CONSTITUTIONAL LAW
FALL 2017
(MTThF at 12:00-12:50 in Room 5)

(2) Supplementary Materials on Constitutional Law (Prof. Abrams’ mimeo, available on TWEN).

Please prepare the materials in the order appearing below. The numbered assignments do not necessarily correspond with the amount of material that we will cover in one class period. Rather, the assignments cluster reading that can logically be studied in one sitting. Therefore, in preparation for the next class hour please study the entire assignment that follows where we left off at the end of the prior class period. In class, I will announce any changes to the assigned material.

It is sometimes difficult to predict precisely how much material we will cover in a particular class session. Because we do not want to lose time near the end of a session, please read and prepare a few pages ahead of where we think we might finish on a particular day.

It is also sometimes difficult to predict how much material a course will cover by the end of the semester. In the interests of time in late November, we may trim some of the later material, or we may add some new material. In either event, I will give ample advance notice.

HISTORY & TEXT; THE POWER OF JUDICIAL REVIEW

1. Casebook [CB] Summary of Contents (pp. ix-xi); Constitution (pp. 3-16, skim); CB 16-23 (read for background); 25-37.

2. CB 37-47 (stop at “State Court Resistance. . . .”), 48-49 (stop at “Supreme Court Review. . . .”), 53-54.

JUSTICIABILITY

3. CB 54-76.

4. CB 80-86.

5. CB 86-90, 95-100.
**Nature of a Constitution; Slaughter-House Cases; Selective Incorporation**

6. CB 405-408, 408-410, 20-23 (re-read), CB 414-421 (omit Field dissent), 423-424.

7. CB 425-426, 440-441.

**Substantive Due Process**

8. CB 465-480 (read *Carolene Products* footnote 4 carefully; stop at *Williamson*).

9. CB 536-544.

10. CB 584-587, 591-594 (only Blackmun op., Intro and Parts V and VIII; and Rehnquist, Burger, and White ops.).


12. CB 572 (Intro to *Michael H.*, and first paragraph of the Court’s opinion), 575 fn.6, 576 (O’Connor, J., concurring), 636-644 (*Glucksberg*, to end of Stevens op.); 628 (first paragraph and Part I of *Lawrence* majority op.), 632 (last two paragraphs of *Lawrence* majority op. before the dispositional sentence).


**Equal Protection (Economic Regulation)**


**Equal Protection (Suspect Classifications)**

15. CB 683 (Introduction; stop before *Loving*), 692-694, 799-806 (stop before *Miller*).


**Equal Protection (Fundamental Rights); Right to Travel**

17. CB 890-891 (“Voting and Elections,” Introduction (sec. 1)).

18. CB 940-946 (begin with *Dunn*; stop at the end of the *Richardson* Note), 953-954.

19. CB 302-303, 955-962 (stop at *Sosna*), 965 (“Bona Fide Residence Requirements”), 975-980.
PROCEDURAL DUE PROCESS

20. CB 1027-1037, 1052-1056.

STATE ACTION AND THE PUBLIC/PRIVATE DISTINCTION

21. CB 1071-1076 (majority op. only), 1086-1087 (Evans), 1093-1094 (Burton), 1096-1097 (Blum and Kohn).
22. CB 1098-1101, 1088-1093; 1079 (S.F. Arts)

FREEDOM OF EXPRESSION

25. CB 1254-1255, 1287-1288 (Miller, Part II only).
26. CB 1329-1330, 1332-1336, 1340-1345.
29. CB 1509-1511, 1516-1520.

FREEDOM OF ASSOCIATION

30. CB 1525-1527, 1527-1529; 1529-1530.

CONGRESSIONAL POWERS

32. CB 186-189, 198-199 (begin with Dole).

CONGRESSIONAL POWERS (OFTEN AGAINST STATE SOVEREIGNTY)

33. CB 221-222, 228-237 (majority op. only), 240-241.
34. CB 1127-1130, 1149-1157 (stop at *Kimel*), 1165-1168 (majority op. only).

**STATE REGULATION OF COMMERCE (DORMANT COMMERCE CLAUSE)**


**THE SUPREMACY_CLAUSE**

36. CB 311-312.

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**Course Information and Policies**

Students will:

- learn the role of judicial review, the limits of that review, and the prerequisites for securing that review in the federal courts;
- learn the influence of history and contemporary social conditions on constitutional analysis and interpretation from generation to generation;
- learn the respective roles of the legislative and judicial branches in the formulation and application of constitutional doctrine;
- learn doctrine and public policy issues in such areas as substantive and procedural due process, equal protection, and freedom of speech;
- learn the roles of separation of powers and federalism in the American governmental framework;
- be encouraged to use their knowledge of constitutional law to participate in bar association law revision initiatives, and in newspapers, blogs, broadcast media, and similar forums throughout their careers;
- gain knowledge useful for answering constitutional law questions on bar examinations

Assessment: summative (final exam)
Standard 303 compliant (simulation/law clinic/field placement)? No

**Attendance Policy**

Regular class attendance is required and expected. Beginning in the second week of class, you are permitted ten absences during the semester, regardless of the reasons for these absences. If you have more than ten absences during the semester, you will be dropped from the course.

Beyond this requirement, I believe you are cheating yourself if, without compelling reasons, your absenteeism from any law school course even approaches ten sessions per semester.

**Office Hours**
As I will mention during the first class session, my "office hours" are whenever I am in the office, which is most of the time. I encourage students to bring their questions (about the course or otherwise) to me whenever I am here. Email is also fine, but I would enjoy talking with you in person.

**Notice to Students With Disabilities**

Like other information I will distribute this semester, this syllabus is available in alternative formats on request. If you have a disability and need accommodation, please notify Associate Dean Rafael Gely or Registrar Denise Boessen as soon as possible.

To request academic accommodations (for example, a note taker), students must also register with the Disability Center, AO38 Brady Commons, 882-4696. It is the campus office responsible for reviewing documentation provided by students requesting academic accommodations, and for accommodations planning in cooperation with students and instructors, as needed and consistent with course requirements. For other MU resources for students with disabilities, click on “Disability Resources” on the MU homepage.

**Intellectual Pluralism**

The School of Law community welcomes intellectual diversity and respects student rights. Students who have questions concerning the quality of instruction in this class may address concerns to either the Dean or Director of the Office of Student Rights and Responsibilities (http://osrr.missouri.edu). All students will have the opportunity to submit an anonymous evaluation of the course near the end of the semester.