Political Science 4020
American Constitutional Law
Spring 2009

Instructor: Dave Brown <faisdodo1972@yahoo.com>
Stubbs 326 (cell: 504-812-1272)

Class Hours: Mondays: 6:15 p.m. – 9:00 p.m. in Allen Hall, room 023

Office Hours: After class and by appointment

Course requirements:
• Class Participation (and maybe a Quiz or two) [25%]
• Midterm Examination (Mar 9) [25%]
• Final Examination (May 4) [50%]

Required Text:
Stone, Seidman, Sunstein and Tushnet, Constitutional Law, 5th ed. (Aspen Law & Business
Publishing), ISBN 0-7355-5014-X. [A few copies of the 4th edition should be available, e.g.
through law students or Claitor’s Books, and are perfectly acceptable for this course.]

Required Statement on “Academic Integrity”: all suspected incidences of dishonesty will be
turned into Student Advocacy and Accountability, and dealt with accordingly.

Attendance and participation: Attendance is a recommended, but not completely sufficient,
condition for a good participation grade. Students are expected to attend class, read all assigned
materials before class, complete all written assignments, and treat other students and the
professor with respect. Because the study of law requires both heavy reading and cumulative
comprehension, it is essential that students IRAC/brief all assigned cases before coming to
class. This process of briefing will prepare you for class discussions and save you many hours of
time in test preparation. Your participation grades will be determined by your ability to
convey the information in your briefs, as well as your ability to analyze the implications,
strengths, and weaknesses of legal arguments. Earning an “A” involves regularly examining
the implications of assigned readings, going beyond assigned readings, or analyzing alternative
explanations. Earning a “B” entails showing understanding of legal arguments and their
implications. Merely repeating or describing reading is “C” work, though the inability to do at
least that when asked will result in lower grades.

N.B.: Although there are many U.S. Supreme Court materials available on the internet (e.g.
“wikipedia.org” and “oyez.org”) that provide canned briefs, rudimentary legal explanations, etc.,
you will certainly want to read the Court’s opinions in their entirety (including concurring and
dissenting opinions) if you hope to grasp the extremely important legal analyses of the Court. It
is in these analyses that you will come to understand the law. Also, and to further assist your
comprehension, make sure to read and digest the “Introductions” and “Notes” surrounding the
cases assigned on the Syllabus, infra. This Syllabus is a general plan for the course; deviations
announced to the class by the instructor may be necessary.
SYLLABUS:

Jan. 12:  
Introduction: Politics and Law  
Discussion: Declaration of Independence  
Articles of Confederation  
United States Constitution  
The Federalist Papers  
The Anti-Federalist Papers  
Political Philosophy and Natural Law  
Lecture: The American Legal System: Law and Equity  
Federal and State Courts  
Civil Law v. Common Law  
Civil Law v. Criminal Law  
Reporters and Proper Citation Format  
Some Important Definitions and “Terms of Art”  
“Substantive” versus “Procedural”  
“Justiciability” and “Standard of Review”  
How to “I.R.A.C.” a case

Jan. 19:  
No class: MLK Day, and/or celebrating the 202nd anniversary of the birth of General-in-Chief Robert Edward Lee, CSA (Commander, Army of Northern Virginia), as well as the 185th anniversary of the birth of Lt. Gen. Thomas Jonathan “Stonewall” Jackson, CSA (Commander, Second Corps, ANV)—fine Virginians both.

Jan. 26:  
The Role of the Supreme Court in the Constitutional Order  
Cases: Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)  
Martin v. Hunter’s Lessee, 14 U.S. (1 Wheat.) 304 (1816)  
McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819)  
Ex parte McCardle, 74 U.S. (7 Wall.) 506 (1869)  

Feb. 2:  
The Powers of Congress  
Cases: Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824)  
Wickard v. Filburn, 317 U.S. 111 (1942)  
United States v. E.C. Knight Co., 156 U.S. 1 (1895)  
Houston, E. & W. Texas Railway v. United States, 234 U.S. 342 (1914)  
United States v. Darby, 312 U.S. 100 (1941)  
Heart of Atlanta Motel v. United States, 379 U.S. 241 (1964)  
Katzenbach v. McCharg, 379 U.S. 294 (1964)  
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Missouri v. Holland, 252 U.S. 416 (1920)
United States v. Butler, 297 U.S. 1 (1936)

Feb. 9: The Distribution of National Powers
Text: Federalist 47
Federalist 48
Cases: Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952)
[+ § re “Presidential Immunity” cases]
United States v. Curtiss-Wright Corp., 299 U.S. 304 (1936)
The Prize Cases, 67 U.S. (2 Black) 635 (1863)

Feb. 16: Equality and the Constitution – Part I
Cases: State v. Post, 20 N.J.L. 368 (1845)
Scott v. Sandford, 60 U.S. (19 How.) 393 (1857)
Plessy v. Ferguson, 163 U.S. 537 (1896)
Brown v. Board of Education of Topeka, Kansas, 349 U.S. 294 (1955)
Strauder v. West Virginia, 100 U.S. (10 Otto) 303 (1880)
Korematsu v. United States, 323 U.S. 214 (1944)

Feb. 23: No class: Lundi Gras! See you in New Orleans.

Mar. 2: Equality and the Constitution – Part II
Cases: Loving v. Virginia, 388 U.S. 1 (1967)
Reed v. Reed, 404 U.S. 71 (1971)
Craig v. Boren, 429 U.S. 190 (1976)
Sugarman v. Dougall, 413 U.S. 634 (1973)
City of Cleburne v. Cleburne Living Center, 473 U.S. 432 (1985)
Mar. 9:  
Midterm Examination

Mar. 16:  
**Implied Fundamental Rights – Part I**
Cases: *The Slaughter-House Cases*, 83 U.S. (16 Wall.) 36 (1873)
   *Duncan v. Louisiana*, 391 U.S. 145 (1968)
   *United States v. Carolene Products Co.*, 304 U.S. 144 (1938)
   *Skinner v. Oklahoma*, 316 U.S. 535 (1942)
   *Reynolds v. Sims*, 377 U.S. 533 (1964)

Mar. 23:  
**Implied Fundamental Rights – Part II**
   *Griswold v. Connecticut*, 381 U.S. 479 (1965)
   *Roe v. Wade*, 410 U.S. 113 (1973)
   *Moore v. City of East Cleveland*, 431 U.S. 494 (1977)
   *Cruzan v. Director, Missouri Dep't of Health*, 457 U.S. 261 (1990)
   *Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972)
   *Perry v. Sindermann*, 408 U.S. 593 (1972)

Mar. 30:  
**Freedom of Expression**
Cases: *Shaffer v. United States*, 235 F. 886 (9th Cir. 1919)
   *Masses Publishing Co. v. Patten*, 244 F. 535 (S.D.N.Y. 1917)
   *Schenck v. United States*, 249 U.S. 47 (1919)
   *Frohwerk v. United States*, 249 U.S. 204 (1919)
   *Terminiello v. Chicago*, 337 U.S. 1 (1949)

**The Constitution and Religion**
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Sherbert v. Verner, 374 U.S. 398 (1963)
Wisconsin v. Yoder, 406 U.S. 205 (1972)
Lemon v. Kurtzman, 403 U.S. 602 (1971)

Apr. 6:  No class: Spring Break, and/or nine days of mourning to commemorate the 144th anniversary of the surrender of General Robert E. Lee’s Confederate Army of Northern Virginia, 9 April 1865, at Appomattox Court House, Va.

Cases: The Civil Rights Cases, 109 U.S. 3 (1883)
Shelley v. Kraemer, 334 U.S. 1 (1948)

Apr. 20:  Current state of the American Legal System; plus, a few notes on the short-lived Constitution of the Confederate States of America. (After all, that is certainly American constitutional law, too!)

Apr. 27:  Conclusion and Review

May 4:  Cumulative Final Examination (8:00 p.m. – 10:00 p.m.)

I hold it that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical.

-Thomas Jefferson
January 30, 1787