emily Pears offers lessons from history about the strengths weaknesses and pitfalls of various approaches to constructing national political attachments Twenty first century Americans attachments to their national government have waned While there are multiple narratives of this decline they all have the same core element a citizenry unwilling to uphold the norms and institutions of American democracy in the face of challenge When a demagogue or a populist movement or a foreign power threatens action that undermines American democracy citizens will not come to its defense Citizens cheer their own side regardless of the means it uses or they are simply apathetic to the role that institutions and institutional constraints play in keeping us all free and equal At worst Americans have come to regard their inherited constitutional foundations as unjust biased or ill equipped for the modern world and the notion of a shared political community as prejudicial and old fashioned They feel little sense of attachment to the American regime By contrast the lessons in Cords of Affection allow us to consider a broader array of possible tools for the maintenance of today s political attachments

The American Supreme Court Robert G. McCloskey, 2016-05-02 The sixth edition of the classic and concise account of the US Supreme Court its history and its place in American politics For more than fifty years Robert G McCloskey s classic work on the Supreme Court s role in constructing the US Constitution has introduced generations of students to the workings of our nation s highest court As in prior editions McCloskey s original text remains unchanged In his historical interpretation he argues that the strength of the Court has always been its sensitivity to the changing political scene as well as its reluctance to stray too far from the main currents of public sentiment In this new edition Sanford Levinson extends McCloskey s magisterial treatment to address developments since the 2010 election including the Supreme Court s decisions regarding the Defense of Marriage Act the Affordable Care Act and gay marriage The best and most concise account of the Supreme Court and its place in American politics McCloskey s wonderfully readable book is an essential guide to the past present and future prospects of this institution Praise for The American Supreme Court The classic account of the American Supreme Court by the mid twentieth century s most astute student of American constitutionalism updated by the early twenty first century s most astute student of American constitutionalism This is the first work constitutional beginners should and constitutional scholars do turn to Mark Graber University of Maryland School of Law Essential This fifth edition carries on the tradition of earlier iterations keeping McCloskey s keen insights analytical framework and normative instincts intact Levinson supplements the original argument with chapters that draw on his remarkable intellectual range and invite readers to continue asking the still salient questions McCloskey set forth a half century earlier Choice on the fifth edition *Practice*

Extended Robert A. Ferguson, 2016-03-01 Written by a renowned literary critic and legal historian *Practice Extended* illuminates the intricacies of legal language and thought and the law's relationship to society, literature, and culture. Robert A. Ferguson details how judicial opinions are written, how legal thought and philosophy inform ideas, and how best to appreciate a courtroom novel. With chapters touching on a wide range of subjects including immigration, eloquence, the U.S. Constitution, and the Supreme Court case over James Joyce's *Ulysses*, *Practice Extended* provides an ambitious argument for the importance of language in law and a much-needed analysis of the often vexed relationship between law and literature. Ferguson challenges the notion of law as a hermetic enterprise only accessible to experts. He reveals the discipline's relationships to history, religion, philosophy, psychology, anthropology, and the visual arts, offering a rich account of how the law has shaped and has been shaped by communal thought. He also recognizes the critical role of literature and other outside views in showcasing the social problems that law takes up. *Practice Extended* reflects Ferguson's crucial role as a pioneer in developing the field of law and literature. His writing reminds us of the need for a critical approach to the law that draws on the insights of literature to better understand political and legal history and the documents, laws, and arguments that shape our present. At the same time, this volume also showcases the ways in which the law has been integrated into works of literature, from *Billy Budd* to contemporary courtroom thrillers.

Constitutional Failure Sotirios Barber, 2014-08-25 Americans err in thinking that while their politics may be ailing, their Constitution is fine. Sick politics is a sure sign of constitutional failure. This is Sotirios Barber's message in *Constitutional Failure*. Public attitudes fostered by a consumer culture, constitution worship, the lack of a trusted leadership, community and academic historicism, and value skepticism—these, this book tells us in clear and bracing terms, are at the root of our political dysfunction. Barber characterizes the Constitution as a plan of government, a set of means to public purposes like national security and prosperity. He argues that if the government is failing, it's fair to conclude that the plan is failing and that laws that are supposed to serve as means can't in reason continue to bind when they no longer work. He argues further that constitutional success depends ultimately on a stratum of diverse and self-critical citizens who see each other as moral equals and parts of one national community. These citizens, with the politicians among them, would be good-faith contestants regarding the meaning of the common good and the most effective means to secure it. In this way, showing how the success of a constitutional democracy is more a matter of political attitudes than of institutional performance, Barber's book upends the conventional understanding of constitutional failure. In Barber's analysis, the apparent stability of formal constitutional institutions usually interpreted as evidence of constitutional health may actually indicate the defining element of constitutional failure: a mentally inert citizenry no longer capable of constitutional reflection and reform. At once concise and thorough in its analysis of the concept of constitutional failure and its accounts of a healthy politics, the corrosive impact of Madisonian checks and balances as a substitute for trustworthy leadership, and the outlook for meaningful reform, this book offers a carefully reasoned and provocative

assessment of the viability of constitutional governance in the United States **Comparative Constitutional Theory** Gary Jacobsohn, Miguel Schor, 2018-02-23 The need for innovative thinking about alternative constitutional experiences is evident and readers of *Comparative Constitutional Theory* will find in its pages a compendium of original theory driven essays The authors use a variety of theoretical perspectives to explore the diversity of global constitutional experience in a post 1989 world prominently marked by momentous transitions from authoritarianism to democracy by multiple constitutional revolutions and devolutions by the increased penetration of international law into national jurisdictions and by the enhancement of supra national institutions of governance *Democratic Consolidation and Constitutional Endurance in Asia and Africa* Tom Gerald Daly, Dinesha Samararatne, 2024-01-23 What factors drive constitutional change and sustain positive transformation How are democratic values recognised restored and preserved through constitutional change *Democratic Consolidation and Constitutional Endurance in Asia and Africa* is a well articulated response to the growing scholarly conversation on democratic backsliding and resilience Bringing together leading and emerging voices in constitutional law this groundbreaking new collection considers recent democratising events in Ethiopia The Gambia Malaysia Maldives Myanmar Sri Lanka and Thailand Across seven thematic chapters and seven case studies the volume provides analytical insight into central topics arising from these events including the role of political parties which depart from Western frameworks the often marginalised place of courts the centrality of civil military relations the explanatory power of constitutional culture and the impact of the COVID 19 pandemic Offering a decolonising approach to constitutional law and democratisation studies this book will be of keen interest to scholars practitioners and policymakers alike It is essential reading for anyone seeking to understand the relationship between democratic decay and institutional endurance and how such a relationship plays out in conditions of ongoing constitutional development *The Constitution in Congress* David P. Currie, 2005-05-10 The *Constitution in Congress* series has been called nothing less than a biography of the US Constitution for its in depth examination of the role that the legislative and executive branches have played in the development of constitutional interpretation This third volume in the series the early installments of which dealt with the Federalist and Jeffersonian eras continues this examination with the Jacksonian revolution of 1829 and subsequent efforts by Democrats to dismantle Henry Clay s celebrated American System of nationalist economics David P Currie covers the political events of the period leading up to the start of the Civil War showing how the slavery question although seldom overtly discussed in the debates included in this volume underlies the Southern insistence on strict interpretation of federal powers Like its predecessors *The Constitution in Congress* Democrats and Whigs will be an invaluable reference for legal scholars and constitutional historians alike **An Introduction to the Study of the Constitution** Morris M. Cohn, 1892 **Asian Comparative Constitutional Law, Volume 1** Ngoc Son Bui, Mara Malagodi, 2023-05-18 This is the first in a 4 volume set that provides the definitive account of the major issues of comparative constitutional law in 19 Asian jurisdictions Volume 1

explores the process and contents in the making of a new constitution The book provides answers to questions on the causes processes substance and implantation involved in making new constitutions such as What are the political social and economic factors that drive the constitution making How are constitutions made and who makes them What are the substantive contents of constitution making What kinds of legislation are enacted to implement constitutions How do courts enforce constitutions The book considers the impact of decolonisation globalisation and social political dynamics which have led to the enactment of numerous independent constitutions in Asia including Vietnam 2013 Nepal 2015 and Thailand 2017 The jurisdictions covered include Bangladesh Cambodia China Hong Kong India Indonesia Japan Malaysia Mongolia Myanmar Nepal North Korea the Philippines Singapore South Korea Sri Lanka Taiwan Thailand and Vietnam An essential reference for those interested in Asian constitutional law History of the United States of America Under the Constitution: 1801-1817. 1882 James Schouler, 1882 **1609-1822.- 2. 1822-1894.- 3. 1894-1905.- 4. The annotated constitution.- 5. Tables of statutes held constitutional or unconstitutional. Table of cases. Index of persons. General index** Charles Zebina Lincoln, 1906 **Constitution of the State of Louisiana** Louisiana, 1879 **Canada: an Encyclopædia of the Country: Rebellion of 1837 and constitutional development. Seigneurial tenure and clergy reserve questions. Provincial educational systems. Waterways, canals, shipping and steamship lines. Mines and minerals. History of the Congregational and Baptist churches** John Castell Hopkins, 1898

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Table of Contents Peopling The Constitution

1. Understanding the eBook Peopling The Constitution
 - The Rise of Digital Reading Peopling The Constitution
 - Advantages of eBooks Over Traditional Books
2. Identifying Peopling The Constitution
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Peopling The Constitution
 - User-Friendly Interface
4. Exploring eBook Recommendations from Peopling The Constitution
 - Personalized Recommendations
 - Peopling The Constitution User Reviews and Ratings
 - Peopling The Constitution and Bestseller Lists
5. Accessing Peopling The Constitution Free and Paid eBooks
 - Peopling The Constitution Public Domain eBooks
 - Peopling The Constitution eBook Subscription Services

- Peopling The Constitution Budget-Friendly Options
- 6. Navigating Peopling The Constitution eBook Formats
 - ePub, PDF, MOBI, and More
 - Peopling The Constitution Compatibility with Devices
 - Peopling The Constitution Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Peopling The Constitution
 - Highlighting and Note-Taking Peopling The Constitution
 - Interactive Elements Peopling The Constitution
- 8. Staying Engaged with Peopling The Constitution
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Peopling The Constitution
- 9. Balancing eBooks and Physical Books Peopling The Constitution
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Peopling The Constitution
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Peopling The Constitution
 - Setting Reading Goals Peopling The Constitution
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Peopling The Constitution
 - Fact-Checking eBook Content of Peopling The Constitution
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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