

Political Science 220
American Constitutional Law
Spring 2014

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Office Hours: T – 10:30 to noon, W 11:30 to 1:00, Th 1:00 to 2:00 and by appointment

Course Description

This course is an introduction to basic issues and principles that provide the institutional structure for the American republic. This course includes an examination of the political and philosophical values which guided the framers of the Constitution and which are embodied in its provisions. The class will also seek to understand the power that has accrued to the United States Supreme Court and the role this power has played in efforts to resolve political conflicts within the American polity. The course endeavors to do this both through a review of the fundamental features of the judicial process and through a substantive examination of key areas of constitutional doctrine including: (1) The nature of judicial review and judicial power, (2) Congressional authority regarding economic activity, taxing and spending, (3) property rights and economic regulation, (4) Federalism under the Tenth and Eleventh Amendments, (5) the separation of powers and Presidential authority, particularly in relation to foreign affairs, war and emergencies (6) The role of the Supreme Court in contemporary electoral politics.

Attendance

Students are expected to attend all classes. Absences due to participation in legitimate Moravian College extracurricular activities, a doctor's excuse or notification by the Dean of Students Office will allow a student to be excused from class. All other excuses are subject to the instructor's discretion.

Academic Honesty

All students should be aware of obligations under the Academic Honesty Policy published in the *Moravian College Student Handbook*. A copy of that document can be found at <http://www.moravian.edu/studentLife/handbook/academic/academic2.html>.

Learning Disability accommodations

Students who wish to request accommodations in this class for a disability should contact Elaine Mara, Assistant Director of Learning Services for academic and disability support at 1307 Main Street, or by calling 610-861-1510. Accommodations cannot be provided until authorization is received from the Academic Support Center.

Required Books

David O'Brien, **Constitutional Law and Politics: Volume 1 – Struggles for Power and Political Accountability**, eighth edition, (New York: W.W. Norton, 2011)

Evaluation of the Students Work

Quizzes (10 quizzes, 5 points each)	50 points
Case Briefs (3, 25 points each)	75 points
Affordable Health Care Act essay	100 points
War powers essay	100 points
Final	50 points
Class participation and instructor evaluation	25 points

Quizzes

There will be 10 unannounced multiple choice quizzes in class. These quizzes will be worth 5 points each and will focus on the reading assignments for the day on which the quiz will be given. Make up quizzes will be permitted with verification of the situations that permit an excused absence as described above.

Case Briefs

Each student will outline or "brief" 3 cases. Every student will complete an outline for Baker v Carr. Additionally, students will outline one of the cases listed in group A and one of the cases listed in group B. Students will have the opportunity to revise the brief for Baker v Carr. Briefs should be formatted according to the outline provided in the O'Brien text on pp. 1101-1102. Cases and due dates are listed below.

Baker v Carr (1/27)

Group A

Gibbons v Ogden (2/3)

Munn v Illinois (2/5)

Lochner v New York (2/5)

United States v E.C. Knight (2/10)

NLRB v Jones & Laughlin (2/12)

Group B

Gonzales v Raich (2/24)

South Dakota v Dole (2/26)

Pennsylvania v Nelson (3/10)

New York v United States (3/12)

Alden v Maine (3/17)

Take Home Research Essays

Students will complete two take home research essays. Each will be worth 100 points. Each should be a minimum of 5 typewritten pages. Proper citation is required. **The essays will be due on the date noted below.**

For each essay, the essay should include:

1. The facts or conditions that give rise to the legal questions at hand.
2. A statement of the essential legal questions raised by those facts.
3. An analysis of the constitutional resolution of those questions.
4. A discussion of relevant precedent, drawn from the cases required to be read for the course, which might provide guidance in determining the questions of constitutional authority raised by the essay prompt.

Evaluation of the essays will be based on the following criteria:

- Clear and logical presentation of the material
- Use of precedent and/or evidence of the reading
- Quality of the writing and adherence to conventions of grammar and citation

Essays:

1. On August 31, 2013, President Obama announced the following in a press release:

“Now, after careful deliberation, I have decided that the United States should take military action against Syrian regime targets. This would not be an open-ended intervention. We would not put boots on the ground. Instead, our action would be designed to be limited in duration and scope. But I'm confident we can hold the Assad regime accountable for their use of chemical weapons, deter this kind of behavior, and degrade their capacity to carry it out.”

While such action was not carried out due to a diplomatic agreement, the press release indicated the President's intent to seek congressional authorization for the bombing of Syrian targets. Earlier in his administration, President Obama declared that he could authorize the bombing of targets in Libya without congressional approval. Does the president have the authority to order such bombings without seeking congressional authorization? **(DUE DATE: 2/24)**

2. In June 2012, the United States Supreme Court announced its decision (NFIB v Sebelius) regarding the constitutionality of provisions of the Patient Protection and Affordable Care Act of 2010. This case has important potential implications for both the application of the commerce clause and the U.S. system of federalism. Explain those implications. **(DUE DATE: 4/9)**

Final Exam

The final exam will consist of 50 statements referring to cases read for the course. Students will be required to identify the case to which the statement refers. A list of cases will be provided to students in advance of the final.

Class Participation and Instructor Evaluation

Students are expected to participate in class. This includes being prepared to answer questions pertaining to all cases assigned for class reading. Students should be ready to identify the facts of the case, the constitutional provisions applied or interpreted by the Court, the legal questions raised in regard to those provisions, the holding in the case, and the rationale for the majority opinion. A record of class participation will be kept by the instructor and, while discussion will frequently depend on volunteers, student should be prepared to respond when called upon.

Course Outline, Reading Assignments and Cases

Note: Assigned readings are to be completed on the first date listed for each topic in the outline

- I. Introduction (1/13)
- II. The U.S. Constitution: Philosophy and Structure (1/15)
Reading: Federalist 10, 51 and 78
Copies of these texts can be found at:
http://avalon.law.yale.edu/subject_menus/fed.asp
<http://www.foundingfathers.info/federalistpapers/fedindex.htm>
- III. Judicial Power, Process and Politics
 - A. Establishing judicial review (1/22)
Reading: O'Brien, pp. 27-40, 45-55, 800-812
Cases for discussion:
 - **Marbury v Madison**
 - **Martin v Hunter's Lessee**
 - **Cooper v Aaron**
 - B. The nature of judicial power and process (1/27)
Reading: O'Brien, pp. 149-160
Case for discussion: **Baker v Carr**
 - C. Judicial power, judicial activism and democratic politics (1/29)
Reading: O'Brien, pp. 40-44, 55-62, 189-204

IV. Separation of Powers: Foreign Affairs

A. Treaties and Executive Agreements (2/3)

Reading: O'Brien, pp. 230-236, 248-273, 160-164

Cases for discussion:

- **Missouri v Holland**
- **United States v Pink**
- **Goldwater v Carter**
- **United States v Alvarez-Machain**
- **Medellin v Texas**

B. Inherent powers and Congress (2/5)

Reading: O'Brien, pp. 239-248, 346-379

Cases for discussion:

- **United States v Curtiss-Wright**
- **Youngstown Sheet & Tube v Sawyer**
- **New York Times v United States**
- **Dames & Moore v Regan**

C. Commander-in-Chief, War and Emergency Powers (2/10-2/12)

Reading: O'Brien, pp. 264-341

Cases for discussion:

- **The Prize Cases**
- **Ex parte Milligan**
- **Korematsu v United States**
- **Rasul v Bush**
- **Boumediene v Bush**

V. Legislative Powers of Congress and Governmental Powers of Economic Regulation

A. Establishing congressional power: the commerce clause (2/17)

Reading: O'Brien, pp. 548-573, 698-703

Cases for discussion:

- **McCulloch v Maryland**
- **Gibbons v Ogden**
- **Cooley v Board of Wardens**

B. Economic Regulation and the Emerging National Economy: Substantive Due Process and the Commerce/Manufacturing Distinction (2/19 -2/24)

Reading: O'Brien, pp. 1038-1064, 573-589, 434-439

Cases for discussion:

- **The Slaughterhouse Cases**
- **Munn v Illinois**
- **Lochner v New York**

- **United States v E.C. Knight**
- **Hammer v Dagenhart**
- **Schechter Poultry Corporation v United States**

C. The commerce power, economic regulation and the nationalization of the economy (2/26)

Reading: O'Brien, pp. 1064-1070, 559-579

Cases for discussion:

- **Muller v Oregon**
- **West Coast Hotel v Parrish**
- **NLRB v Jones & Laughlin**
- **United States v Darby**
- **Wickard v Filburn**

D. Post New Deal applications of congressional power (3/10)

Reading: O'Brien, pp. 609-618, 677-680

Cases for discussion:

- **Heart of Atlanta Motel v United States**
- **Katzenbach v McClung**

E. Curbing congressional commerce power (3/12-3/17)

Reading: O'Brien, pp. 618-669, 439-442

Cases for discussion:

- **United States v Lopez**
- **Reno v Condon**
- **City of Boerne v Flores**
- **United States v Morrison**
- **Gonzales v Raich**
- **Gonzales v Oregon**

F. Congressional taxing and spending power (3/19)

Reading: Obrien, pp. 669-680

Cases for discussion:

- **Steward Machine Company v Davis**
- **South Dakota v Dole**
- **NFIB v Sebelius**

VI. The Federal System and Limits on National Power

A. State powers under the commerce clause (3/24)

Reading: O'Brien, pp. 703-715

Cases for discussion:

- **Southern Pacific v Arizona**
- **Bibb v Navajo Freight**
- **Maine v Taylor**

- **Pennsylvania v Nelson**

B. The 10th and 11th Amendments as limits on federal power (3/26-3/31)

Reading: O'Brien, pp. 732-795

Cases for discussion:

- **Garcia v San Antonio MTA**
- **New York v United States**
- **Printz v United States**
- **Mack v United States**
- **Seminole Tribe of Florida v Florida**
- **Alden v Maine**
- **Nevada Dept. of Human Resources v Hibbs**

VII. Presidential Powers as Chief Executive

A. Appointment and Removal (4/2)

Reading: O'Brien, pp. 385-399

Cases for discussion:

- **Myers v United States**
- **Humphrey's Executor v United States**

B. Presidential prerogatives, discretion and accountability (4/7)

Reading: O'Brien, pp. 442-463, 463-487

Cases for discussion:

- **Immigration and Naturalization Service v Chadha**
- **Clinton v City of New York**
- **United States v Nixon**
- **Clinton v Jones**

VIII. Voting rights and elections (4/9-4/16)

A. Campaigns and Elections

Reading: O'Brien, pp. 868-874, 918-939, 968-979

Cases for discussion:

- **Wesberry v Sanders**
- **Bush v Gore**
- **Buckley v Valeo**
- **Citizens United v Federal Election Commission**
- **Shelby County Alabama v. Holder**