

POLI 4020: Constitutional Law: Law of the Constitution and Place of the Supreme Court in the American Political System—Fall 2011

Pre-requisite: POLI 2051 or equivalent

Tao L. Dumas
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Class: 3:40-5:00 MW

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Required Text

Lee, Epstein, and Thomas G. Walker. 2011. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. Washington D.C.: CQ Press. Seventh Edition. ISBN 978-1-60426-962-8

Note: Earlier editions of the text are acceptable, but page numbers may vary, and students are responsible for finding any cases not included in the volume.

Legal Resources: Legal resources are available for opinions, briefs, and other material at: <http://www.supremecourtus.gov/>, LexisNexis, www.oyez.org, www.findlaw.com, and *New York Times*, http://topics.nytimes.com/top/reference/timestopics/organizations/s/supreme_court/index

Course Description and Objectives

This course will introduce students to Constitutional law through the lens of U.S. Supreme Court case law with an emphasis on judicial review, federalism, institutional powers, and separation of powers. The course seeks to broadly introduce students to theories of interpreting the Constitution and major Supreme Court cases. By the end of the courses students should be able to (1) analyze and apply legal arguments and theories to Supreme Court cases (2) distill cases to their most important components, and (3) think critically about the role of courts in the federal system.

Course Requirements

Academic Honesty

All students are expected to abide by the University's Code of Student Conduct (<http://www.lsu.edu/saa/Code%20of%20Student%20Conduct%20August%2009.pdf>). Any student caught plagiarizing work or cheating on an exam will be reported to the appropriate university officials. Make-up exams will be given only to students who notify the instructor prior to missing the exam and whose absence qualifies under Policy Statement 22 (Student Absence from Class) ([http://appl003.ocs.lsu.edu/ups.nsf/4d8b193f0753c7e48625714000672ba4/D45654A11F8AC79686256C250062AE4D/\\$File/PS+22+revision+8+2007.pdf](http://appl003.ocs.lsu.edu/ups.nsf/4d8b193f0753c7e48625714000672ba4/D45654A11F8AC79686256C250062AE4D/$File/PS+22+revision+8+2007.pdf)).

Briefs and Quizzes

Because the study of law requires both heavy reading and cumulative comprehension, it is essential that students read all assigned cases prior to each class. Students must brief all cases assigned to their group on the syllabus. The process of briefing will prepare you for class discussions and save you many hours of time in test preparation. Briefs will be collected randomly during class **only**. Briefs will not be accepted electronically or before or after class. Although students are only required to brief the cases assigned to their group, students are expect to read and understand all assigned cases and are strongly encouraged to brief all cases.

Reading assignments available on Moodle are designated with an "M." Additionally, quizzes will be randomly given during the semester. Quizzes are open note (but not open book) and intended to help students identify deficiencies in their notes and prepare for exams. There will be no make-ups, but the lowest brief and quiz grade will be dropped at the end of the semester.

Participation

Attendance is a necessary, but not sufficient, condition for a good participation grade. Students are expected to attend class daily, on time, and for the duration of the class. Students are also expected to read all assigned readings before class, complete all written assignments on time, and treat classmates and the instructor with respect. Please turn off phones and put iPods, newspapers, and other unrelated materials away before class begins. No electronic devices are allowed on desktops during class.

Exams

In-class discussions and the material assigned on the syllabus will provide the basis for exams. There will be one mid-term and one final exam to test your understanding of concepts as well as your ability to apply and analyze them. Exams will consist of definitions, short answers, and essays.

Supreme Court Simulation

During the course of the semester students will participate in one of three Supreme Court Simulations. Students will be assigned to groups and participate as justices or advocates. Students will receive up to 50 points for **informed** participation (i.e. simply showing up will not get you 50 pts.) in the simulation and up 100 points for the final paper. Handouts with details will be provided in class.

Grading Policy

The course is worth a total of 400 points allocated as follows:

Briefs—50 points
Quizzes—50 points
Participation—50
Exam 1—100 points
Exam 2—100 points
Simulation (Participation)—50 points
Simulation (Papers)—100 points

A = 400-361 B = 360-321 C = 320-281 D = 280-270 F = 269 or lower

Special Accommodation

Students with documented disabilities who require special testing accommodations should notify the instructor at the beginning of the semester so that appropriate arrangements can be made.

Course Outline

Note: The syllabus represents a general plan for the course and may be subject to change, based on the discretion of the instructor.

Schedule of Readings and Assignments

August 22, First Class

Introduction to the Course

August 24, Structure of the Federal Court System

Chapter 1 pgs. 12-23 & 33-46

August 29, Powers of the Courts and Judicial Review

Federalist # 78

Brief *Marbury v. Madison* (1803)

Gibson's dissent in *Eakin v. Raub* (1825)

August 31, No Class

Article III, Restraints on Judicial Power

Martin v. Hunters' Lessee (1816)(I)

Chisholm v. Georgia (1793) (M)(II)

Ex parte McCardle (1869) (III)

Baker v. Carr (1962) (IV)

Nixon v. US (1993) (V)

Flast v. Cohen (1968)(All Groups)

September 5, Labor Day Holiday

September 7, Interpreting the Constitution

Chapter 1 pgs. 23-33

Interpreting the Constitution (M)

September 12, Federalism: 10th Amendment vs. Supremacy Clause & Necessary & Proper

McCulluch v. Maryland (1819) (I)

Dred Scott v. Sanford (1857) (II)

Hammer v. Dagenhart (1918) (III)

National League of Cities v. Usery (1976) (IV)

Printz v. Untied States (1997) (V)

September 14, Federalism: 11th Amendment

Alden v. Maine (1999) (I)

Michigan v. Long (1983) (II)

State of Missouri v. Holland (1920) (III)

Crosby v. National Foreign Trade Council (2000) (IV)

Pennsylvania v. Nelson (1956) (V)

September 19, Regulatory Power of the States in the Federal System

Jacobson v. Massachusetts (1905) (M) (I)

Pacific Gas & Electric Co. v. State Energy Resources & Dev. Commission (1938) (M) (II)

Edwards v. California (1941) (M) (III)

Cooley v. The Board of Wardens of the Port of Philadelphia (1852) (M) (IV)

Kassel v. Consolidated Freightways Corp. (1981) (M) (V)

City of Philadelphia v. State of New Jersey (1978) (M) (All Groups)

September 21, Simulation Discussion and Groups Assigned

September 26, Separation of Powers

Mistretta v. United States (1989) (I)
Immigration and Nationalization Service v. Chadha (1983) (II)
Bowsher v. Synar (1986) (III)
The Prize Cases (1863) (IV)
Ex parte Milligan (1866) (V)

September 28, Separation of Powers

Ex parte Quinn (1942) (I)
Korematsu v. United States (1944) (II)
Youngstown Sheet & Tube v. Sawyer (1952) (III)
Dames & Moore v. Regan (1981) (IV)
Hamdan v. Rumsfeld (2006) (V)

October 3, Midterm Exam

October 5, Legislative Authority: Article I, Enumerated Powers

Powell v. McCormack (1969) (I) (V)
US Term limits, Inc. v. Thornton (1995) (II)
Gravel v. United States (1972) (III)
Gibbons v. Ogden (1824) (IV)

October 10, Article I, Implied Powers

McGrain v. Daugherty (1927) (I)
Barenblatt v. US (1959) (II)
United States v. Curtis Wright-Export Corp. (1936) (III)
Gibson v. Florida Legislative Investigation Commission (1963) (IV)
South Carolina v. Katzenbach (1966) (V)

October 12, Executive Powers: Article II

Bush v. Gore (2000) (I)
In re Neagle (1890) (II)
Youngstown Sheet & Tube Co. v. Sawyer (1952) (III)
Clinton v. City of New York (1998) (IV)
Morrison v. Olson (1988) (V)

October 17, Executive Powers, Article II

United States v. Nixon (1974) (I)
Mississippi v. Johnson (1867) (II)
Nixon v. Fitzgerald (1982) (III)
Clinton v. Jones (1997) (IV)
Ex parte Grossman (1925) (V)
Murphy v. Ford (1925) (All Groups)
United States v. Curtis-Wright Export Corp. (1936) (All Groups)

October 19, Simulation I

October 24, Simulation II

October 26, Commerce Powers

Gibbons v. Ogden (1824) (I)
A.L.A. Schechter Poultry Corp. v. United States (1935) (II)
Carter v. Carter Coal Co. (1936) (III)
Wickard v. Filburn (1942) (IV)
U.S. v. Lopez (1995) (V)
United States v. Morrison (2000) (All Groups)
Gonzalez v. Raich (2005) (All Groups)

October 31, Commerce Powers

Champion v. Ames (1903) (I)
Heart of Atlanta Motel v. U.S. (1964) (II)
Cooley v. Board of Wardens (1852) (III)
Southern Pacific Company v. Arizona (1945) (IV)
Hunt v. Washington State Apple Advertising Commission (1977) (V)
Maine v. Taylor (1986) (All Groups)
Granholm v. Heald (2005) (All Groups)

November 2, Taxation and Spending Powers

Pollock v. Farmer's Loan & Trust Co. (1895) (I)
United States v. United States Shoe Corp. (1998) (II)
South Carolina v. Baker (1988) (III)
Davis v. Michigan Dept. of Treasury (1989) (IV)
McCrary v. United States (1904) (V)
Bailey v. Drexel Furniture Co. (1922) (All Groups)

November 7, Taxation and Spending Powers

United States v. Butler (1936) (I)
Steward Machine Co. v. Davis (1937) (II)
South Dakota v. Dole (1987) (III)
Michelin Tire Corp. v. Wages (1976) (IV)
Complete Auto Transit v. Brady (1977) (V)
Quill Corp. v. North Dakota (1992) (All Groups)
Oregon Waste systems, Inc. v. Department of Environmental Quality of Oregon (1994) (All Groups)

November 9, Economic Due Process

The Slaughterhouse Cases (1873) (I)
Munn v. Illinois (1877) (II)
Allegeyer v. Louisiana (1897) (III)
Lochner v. New York (1905) (IV)
Muller v. Oregon (1908) (V)
Adkins v. Children's Hospital (1923) (All Groups)
City of New Orleans v. Dukes (1976) (M) (All Groups)

November 14, The Contract Clause

Fletcher v. Peck (1810) (I)
Trustees of Dartmouth College v. Woodward (1819) (II)
Proprietors of Charles River Bridge v. Proprietors of Warren Bridges (1837) (III)

Stone v. Mississippi (1880) (IV)
Home Building and Loan Association v. Blaisdell (1934) (V)
Unites States Trust Co. v. New Jersey (1977) (All Groups)
Allied Structural Steel Co. v. Spannaus (1978) (All Groups)

November 16, Simulation III

November 21, Economic Due Process

Nebbia v. New York (1934) (I)
West Coast Hotel v. Parrish (1937) (II)
Williamson v. Lee Optical Company (1955) (III)
BMW of North America v. Gore (1996) (IV)
Caperton v. A.T. Massey Coal Co. (2009) (V)
Citizens United v. Federal Election Commission (2010) (M) (All Groups)

November 23, Thanksgiving Holiday

November 28, The Takings Clause

United States v. Causby (1946) (I)
Penn Central Transportation Co. v. City of New York (1978) (II)
Nollan v. California Costal Commission (1987) (III)
Lucas v. South Carolina coastal Council (1992) (IV)
Stop the Beach Renourishment v. Florida Dept. of Economic Development (2010) (M) (V)
Berman v. Parker (1954) (All Groups)

November 30, The Takings Clause

Hawaii Housing Authority v. Midkiff (1984) (All Groups)
Kelo v. City of New London (2005) (All Groups)

Final Class Day

December 7, Final Exam 3-5 p.m.

Important Dates

August 29th—Final date for dropping without receiving a “W”
November 4th—Final date for resigning from the university/dropping courses
December 7th—Final Exam 3-5 p.m.

Groups for Briefs

Students are responsible for briefing all cases assigned to their group. The class is divided alphabetically as listed below.

Group I Conklin to Evans
Group II Gernsbacher to Heap
Group III Horn to Lathrop
Group IV Laurent to Rothermel
Group V Schmidt to Tyrney