

**Spring 2009**  
**PSC 411Z**  
**The Supreme Court and Capitalism**  
**Tuesday & Thursday 1:00 – 2:15pm**  
**WRI C237**

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**Office WRI A206**  
**Office Hours: Tues & Thurs**  
**11:15AM-12:45PM**  
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### **The Course**

A cases and materials approach to the role of the U.S. Supreme Court in economics related decisions. It will cover the Commerce, Taxing, and Spending powers, the Contract(s) Clause, Economic Substantive Due Process and the Takings Clause.

### **The Text**

Please purchase Lee Epstein and Thomas G. Walker, Constitutional Law for a Changing America: Institutional Powers and Constraints, 6<sup>th</sup> edition.

**Articles on E-Reserve.** These articles are marked by an asterisk (\*) on the syllabus.

”Prologue”

”Chief Justice Marshall”

”Chief Justice Taney”

”Mr. Justice Field”

All the above from Wallace Mendelson, Capitalism, Democracy and the Supreme Court

”The Bank Cases,” Bray Hammond

”The Steamboat Case,” George Dangerfield

”The Charles River Bridge Case,” Henry F. Graff

”The Dartmouth College Case,” Richard N. Current

”The Case of Monopolistic Railroad men,” R.W. Apple, Jr

”The Case of Unscrupulous Warehouseman,” C. Peter McGrath

”The Case of the Overworked Laundress,” A.T. Mason

”The Sick Chicken Case,” Frank Freidell

”The Case of the Wenatchee Chambermaid,” William E. Lenechtenburg

”The Case of the Smuggled Bombers,” Robert A. Devine

### **Disability Resource Center**

If you have a documented disability that may require assistance, you will need to contact the LES for coordination in your academic accommodations. Disability Service is located within the Learning Enhancement Services (LES), in the Reynolds Student Services Complex, Room 137. The phone number is (702) 895-0866 or TDD (702) 895-0652.

### **Academic Dishonesty**

Any attempt to cheat on an examination or to present someone else’s work as your own for a written assignment will be subject to the most severe penalty the University allows.

### **Religious Holidays and Absences**

If you miss a class or an exam because of a religious holiday that you observe, you will have the opportunity to make up the missed work. You must notify the instructor at least 2 weeks prior to the examination.

### **Official Extracurricular Activity**

If the date of any examination conflicts with an official extracurricular activity please notify the instructor at least 2 weeks prior to the examination and provide official written notification no less than 1 week prior to the examination.

## Help Tips

For those who have not taken a course in constitutional law, you should read pp. 3-126 to learn how the U.S. Supreme Court operates in our political system.

## Briefing Cases

See pp.717 on how to brief cases. The glossary has a list of legal terms with which you should be familiar.

## Examination and Grading Policies

There will be three examinations including a final. The examinations are tentatively scheduled to be given at the end of the three five-week periods. The final is not comprehensive. Examinations will take both essay and objective forms. Students will be graded on examination scores and oral participation. Also, students will be required to make oral presentations on the cases and articles from time to time.

## Readings and Assignments

### I. National Powers

- \*Prologue
- \*The Bank Cases”
- *McCulloch v. Maryland* (1819)
- \*The Case of the Smuggled Bombers
- *U.S. v. Curtiss-Wright Export Corporation* (1936)
- \*Constitutional Revolution Consolidated: The Rise of the Positive State
- *Youngstown Sheet & Tube v. Sawyer* (1952) “ The Steel Seizure Case”
- *Dames & Moore v. Regan* (1981)

### II. The Commerce Power: Congressional Power

- \*The Steamboat Case
- *Gibbons v. Ogden* (1824)
- *United States v. E.C. Knight Co.* (1895)
- \*The Case of the Monopolistic Railroadmen
- *Northern Securities v. U.S.* (1904) Handout
- *Standout Oil Co. v. U.S.* (1911) Handout
- *Champion v. Ames* (1903)
- *Hammer v. Dagenhart* (1918)
- *Stafford v. Wallace* (1922)
- \*The Sick Chicken Case
- *Schechter Poultry Co. v. U.S.* (1935)
- *Carter v. Carter Coal Co.* (1936)
- *National Labor Relations Board v. Jones & Laughlin Steel Corp.* (1937)
- *Wickard v. Filburn* (1942)
- *Heart of Atlanta Motel v. U.S.* (1964)

**The first exam covers all the above cases and material. Test will be given approximately after the completion of the fifth week of class.**

### III. The Commerce Power and the States

- *Cooley v. Board of Wardens* (year)
- *Southern Pacific Co. v. Arizona* (1945)
- *Hunt v. Washington State Apple Advertising Commission* (1977)
- *Maine v. Taylor* (1986)

#### **IV. The Power to Tax and Spend**

- *Pollock v. Farmers' Loan & Trust Co.* (1895)
- *U.S. v. United States Shoe Corp.* (1998)

#### **Taxation as a Regulatory Power**

- *McCray v. U.S.* (1904)
- *Bailey v. Drexel Furniture Co.* (1922)
- *U.S. v. Butler* (1936)
- *Steward Machine Co. v. Davis* (1937)

**Restriction on the Revenue Powers of the States. Summarize the following four cases out of class in about five pages. You will not be responsible for these cases on the second examination.**

- *Michelin Tire Corp. v. Wages* (1976)
- *Complete Auto Transit v. Brady* (1977)
- *Quill Corp v. No. Dakota* (1992)
- *Oregon Waste Systems v. Department of Environmental Quality of the State of Oregon* (1944)

#### **V. The Contract(s) Clause**

- *Fletcher v. Peck* (1810)
- \*Chief Justice Marshall
- *Trustees of Dartmouth College v. Woodward* (1819)
- \*The Charles River Bridge Case
- *Proprietors of Charles River Bridge v. Proprietors of Warren Bridge* (1837)
- \*Chief Justice Taney
- *Stone v. Mississippi* (1880)
- *Home Building and Loan Association v. Blaisdell* (1934)
- *U.S. Trust Co. v. New Jersey* (1977)
- *Allied Structural Steel Co. v. Spannaus* (1978)

**Examination No. II covers all cases and material since Exam I**

#### **VI. Economic Substantive Due Process**

- *The Slaughterhouse Cases* (1873)
- \*The Case of the Unscrupulous Warehouseman
- \*Mr. Justice Field
- *Munn v. Illinois* (1877)
- *Allgeyer v. Louisiana* (1897)
- *Lochner v. New York* (1905)
- \*The Case of the Overworked Laundress
- *Muller v. Oregon* (1908)
- *Adkins v. Children's Hospital* (1923)
- *Nebbia v. New York* (1934)
- \*The Case of the Wenatchee Chambermaid
- *West Coast Hotel v. Parrish* (1937)
- *Williamson v. Lee Optical Co.* (1955)
- *BMW of No. America v. Gore* (1996)

#### **VII. The Takings Clause**

- *United States v. Causby* (1946)
- *Penn Central Transportation Co. v. City of New York* (1978)

- *Berman v. Parker* (1954)
- *Hawaii Housing Authority v. Midkiff* (1984)
- *Nolan v. California Coastal Commission* (1987)
- *Lucas v. South Carolina Coastal Commission* (1992)
- *Dolan v. City of Tigard* (1994)
- *Kelo v. City of New London Conn* (2005)

**Final Examination, is on Monday May 12 @ 1pm covers all cases and material since the second exam and any relevant material on E-Reserve.**