

AMERICAN CONSTITUTIONAL LAW

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Text: American Constitutional Law Primis Customtext

Useful URLs: law.cornell.edu; findlaw.com; fedworld.gov/supcourt/index.htm;
law.upenn.edu/conlaw; <http://www.galaxy.com/b/d?n=47708>

This course examines the major contours of the American Constitution excluding the Bill of Rights. We will discuss constitutional law in the broader framework of social and political philosophy and explore evolution of judicial doctrine through our constitutional history. The two major themes that run through most of the cases are federalism and separation of powers.

Most of the course is devoted to close reading of Supreme Court cases with Socratic discussion in class. Preparing cases in advance along with regular attendance and active class participation are essential. There will be additional cases added other than ones listed in the syllabus.

There will be a midterm and final examination, several short announced quizzes and a legal opinion writing assignment (approximately 12 pages) based on a hypothetical fact pattern. All of the foregoing shall count towards the final grade.

Course Outline:

Introduction:

Deontology & Utilitarianism; Natural Law & Legal Positivism

Theories of Jurisprudence:

1. Traditional/Analytical Jurisprudence; Textualism; Original Intent
2. Sociological Jurisprudence
3. Legal Realism and neo-Realism

Judicial Review: Marbury v. Madison (1803) & Van Alstyne

Federalist No. 78

Legitimacy & Judicial Activism:

Dred Scott v. Sandford (1857)

The Boundaries of Judicial Review: Interview with Justice Powell

Original Intent: The Meese Brennan debate

Stare Decisis

The Natural Law Debate: Black versus Frankfurter

Griswold v. Connecticut (1965)

The Courts and Social Policy

Issues of Jurisdiction & Standing:

Denying Certiorari

Frank M. Coffin: The Process of Writing a Decision

Luther v. Borden (1849)

Ex Parte McCardle (1869)

Baker v. Carr (1962)

Powell v. McCormack (1969)

DeFunis v. Odegaard (1974)

Brandeis Ashwander Rules (1936)

Nichol: The Tactical Uses of Standing

Massachusetts v. Mellon [& Frothingham v. Mellon] (1923)

Flast v. Cohen (1968)

Valley Forge Christian College v. Americans United (1982)

Lujan v. Defenders of Wildlife (1992)

Certiorari Strategies

David Pike: The Court Packing Plans

Congressional Investigations: Watkins v. U.S. (1957) & Barenblatt v. U.S. (1959)

Federalism:

Martin v. Hunter's Lessee (1816)

Cohens v. Virginia (1821)

Implied Powers: McCulloch v. Maryland (1819)

Preemption: Pennsylvania v. Nelson (1956)

Congress reacts to Nelson

American Insurance Assoc. v. Garamendi (2003)

Traditional State Functions: Garcia v. San Antonio Metro (1985)

Printz V. U.S. (1997)

Reno v. Condon (2000)

Bush v. Gore (2000)

Board of Trustees of the University of Alabama v. Garrett (2001)

Multi-tier Analysis:

U.S. v. Carolene Products (1938) Footnote 4

San Antonio School District v. Rodriguez (1973)

Plyler v. Doe (1982)

Incorporation:

(The 14th Amendment); The Black/Frankfurter Debate

Adamson v. California (1947)

Rehnquist Testimony on Incorporation

Gitlow v. New York (1925)

The Commerce Clause & Federal Police Powers:

Madison's Essay on Property

Gibbons v. Ogden (1824)

Cooley v. Board of Wardens (1851)

Hammer v. Dagenhart (1918)

U.S. v. Butler (1936)

West Coast Hotel v. Parrish (1937)

NLRB v. Jones & Laughlin (1939)

U.S. v. Darby (1941)

Wickard v. Filburn (1942)

Congress Interprets the Commerce Clause

Heart of Atlanta Motel v. U.S. (1964)

U.S. v. Lopez (1995)

U.S. v. Morrison (2000)

Gonzales v. Raich (2005)

Substantive Due Process:

Slaughter-House Cases (1873)

Munn v. Illinois (1877)

Lochner v. U.S. (1905)

Adkins v. Children's Hospital (1923)

Nebbia v. New York (1934)

West Coast Hotel v. Parrish (1937)

Ferguson v. Skrupa (1963)

War Powers & Foreign Affairs:

The Prize Cases (1863)

Ex Parte Milligan (1866)

Korematsu v. U.S. (1944)

Youngstown v. Sawyer (1952)

U.S. v. Curtiss-Wright (1936)

Congress Interprets Curtiss-Wright

Haig v. Agee (1981)

Hamdi v. Rumsfeld (2004)

Eminent Domain:

Hawaii Housing Authority v. Midkiff (1984)

Dolan v. City of Tigard (1994)

Kelo v. City of New London (2005)

Executive Privilege & Presidential Immunity:

New York Times v. U.S. (1971)

U.S. v. U.S. District Court (1972)

U.S. v. Nixon (1974)

Clinton v. Jones (1997)

Congressional Immunity:

Hutchinson v. Proxmire (1979)

Legislative Veto:

INS v. Chadha (1983)

Legislative Vetoes after Chadha

Line Item Veto:

Clinton v. City of New York (1998)

Conclusion:

Is the Supreme Court the Constitution?