

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

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

MATERIALS: CONSTITUTIONAL LAW FOR A CHANGING AMERICA: A SHORT COURSE, 3rd
Edition, by Lee Epstein & Thomas Walker
(Congressional Quarterly, Inc., 2005. Additional

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.

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
Jan.11 Court
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

Jan.18 Reading: Internet bios, at
<http://www.oyez.org/courts/?group=roberts&term=robt2> and
<http://supct.law.cornell.edu/supct/justices/fullcourt.html>

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

3B The Legislature (cont., starting with
Jan.25 Congress and the Separation of Powers)
 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
Feb.1 with The President and Foreign Affairs)
 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: **IN-CLASS MIDTERM EXAM; all material to date**
8A Feb.27

8B **SPECIAL SESSION**
Mar.1 **Activity to be announced**

SPRING BREAK (Mar. 2-12)

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

9B Economic Liberties (cont.)
Mar.15 Economic Substantive Due Process
 Reading: Ch. 10, pp. 292-314

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

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

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

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

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

12B Freedom of Speech and Press in the Electronic Age
Apr.5 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,
Apr.12 sexual harassment, and economic discrimination

Reading: pp. 612-632;

Week 14: Civil Rights (cont.)

14A Discrimination (cont.) - Remediating ... 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**
