

THE UNIVERSITY OF CHICAGO
Department of Political Science

Political Science 282
Introduction to the Constitution III

Winter, 1975
Mr. Storing

This is the third course of the three quartersequence dealing with the Constitution of the United States. The basic principle of the course—that the focus is on the text of the Constitution and the form provided by the text—is necessarily attenuated this quarter. Nevertheless, it is still the case that Supreme Court opinions and other materials are considered principally as they illuminate the meaning of the text (of, in this case, major Amendments to the Constitution) or attempt to resolve its ambiguities. During this quarter, those Amendments will be taken up which have not been previously considered. In general these will be the amendments concerning the non-procedural aspects of individual rights. Most of the quarter will be devoted to the judicial elaboration of the meaning of the First and Fourteenth Amendments. Political Science 280 and 281 are prerequisites for this course.

Most of the opinions* will be found in the assigned casebook, Gerald Gunther and Noel Dowling, Constitutional Law: Cases and Materials, 8th edition and its 1973 Supplement. These are cited in the reading list with the Gunther & Dowling page references underlined, as follows: Everson v Board of Education 330 US 1 (1947), GD 1350-1358. Page references in Gunther and Dowling often include additional notes and case discussions, which should be read along with the main case. Cases not in Gunther and Dowling or its supplemented (cited GDS) will be found in the United States Reports; these citations are underlined thus: Plessy v Ferguson 163 US 537 (1896) or—for the very recent cases—Edelman v Jordan 39 LEd 2d 662 (1974).

As in the previous quarters, E.S. Corwin's The Constitution and What It Means Today (13th ed) is to be read concurrently with the materials below. Page references are given only where they might otherwise be confusion about the sections to be read. Students may also wish to consult C. Herman Pritchett's The American Constitution.

Amendments to the Constitution of the U.S. - Overview

What are the subjects dealt with by the amendments?

The Bill of Rights - purpose and character

The Federalist LXXXIV

James Madison letter to Thomas Jefferson, 17 October 1788 (mimeo)
Thomas Jefferson

The Federal Farmer Letter XVI (xerox)

Barron v Baltimore 7 Pet 243 (1833), GD 782-786

Reserved Rights, Amendments IX and X (Corwin, 367-374)

Amendment XI (Corwin, 375-377)

Edelman v Jordan 39 LEd 2d 662 (1974)

Amendment I - Religion

Establishment of Religion (Corwin 269-277)

Everson v Board of Education 330 US 1 (1947), GD 1350-58
Zorach v Clauson 343 US 306 (1952), GD 1358-63

Abington School District v Schempp 374 US 203 (1963),
GD 1371-73

Board of Education v Allen 392 US 236 (1968), GD 1373-81,
GDS 323-24

Lemon v Kurzman 403 US 602 (1971), GDS 325-30
Tilton v Richardson 403 US 672 (1971), GDS 330-41

Free Exercise (Corwin, 277-280)

Braunfeld v Brown 366 US 599 (1961), GD 1381-86
Sherbert v Verner 374 US 398 (1963), GD 1387-93
Other problems, GD 1392-98; GDS 341-44
Wisconsin v Yoder 406 US 205 (1972), GDS 344-350

Amendment I - Speech and Press (Gorwin 280-298)

Prior Restraint

Near v Minnesota 283 US 697 (1931)
New York Times v U.S. 403 US 713 (1971), GDS 250-66

Seditious Libel and Subversive Speech

Schenck v US 249 US 47 (1919), GD 1056-59
Frohwerk v US 249 US 204 (1919), GD 1059-1063
Abrams v U.S. 250 US 616 (1919), GD 1063-69
Masses Publishing Co. v Patten 244 Fed 535 (1917), GD 1070-4

Gitlow v N.Y. 268 US 652 (1925), GD 1074-80
Whitney v California 274 US 357 (1927), GD 1081-89
Herndon v Lowry 301 US 242 (1937), GD 1089-1094

Dennis v U.S. 341 US 494 (1951), GD 1094-1115
Communist Party of America v Subversive Activities
Control Board 367 US 1 (1961), GD 1115-22

Brandenburg v Ohio 395 US 444 (1969), GD 1123-31

New York Times v Sullivan 376 US 254 (1964), GD 1210-28
Rosenblum v Metromedia 403 US 29 (1971), GDS 242-47

Speech in the Public Forum

Introduction, GD 1137-1142
Lowell v City of Griffin 303 US 444 (1938), GD 1142-3
Cox v New Hampshire 312 US 569 (1941), GD 1143-47
Cantwell v Connecticut 310 US 296 (1940), GD 1147-49

Hess v Indiana 38 LEd 2d 38 (1973)
Lewis v New Orleans 39 LEd 2d 214 (1974)

GD 1149-1153
Feiner v New York 340 US 315 (1951), GD 1154-63

Cox v Louisiana 379 US 536 (1968), GD 1163-70
Cox v Louisiana 379 US 559 (1965), GD 1170-76
Recent cases, GDS 221-227
Brown v Louisiana 383 US 131 (1966), GD 1176-81
Adderly v Florida 385 US 39 (1966), GD 1181-85

Symbolic Expression

U.S. v O'Brien 391 US 367 (1968), GD 1188-95
Tinker v Des Moines School District 393 US 503 (1969),
GDS 1195-1202; GDS 227-28

Amendment I -- Speech and Press, continued

Symbolic Expression, cont.

Street v New York 394 US 576, (1969), GD 1202-9
Cohen v California 403 US 15 (1971), GDS 234-241

Schools and Jails

Healy v James 408 US 169 (1972), GDS 228-231
Grayned v City of Rockford 408 US 104 (1972), GDS 232-57

Procunier v Martinez 40 LEd 2d 224 (1974)

Obscenity

Roth v U.S. 354 US 476 (1957), GD 1226-37
Memoirs v Massachusetts 383 US 413 (1966), GD 1238-42
Ginzburg v U.S. 383 US 463 (1966), GD 1242-50
Ginsberg v N.Y. 390 US 629 (1968), GD 1250-54
Stanley v Georgia 394 US 557 (1969), GD 1254-57
U.S. v Reidel 402 US 351 (1971), GDS 267-72
Miller v California 413 US (1973), GDS 272-78
Paris Adult Theater v Slan 413 US (1973), GDS 279-93

Government Demands for Information: Congressional Investigations
and Grand Juries

Watkins v U.S. 354 US 178 (1950), GD 1330-35
Barenblatt v U.S. 360 US 109 (1959), GD 1335-1340
Gibson v Florida Investigating Committee 372 US 539 (1963),
GD 1340-48

Brazenburg v Hayes 408 US 665 (1972), GDS 308-23

Amendment II

U.S. v Miller 307 US 174 (1939)

Amendment III (Corwin, 3)

Post Civil War Amendments

A. Overview: Amendments XIII - XIV; Privileges and Immunities

Corwin 382-387

Slaughter House Cases 16 Wall 36 (1873), GD 786-96

B. Due Process and "Incorporation" - Amendment XIV, V

Corwin 327-331, 387-391

Lochner v N.Y. 198 US 45 (1905), GD 954-67

West Coast Hotel v Parrish 30 US 379 (1937), GD 971-73

Corwin 391-99

Palko v Connecticut 302 US 319 (1937), GD 796-802

Adamson v California 332 US 46 (1947), GD 802-6

Duncan v Louisiana 391 US 145 (1968), GD 811-23

Williams v Florida 399 US 78 (1970), GDS 76-78

Apodoca v Oregon 406 US 404 (1972), GDS 79-82

Griswold v Connecticut 381 US 479 (1963), GD 824-40

Roe v Wade 410 US 113 (1973), GDS 82-94

Cleveland Board of Education v LaFleur 39 L Ed 2d 52 (1974)

Arnett v Kennedy 40 L Ed 2d 15 (1974)

C. "State Action" and Federal Enforcement- Amendments XIV, XIII

Background, GD 447-454

Civil Rights Cases 109 US 3 (1883), GD 459-64

Problems of state action, GD 465-71

Shelley v Kramer 384 US 1 (1948), GD 471-81

Burton v Wilmington Parking Authority 365 US 715 (1961),

GD 481-85

Reitman v Mulkey 387 US 369 (1967), GD 485-91

Federal Enforcement

Corwin 426-429

Screws v U.S. 325 US 91 (1945), GD 498-503

U.S. v Guest 383 US 745 (1966), GD 503-517

Jones v Mayer 392 US 409 (1968), GD 517-27 (See GDS,
43-45)

D. Equal Protection: Race

Corwin, 405-414

Plessy v Ferguson 163 US 537 (1896)

Brown v Board of Education 347 US 483 (1954), GD 1422-36

D. Equal Protection: Race, cont.

Loving v Virginia 388 US 1 (1967), GD 1412-19

Palmer v Thompson 403 US 217 (1971), GDS 352-55
Swann v Charlotte Mecklenburg Bd of Educ 402 US 1 (1971),
GDS 355-61

N. C. State Board of Educ v Swann 402 US 43 (1971), GDS
361-62
Recent Developments, GDS 362-71

De Funis v Odegaard 40 LEd 2d 164 (1974)

E. Equal Protection, Old and New, Amendment XIV

Corwin 402-418
Introduction, GD 983-991

Railway Express Agency v New York 336 US 106 (1949), GD 992-9
Morey v Doud 354 US 457 (1957), GD 999-1004

Sex Discrimination, GDS 136-140
Frontiero v Richardson 411 US (1973), GDS 141-145
Kahn v Shevin 40 LEd 2d 189 (1974)

Griffin v Illinois 351 US 12 (1956), GD 1018-21
Douglas v California 372 US 353 (1963), GD 1021-27; GDS 151-8

Skinner v Oklahoma 316 US 535 (1942), GD 1027-33
Levy v Louisiana 391 US 68 (1968), GD 1033-36
Shapiro v Thompson 394 US 618 (1969), GD 1036-49
Dandridge v Williams 397 US 471 (1970), GDS 164-77
Eisenstadt v Baird 405 US 438 (1972), GDS 180-185

San Antonio School District v Rodriguez 411 US (1973),
GDS 185-209
Memorial Hospital v Maricopa County 39 LEd 2d 306 (1974)

F. Voting: Amendments XV and XIV

Corwin, 419-425, 430-435

Terry v Adams 345 US 461 (1953) (See GD 469-71)

Lassiter v Northampton County Board of Elections 360
US 45 (1959), GD 527-33

South Carolina v Katzenbach 383 US 301 (1966), GD 533-45
Katzenbach v Morgan 384 US 641 (1966), GD 545-54

Oregon v Mitchell 400 US 111 (1970), GDS 46-61

F. Voting: Amendments XV and XIV, cont

Harper v Virginia Board of Elections 383 US 663 (1966)

GD 1005-1016

Williams v Rhodes 393 US 231 (1968), GD 1016-1018

Baker v Carr 369 US 186 (1962), GD 177-195

Reynolds v Sims 377 US 533 (1964), GD 1136-53

Mahan v Howell 410 US (1973) et al, GDS 373-375

Gaffney v Cummings 412 US (1973), GDS 375-381