

THE UNIVERSITY OF CHICAGO
Department of Political Science

Political Science 280
Introduction to the Constitution I

Winter, 1974
Mr. Storing

This is the first course of the three-quarter sequence dealing with the constitution of the United States. The focus will be on the text of the Constitution, and the form will be provided by the text. Supreme Court opinions and other materials will be considered principally as they illuminate the meaning of that text or attempt to resolve its ambiguities. During this quarter the first two articles of the Constitution, dealing with the legislature and the executive will be studied. In the spring, Article III through VII and those portions of the amendments dealing with procedural rights will be considered. The final course in the sequence will be offered in the Winter of 1975 and will deal with the remaining protections of individual rights, particularly those in the first and fourteenth amendments. Each course is a prerequisite for the next.

The main readings will be The Federalist (Rossiter edition, Mentor); Edward S. Corwin's The Constitution and What It Means Today (13th ed), a provision-by-provision analysis of the Constitution; and Supreme Court opinions. 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: Colegrove v Green 328 US 549 (1946), GD 175-177. 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 will be found in the U.S. Reports; these citations are underlined thus: J.W. Hampton Co. v U.S. 276 US 394 (1928). Other assigned material is on reserve. Students may also wish to consult C. Herman Pritchett's The American Constitution.

E. S. Corwin, The Constitution and What It Means Today (13th ed) is to be read concurrently with the materials below.

for 11.0 Preamble

* W. Crosskey, Politics and the Constitution, ch 13,
pp 363-69, 374-79 (on reserve)

The Articles of Confederation, 1781
Joseph Story, Commentaries on the Constitution of the
United States, Bk I, chs 5, 6 (reserve)
Vol I

Article I

11.5 Sec. 1

** (McCulloch v Maryland, 1 Wheat 316 (1819), GD 201-214)
(James Wilson, Statehouse Speech, 4 Oct 1787 (xerox on
reserve)

✓ J. W. Hampton Co v US 276 US 394 (1928)
Schechter Corp v U.S. 295 US 519-543, 551-556 (1935)

11.0 Sec. 2

✓ The Federalist # 52-58
(U.S. v Classic 313 US 307-329) (1941)
✓ Colegrove v Green 328 US 549 (1946) GD 175-177
✓ Baker v Carr 369 US 186 (1962), GD 177-195
✓ Wesberry v Sanders 376 US 1 (1964)

Amendments 13, 14, 15, 19, 26

Sec. 3

The Federalist, # 62-63
Amendment # 17

Sec. 4

The Federalist # 59-61

11.25 ✓ U.S. v Classic 313 US 307-329 (1941).
✓ Oregon v Mitchell 400 US 112-126, 209-212 (1970),
GD 46-61
Amendment # 20

Sec. 5

11.25 ✓ Powell v McCormack 395 US 486 (1969), GD 576-585,
GDS 67
Legislative investigation, GD 1330-1348

* Material in brackets is recommended only.
** Material in parentheses is relevant here but will be discussed more fully at another point.

Sec. 6

- ✓ U.S. v Johnson 383 US 169 (1966)
- ✓ U.S. v Brewster 408 US 501 (1972)
- ✓ Gravel v U.S. 408 US 606 (1972)
- Note, GD 67

Sec. 7

The Federalist # 69 (416-17), 73 (442-47)

Sec. 8

James Wilson, Statehouse Speech, 4 October 1787 (xerox, res)
 ✓ W. W. Crosskey, Politics and the Constitution, ch. 14,
 pp 391-401; ch 17, pp 509-522 (reserve)

^{sup 150} McCulloch v Maryland & Wheat 316 (1819) and related
 materials, GD 201-229

/1/ Taxing and Spending Power

The Federalist, # 30-36, 41 (261-264)

(J.W. Hampton v U.S. 276 US 411-413 (1928))

THOR 2/7
 Bailey v Drexel Furniture Co. 259 US 20 (1922),
GD 350-358
 U.S. v Kahriger 345 US 22 (1953), GD 358-366

U.S. v Butler 297 US 1 (1936), GD 366-377
 Steward Machine Co v Davis 301 US 548 (1937),
GD 377-384

Halvering v U.S. 301 US 619 (1937), GD 384-389

/3/ Commerce Power

The Federalist # 42, 267-269

Gibbons v Ogden 9 Wheat 1 (1824), GD 235-240, 615-618

Willson v Black Bird Creek Marsh Co. 1 Peters
 245 (1829), GD 618-6-21

^{2/12 +}
²¹¹⁹ Cooley v Board of Wardens 12 How 299 (1851), GD 621-625

U.S. v E.C. Knight Co 156 US 1 (1895), GD 240-247
 Houston, East & Texas Ry Co v U.S. 234 US 342
 (1914), GD 247-254

Champion v Ames 188 US 321 (1903), GD 251-258
 Hammer v Dagenhart 247 US 251 (1918), GD 258-268

- Railroad Retirement Board v Alton Rr Co 295 US
330 (1935), GD 268-274
- Schechter Poultry Corp v U.S. 295 US 495 (1935),
GD 274-278
- Carter v Carter Coal Co 298 US 238 (1936), GD 279-289
- NLRB v Jones & Laughlin Steel Corp 301 US 1 (1937),
GD 289-296
- U.S. v Earby 312 US 100 (1941), GD 296-310
U.S. v Five Gambling Devices 316 US 441 (1953),
GD 310-314
- Wickard v Filburn 317 US 111 (1942), GD 314-324
- Heart of Atlanta Motel v U.S. 379 US 241 (1964),
GD 324-340
- Katzenbach v McClung 379 US 294 (1964), GD 340-346
- Daniel v Paul 395 US 298 (1969),
GD 346-349
- Perez v US 402 US 116 (1971), GDS 28-32
- Limitations on power of states to regulate and
tax commerce, GD, chs 8, 9 selections

/4/ Naturalization

- The Federalist # 43 (269-271)
GD 436-444
Fleming v Restor 363 US 606 (1960)

/5/ Coin money etc

GD 403-404

/7/ Post offices etc

GD 404-408

/8/ Patents and copyrights

GD 405-406

/9/ Establish courts

The Federalist # 81 (485-87)

/10/ Piracy

The Federalist # 12 (265-266)

/11-16/ War Powers

The Federalist # 42 (265-266)

Korematsu v U.S. 323 US 214 (1944), GD 1402-1408

Woods v Miller 333 US 138 (1948), GD 389-392

(Materials on Vietnam Debate, GD 599-610, GDS 68-70)

Materials on War Power and Individual Rights, GD 408-

DO READ FOR
DISC 5013

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/17/ Federal City

The Federalist # 43 (272-73)

Amendment # 23

/18/ Necessary and proper clause

The Federalist # 33 (201-204), 44 (283-286)

McCulloch v Maryland 4 Wheat 316 (1819), GD 201-229

U.S. v Curtis Wright Export Corp 299 US 304 (1936),
GD 592-596

Sec. 9

/1/ Migration or Importation clause

The Federalist # 42 (266-267)

Walter Dill Scott, "The Constitution and the Migration
of Slaves," Yale Law Journal, LXXVIII (1968),
198-228 (xerox, on reserve)

Joel Kies, Note on migration clause (xerox, reserve)

/2/ Suspension of writ of habeas corpus

Ex parte Merryman 17 Fed Cas 144 No 9 487;
Commager, I, 398-401

Ex parte Milligan 4 Wall 2 (1866), GD 610-613

Lincoln Message to Congress, 4 July 1861 (xerox,
on reserve)

/3/ Bill of attainder and ex post facto

The Federalist # 84 (511-12)

Calder v Bull 3 Dall 386 (1798) ONT

Cummings v Missouri 4 Wall 277 (1867)

Ex parte Garland 4 Wall 333 (1867)

U.S. v Lovett 328 US 302 (1945)

U.S. v Brown 381 US 437 (1965), GD 586-592

/4/ Direct tax

Hylton v U.S. 3 Dall 171 (1796)
Pollock v Farmers Loan and Trust 158 US 601,
617-37, 686-95 (1895)
Amendment # 16

/A/ Titles of Nobility

The Federalist # 84 (511-12)

Sec. 10

The Federalist # 44 (280-283)

Cummings v Missouri 4 Wall 277 (1867)

Fletcher v Peck 6 Cr 87 (1810)

Dartmouth College v Woodward, 4 Wheat 518 (1819)
Ogden v Saunders 12 Wheat 212 (1827) (Marshall opinion,
mimeo, on reserve)

Home Building and Loan Assn v Blaisdell 290 US 398
(1934), GD 925-934

El Paso v Simmons 379 US 498 (1965), GD 934-940

Article II

Sec. 1

The Federalist # 68, 72-73

Amendments 12, 20, 22, 23, 24, 25

Sec. 2 & 3

The Federalist, # 74-77

Executive Establishment

(Marbury v Madison 1 Cranch 177 (1803), GD 2-11)
Myers v U.S. 272 US 52 (1926) (selections to be
assigned)

Humphrey's Exec. v U.S. 295 US 602 (1935)
Comment on Myers etc, GD 572-576

Executive Privilege

GDS 62-66

Impoundment of appropriated funds

GDS 65-66

Commander in chief

Lincoln Message to Congress, 4 July 1861 (xerox, res)
Emancipation Proclamation, 1863, Congreg, I, 421
 Prize Cases 2 Bl 635 (1863), GD 599-610

Youngstown Sheet & Tube Co v Sawyer 343 US 579 (1952),
GD 555-572

Materials on Vietnam Debate, GD 599-610, GDS 68-70

Ex parte Milligan 4 Wall 2, 107-142 (1866), GD 610-613
~~Ex parte Quirin 317 US 1, 18-48 (1942)~~

Pardons and reprieves

GD 573-74
 Ex parte Garland 4 Wall 333 (1867) CR-7

Treaties and Executive Agreements

E.S. Corwin, The President, Office and Powers,
 pp. 255-257 (reserve).
 Missouri v Holland 252 US 416 (1920), GD 394-403
~~Hampton Jr. Co v U.S. 272 US 494 (1928)~~
 U.S. v Curtis Wright Export Corp 299 US 304 (1936),
GD 592-6
 U.S. v Belmont 301 US 324 (1937), GD 596-599