UNIVERSITY OF PENNSYLVANIA
THE WHARTON SCHOOL
LEGAL STUDIES 221-001

CONSTITUTIONAL LAW AND FREE ENTERPRISE

SPRING 2007 – PROFESSOR ROSOFF

OVERVIEW: The economy of the United States -- the structure of our whole society, in fact -- is based upon the cherished and celebrated concept of free enterprise. Our free enterprise system, regarded by many as a model for the entire world, rests, in turn, on a foundation of personal freedoms and rights guaranteed by the U.S. Constitution, the core document of our legal and governmental systems. The history of our nation's economic system is inextricably intertwined with the development of our constitutional jurisprudence. The study of each side of that pairing is necessary for full understanding of the other.

This course starts with an examination of the U.S. Constitution and the structure and relationship of the governmental entities it establishes and upon which it depends. Special attention is given to the role of the federal courts, especially the Supreme Court, in the interpretation and implementation of constitutional principles. From this foundation, the course moves through an exploration of the major economic and business implications of constitutional law in different eras of the nation's history. Not to be overlooked in this analysis are the politics of the Court, including the political leanings, personalities, and judicial philosophies of Justices past and present, and how these and other influences -- e.g., pressures by other branches of government, interest groups, the public, the media, etc. -- affect constitutional adjudication.

CLASS MEETS: Tues-Thurs. 10:30 AM – Noon; Room JMHH G92 (Huntsman Hall)

INSTRUCTOR: Arnold J. Rosoff, Professor of Legal Studies & Health Care Systems

CONTACT INFO: 673 Jon M. Huntsman Hall Phone: 898-7610, Fax: 573-2006 E-mail: rosoffa@wharton.upenn.edu

OFFICE HOURS: Wednesdays 2-4 PM; other times by appointment

materials may be supplied in downloads from the course website or handed out in class.

**COURSE FORMAT:** Lecture, Socratic dialogue, and class discussion. Class participation is expected and is graded.

**GRADING:** Midterm exam = 40%; Final exam = 50%; Participation (attendance, preparation, and contribution to class discussions) = 10%

Note: Please notify the instructor in advance if you expect to miss a class. Properly justified absences will be excused. There may be some opportunities for extra-credit work for those who are interested in this.

**CONTACT INFO:** In addition to traditional channels (office hours and telephone), communication will be facilitated through e-mail: rosoffa@wharton.upenn.edu and the course Web site, accessible at: http://webcafe.wharton.upenn.edu. Non-Wharton students will need a Wharton computing account, available at http://accounts.wharton.upenn.edu.

Students should check their e-mail at least daily; the instructor will do so too. Please take care when replying not to reply to the whole class.

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**COURSE OUTLINE & READING ASSIGNMENTS**
LGST 221 (ROSOFF) -- Spring Term 2007

**Week 1:** Part I: The U.S. Constitution

1A Introduction: course overview
Jan.9 Reading: Introduction, pp. 3-9

1B The Living Constitution and Understanding the Supreme Court
Jan.11 Reading: Reading: Chs. 1&2, pp. 11-50

**Week 2:** Part II: Institutional Authority

2A Structuring the Federal System & The Judiciary
Jan.16 Reading: Intro, pp. 53-56 & Ch. 3, pp. 57-81

2B The Supreme Court in 2007: Personnel and Philosophy

Week 3:  Institutional Authority (cont’d):
3A  The Legislature
Jan. 23  Reading: pp. Ch. 4, pp 82-112

3B  The Legislature (cont., starting with Congress and the Separation of Powers)
Jan. 25  Reading: pp. 112-121

Week 4:  Institutional Authority (cont.)
4A  The Executive
Jan. 30  Reading: Ch. 5, pp. 122-146

4B  The Executive (cont., start with The President and Foreign Affairs)
Feb. 1  Reading: pp. 146-170; other readings TBA

Week 5:  Part III: Nation-State Relations
5A  Introduction & Federalism
Feb. 6  Reading: Introduction & Ch. 6, pp. 173-191

5B  Federalism (cont., start with Cooperative Federalism)
Feb. 8  Reading: pp. 192-204

Week 6:  Nation-State Relations (cont’d)
6A  The Commerce Power
Feb. 13  Reading: Ch. 7, pp. 205-231

6B  Nation State Relations (cont’d)
Feb. 15  The Commerce Power (cont., start with Consolidating...)
Reading: pp. 231-248

Week 7:  Nation-State Relations (cont.)
7A  The Power to Tax and Spend
Feb. 20  Reading: Ch. 8, pp. 249-268

7B  Conclude Part III and General Review
Feb. 22: Reading: review materials to date

Week 8: 
8A Feb. 27: IN-CLASS MIDTERM EXAM; all material to date
8B Mar. 1: SPECIAL SESSION
       Activity to be announced

SPRING BREAK (Mar. 2-12)

Week 9: 
9A Mar. 13: Part IV: Economic Liberties
          Introduction to Part IV & The Contract Clause
          Readings: Introduction, pp. 271-273
          & Ch. 9, pp. 275-291

9B Mar. 15: Economic Liberties (cont.)

Week 10: 
10A Mar. 20: Economic Liberties (cont.)
           The Takings Clause
           Reading: Ch. 11, pp. 315-331

10B Mar. 22: Part V: Civil Liberties
           Freedom of Speech and the Press
           Reading: Approaching Civil Liberties, pp. 335-336 &
           Ch. 13, pp. 393-408

Week 11: 
11A Mar. 27: Civil Liberties (cont.)
           Freedom of Speech (start at Regulating Expression)
           Reading: pp. 408-429; other materials TBA

11B Mar. 29: Freedom of Speech: Commercial Speech
           Reading: p. 409, other materials TBA

Week 12: 
12A Apr. 3: Freedom of the Press
          Reading: Ch. 14, pp. 441-474

12B Apr. 5: Freedom of Speech and Press in the Electronic Age
          Reading: pp. 474-480, other reading TBA
Week 13: Part VII: Civil Rights
13A Discrimination
Apr.10 Reading: Introduction and Ch. 18, pp. 591-612

13B Discrimination (cont.) -- gender, sexual orientation, sexual harassment, and economic discrimination
Apr.12 Reading: pp. 612-632;

Week 14: Civil Rights (cont.)
14A Discrimination (cont.) – Remedying … Discrimination
Apr.17 Reading: pp. 632-650

14B Course Wrap-up: Discussion and Review Session
Apr.19 Reading: Review materials since midterm

FINAL EXAM - Scheduled (subject to Registrar confirmation) for Wednesday, May 2, 12:00 – 2:00 PM; Location: TBA

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