

NORTHERN ILLINOIS UNIVERSITY
DEPARTMENT OF POLITICAL SCIENCE

Political Science 512: Seminar in Constitutional Powers
Fall, 1974

I. JUDICIAL REVIEW

Marbury v Madison 1 Cranch 137 (1803)
Eakin v Raub 12 S & R 330 (per curiam 1825) (Bigson opinion)
The Federalist # 49, 78

Edward S. Corwin, The "Higher Law" Background of American
Constitutional Law
The Basic Doctrine of American Constitutional
Law

James B. Thayer, The Origin and Scope of the American Doctrine
of Constitutional Law

Alexander Bickel, The Least Dangerous Branch, ch. 1

II. STANDING AND THE PRINCIPLE OF "RIPE OR CONTROVERSY"

Flast v Cohen 392 US 83 (1968)
Sierra Club v Morton 405 US 727 (1972)
United States v SCRAP 412 US (1973)

III. JUDICIAL REVIEW AND THE FEDERAL SYSTEM

Martin v Hunter's Lessee 1 Wheat 304 (1816)
[Cohens v Virginia 6 Wheat 264 (1821)]

Charles Warren, Legislative and Judicial Attacks on the Supreme
Court of the United States--A History of the Twenty-fifth
Section of the Judiciary Act
6. New Light on the History of the Federal Judiciary
Act of 1789

Swift v Tyson 16 Pet 1 (1842)
Erie RR v Tompkins 304 US 64 (1938)

Dombrowski v Pfister 380 US 479 (1965)
Younger v Harris 401 US 33 (1971)
Samuels v Mackell 401 US 66 (1971)

IV. CONSTITUTIONAL AND STATUTORY INTERPRETATION

William Blackstone, Commentaries, I, 59-62
Brandeis in Ashwander v TVA 297 US 346-348 (1936)
Felix Frankfurter, Some Reflections on the Reading of Statutes
William O. Douglas, Spare Decisions
Edward S. Levi, An Introduction to Legal Reasoning

Spending and Taxing

U.S. v Butler 297 US 1 (1936)
U.S. v Kahriger 345 US 22 (1953)

Commerce Power

Gibbons v Ogden 9 Wheat 1 (1824)
Hammer v Dagenhart 247 US 251 (1918)
Carter v Carter Coal Co 298 US 238 (1936)--portions dealing
with taxing and commerce powers
National Labor Relations Board v Jones Laughlin 301 US 1 (1937)
U.S. v Darby 312 US 100 (1941)
Heart of Atlanta Motel v U.S. 379 US 241 (1964)
Edward S. Corwin, The Passing of Dual Federalism

V. THE SUPREME COURT AS POLITICAL INSTITUTION: ACTIVISM v RESTRAINT

Thomas Reed Powell, The Logic and Rhetoric of Constitutional Law
K. N. Llewellyn, The Constitution as an Institution
George D. Braden, The Search for Objectivity in Constitutional
Law
Robert A. Dahl, Decision-Making in a Democracy: The Supreme Court
as a National Policy-Maker
Eugene V. Rostow, The Democratic Character of Judicial Review
Lochner v New York 198 US 45 (1905)
Adkins v Children's Hospital 261 US 525 (1923)
West Virginia Board of Education v Barnette 319 US 624 (1943)
Adams v California 332 US 46 (1947)
Miranda v Arizona 384 US 436 (1966)
Bivens v Six Unknown Named Agents 403 US 388 (1971)
Miller v California 413 US (1973)
Paris Adult Theater v S. A. 413 US (1973)

VI. NEUTRALITY AND THE PASSIVE VIRTUES

Herbert Weschler, Toward Neutral Principles of Constitutional Law
Arthur S. Miller and Ronald F. Howell, The Myth of Neutrality in
Constitutional Adjudication

Alexander Bickel, The Least Dangerous Branch

Gerald Gunther, The Subtle Vices of the Passive Virtues--A Comment
on Principle and Expediency in Judicial Review 64 Columbia
Law Review 1 (1964)

Brown v Board of Education 347 US 183 (1954)

VII. THE QUESTION OF POLITICAL QUESTIONS

Colegrve v Green 328 US 186 (1962)

Baker v Carr 369 US 186 (1962)

Reynolds v Sims 377 US 533 (1964), Warren and Harlan opinions

Powell v McCormack 395 US 486 (1969)

[Alan Dionisoboulos, Rebellion, Racism and Representations
The Adam Clayton Powell Case and Its Antecedents]

Doe v McMillan 412 US (1973)

Massachusetts v Laird 451 F2d 26 (1971)

Gilligan v Morgan 413 US (1973)

Raoul Berger, Impeachment: The Constitutional Problems, ch 3,
"Judicial Review"

VIII. CONCLUDING REFLECTIONS; THE COURT AS TEACHER

Alexander Bickel, The Supreme Court and the Idea of Progress
Richard Stevens, Felix Frankfurter, in Frisch and Stevens,
American Political Thought

Walter Berns, Oliver W. Holmes, in Frisch and Stevens, American
Political Thought

Robert F.rikner, Oliver W. Holmes, appendix to his Jurisprudence
of John Marshall

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