

**CONSTITUTIONAL LAW I
LAW 650 – SECTION 339
SPRING 2017 – PROF. PETERS**

SYLLABUS (version 1 dated 12/01/16)

Note: This syllabus and the included schedule are subject to change with such notice as is practicable. Students should read this entire document carefully. Each enrolled student will be assumed to have read and understood its contents. Anyone with questions about the syllabus or the course should contact me (Prof. C.J. Peters).

Class Meetings:

Except as otherwise announced or indicated on the schedule, class will meet every Monday and Wednesday from 1:30 to 3:20 pm in AL 803. *Note that the assigned classroom may change early in the semester. Check posted classroom information for updates.*

Reaching the Instructor:

My office is AL 516. I will post regular weekly office hours at the beginning of the semester. My regular office hours are first-come, first-served and do not require an appointment; however, you may contact me to make an appointment if you choose. I will hold special office hours following the midterm and during the week before the final exam. I also am happy to meet with you at a mutually convenient time outside my posted hours, and you are welcome to drop in whenever you find me in my office.

My office phone number is 410-837-4509 and my e-mail is cpeters@ubalt.edu. My assistant, Laurie Schnitzer (AL 1008), can be reached at 410-837-4689 and lschnitzer@ubalt.edu.

Course Description:

[This course is an] introduction to the structure of the U.S. Constitution and the powers, rights, and liberties it defines. Topics include judicial review; limitations on judicial power; nature of and separation of powers; federalism, including the Commerce Clause and the 10th Amendment; state action; procedural and substantive due process; and equal protection.

Course Materials:

There is no casebook for this course. The required texts are history books: volumes I and II of Melvin I. Urofsky & Paul Finkelman, *A March of Liberty: A Constitutional*

History of the United States (3rd ed. 2011), published in paperback by Oxford University Press. You must acquire the third editions (not the second editions) of both volumes.¹

Most of the cases assigned for the course will be edited by me and posted on the TWEN course website under the class number listed on the schedule (Class 1, Class 2, etc.). You will need to download the assigned cases and bring them with you to class in some easily accessible form (digital or hardcopy). Typically the assigned cases will be preceded by a short introduction, including questions designed to focus your attention on specific aspects of the decision that will be relevant to class discussion. We will discuss other aspects of the cases in addition to those highlighted in the introduction, so be sure to read the entirety of each case carefully. Occasionally I may hand out cases in class or require you to locate full versions of cases online.

From time to time I will assign additional materials and post them to TWEN. Some of these materials are included on the attached schedule; others will be added later.

The length of daily assignments will vary, and I strongly recommend that you look at each assignment well ahead of time to get a sense of how long it will take you to complete. As a general rule, the reading will be on the heavy side, and it almost invariably will be dense and complex.

Course TWEN Website:

Use of the TWEN website is a required element of the course, so please sign up for the class on TWEN as soon as possible. Some required readings may be made available only on the TWEN site, and important notices will be distributed to the email address you have registered with Westlaw (so make sure that address is current).

Student Learning Outcomes:

This course is designed to generate and assess the following student learning outcomes:

- Outcome 1: Students will develop a working knowledge of fundamental elements of U.S. federal constitutional doctrine, including the historical and theoretical context of those elements.
- Outcome 2: Students will develop a working knowledge of basic methods of constitutional analysis and argument.
- Outcome 3: Students will become competent in applying constitutional doctrine and methods to analyze legal problems and make legal arguments.
- Outcome 4: Students will improve their competence in the basic legal skills of interpreting cases and other sources of doctrine and synthesizing multiple sources

¹ Note that Professors Urofsky and Finkelman also publish two “Documents” volumes designed to accompany the narrative volumes I have assigned; at least one professor who teaches American Legal History at UB routinely assigns these Documents volumes. You do not need to acquire the Documents texts for this course, so be careful not to purchase them by mistake.

of doctrine into frameworks for analyzing legal problems and making legal arguments.

Design of the Course:

The course is divided into the following segments (in chronological order):

1. A brief introduction to the course (0.5 classes).
2. An introduction to the concept of judicial review and its costs and benefits (0.5 classes), designed to serve Outcome 1.
3. A study of sources of constitutional analysis, designed to serve Outcomes 2 and 3 (2.5 classes).
4. A brief study of the concept of justiciability in the federal courts, including exercises in creating and applying doctrinal frameworks, designed to serve Outcomes 1, 3, and 4 (1 class).
5. An extended study of the constitutional value of equality, including exercises in developing a doctrinal framework and in applying it to a legal problem, designed to serve all four Outcomes (9 classes).
6. A study of the constitutional value of liberty, including exercises in developing a doctrinal framework and in applying it to a legal problem, designed to serve all four Outcomes (5 classes).
7. A study of the constitutional strategy of federalism with a particular focus on the Commerce power, including an exercise in developing a doctrinal framework, designed to serve all four Outcomes (6 classes).
8. A study of the constitutional strategy of separation of powers, designed to serve all four Outcomes (4 classes).

The course consists of the following graded and nongraded components:

- Cases, constitutional provisions, and other doctrinal sources (nongraded). As described above, cases and other doctrinal sources typically will be posted on TWEN and must be read in advance of class. Most cases will be edited by me and will include introductory material designed to focus students' attention on particular elements of the case. Provisions of the Constitution can be found in the Urofsky & Finkelman text or online. These sources will give you the raw materials for an understanding of doctrine that will be further developed in class and through the assigned frameworks and problems. They are intended to serve all four Outcomes.
- Urofsky & Finkelman history text (nongraded). These books are designed to provide essential historical background for the cases and other sources of doctrine and must be read in advance of class. They are intended primarily to serve Outcomes 1 and 4.
- Theoretical readings (nongraded). Occasionally (primarily during our study of sources of constitutional analysis) I will assign readings designed to provide theoretical perspective on constitutional methodology or doctrine. These readings are intended primarily to serve Outcomes 2 and 3.

- Class sessions (nongraded with the exception of the attendance requirement). Class sessions will be devoted primarily to analyzing cases and other sources of doctrine, discussing how these sources relate to each other and contribute to an overall understanding of the doctrine (i.e., “synthesizing” the sources of doctrine), and applying doctrine to legal problems. They will serve all four Outcomes, with an emphasis on Outcomes 1, 2, and 3.
- Take-home doctrinal frameworks and problems (graded). The course includes six take-home assignments, distributed and collected via TWEN. Some of the assignments require students to develop their own frameworks for organizing doctrine into a functional tool for legal analysis. These frameworks can serve as the basis for a student’s course outline. Other assignments require students to apply their frameworks to legal problems. These problems will help prepare students for the kinds of problems they might see on the final exam. Each assignment will be worth between 3% and 8% of the overall grade, for a total of about one third (34%) of the grade (see “Grading” below). We will discuss these assignments in much greater detail during the semester. These assignments will serve all four Outcomes, with an emphasis on Outcome 4.
- Final exam (graded). About two thirds (66%) of the overall grade will be derived from a three-hour, open-book, in-class final examination. The exam likely will consist mostly or entirely of essay-style questions. I will provide more details about the exam later in the semester. The exam is designed to assess students’ performance with respect to all four Outcomes.

Grading:

Subject to the attendance policy described above, your final grade in the course will be based on the following components. See the schedule at the end of this syllabus for the anticipated date of each component.

- Frameworks and problems: 34% (34/100 points) total, consisting of:
 - Standing framework: 3% (3/100 points) (good-faith effort)
 - Standing problem: 3% (3/100 points) (good-faith effort)
 - Equal protection framework: 8% (8/100 points) (rubric TBD)
 - Substantive due process framework: 6% (6/100 points) (rubric TBD)
 - Equal protection/substantive due process problem: 6% (6/100 points) (rubric TBD)
 - Commerce power framework: 8% (8/100 points) (rubric TBD)
- Final exam: 66% (66/100 points)

Components scored for good-faith effort will receive all available points for a good-faith effort and no points for lack of a good-faith effort. For components scored according to a rubric, the rubric will be distributed in advance.

After the final exam, I will aggregate the points earned by each student on all components to determine a total. I then will use students' total scores to assign grades according to the School of Law's required first-year curve.

Course Expectations:

Each student enrolled in this course will be expected to fulfill the following minimum requirements:

- Enrollment in the course TWEN website (see above), using a current, valid email address, and regular monitoring of emails sent by the instructor via the TWEN website or otherwise.
- Regular and timely class attendance (see "Attendance" below).
- Conduct in the classroom and in other aspects of the course that is professional, polite, and respectful of classmates, instructors, and other participants (see in particular "Distractions in the Classroom" below).
- Timely completion of all course assignments.
- Preparation for class, including completion of the assigned readings prior to class. (The reading assignments for each class meeting appear in the schedule of assignments below, which may be modified as the semester progresses.)
- Participation in class when asked to do so (see "Class Format and Participation" below).
- Adherence to all applicable School of Law and University policies, including the Academic Integrity and Sexual Misconduct and Nondiscrimination policies (see below).

These, however, are the minimum expectations of students enrolled in the course. Students who excel in law school invariably do more than fulfill these minimum requirements. While there is no single formula for success, excellent students typically do most or all of the following:

- Spend at least 2-3 hours preparing for each hour of class time.
- Regularly attend the Law Scholar sessions.
- Begin outlining the course relatively early in the semester.
- Discuss the course regularly with other students, e.g., in a study group.
- Meet with the instructor occasionally during the semester to discuss their performance on assignments or material or issues they do not fully understand.
- Occasionally volunteer relevant questions, answers, or comments at appropriate times in class.
- Devote substantial time to studying for the final exam.

Attendance:

Pursuant to ABA and School of Law policy, each student will be allowed a maximum of five (5) absences during the semester. Any student who is absent from more than five classes will be withdrawn from the course and given a final grade of "WA" (withdrawn

due to absences), which will require that student to retake the course. Reasons for absences are irrelevant, except as required by School of Law or University policy.

I will monitor attendance by means of a sign-in sheet circulated at the beginning of class each day. I reserve the right to count students who come in late as absent, although I typically will not exercise that right except in cases of egregious or repeated tardiness. Each student is responsible for keeping track of his or her own attendance record and for contacting me in case of questions or potential discrepancies.

Class Format and Participation:

A typical class will involve lecture, Socratic dialogue, and group problem-solving. I frequently will cold-call students without advance warning and will attempt to distribute the cold calls equitably over the semester. I therefore expect every student to be well-prepared for class. If you are not prepared on a given day, you can let me know before class and I will not call on you that day. However, I am likely to call on you in one of the next few classes.

Computers in the Classroom and Note-Taking:

Empirical research suggests that students benefit more from taking class notes the old-fashioned way – writing them by hand – than from typing them into a computer. (See this June 2014 article from *Scientific American* online: <http://www.scientificamerican.com/article/a-learning-secret-don-t-take-notes-with-a-laptop/>.) Computers present the obvious problem of distractions and the less obvious, but probably more serious, problem of “court reporter’s syndrome”: note-takers tend to “zone out” and simply record everything they hear without mentally processing it. Nonetheless, I am not taking the step of banning computers from the classroom. I want you to be able to access the online course materials in the classroom if you choose, rather than printing them out before class. And sometimes computers serve other useful classroom functions. But I do strongly suggest that you at least experiment with taking notes by hand this semester.

Distractions in the Classroom:

Please note and respect the following policies, and contact me if you have any questions or think you have a good reason for an exception.

- Any sound-emitting devices (e.g., cell phones) must be muted or switched off during class.
- Unless I specifically allow otherwise, you may not communicate telephonically or electronically with anyone else while class is in session.
- Please avoid any behavior that might distract a classmate or the instructor. Common sense should be your guide here; it will be mine in enforcing the policy.

PowerPoints and Class Recordings:

Shortly before each class, I will post on the TWEN website any PowerPoint slides I intend to use that day. I also will make a Panopto audio/video recording of each class, which you will be able to access online. Please do not rely on the recordings, however, as the quality often is not good and the technology sometimes fails. If you would like to record a class by any other means, please ask my permission first; as a rule, I will allow it only in exceptional circumstances.

Law Scholar:

The Law Scholar for this course is Mark Pincelli, who was an outstanding student in my Spring 2016 Con. Law I course. He will introduce himself to you and announce a weekly meeting time during the first week of the semester. Law Scholar sessions will be devoted primarily to developing doctrinal frameworks and applying them to legal problems. Attendance at Law Scholar sessions is optional but highly recommended.

Study Aids and Treatises:

I do not keep up with the many constitutional law study aids that are available. However, for good general overviews of most constitutional law topics and cites to leading cases, I myself regularly use Erwin Chemerinsky, *Constitutional Law: Principles and Policies* (Wolters Kluwer, 5th ed. 2015). It is clear, concise, and reasonably comprehensive.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter (including attendance), and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Title IX Sexual Misconduct and Nondiscrimination Policy:

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees, and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation, and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

Schedule of Assignments:

- Assignments from the Urofsky & Finkelman (UF) texts are identified as follows:
UFv1 = Volume I
UFv2 = Volume II
- A copy of the Constitution appears at the end of each volume of UF. In addition to the constitutional provisions expressly listed below, you should read any other provisions mentioned in the assigned reading.
- Unless otherwise indicated, readings other than those from UF can be downloaded from the TWEN website, on the Course Materials page, under the applicable class number.
- Distribution dates and due dates for take-home assignments are indicated on this schedule. Assignments will be made available and must be submitted via the Assignment Drop Box feature of TWEN.

| Class/Date | Topics | Cases/Materials | Constitutional/Statutory Provisions |
|---|--|--|--|
| <i>Class 1</i> MO 01/09 • Standing framework assignment posted (due 01/23) | Introduction to the course The Constitutional and the allocation of national powers: judicial review Sources of constitutional analysis: text and structure; purpose | The course syllabus UFv1 pp. 163-66, 205-17 <i>Federalist No. 78</i> <i>Marbury v. Madison</i> , 5 U.S. 137 (1803) Jeremy Waldron, <i>The Core of the Case Against Judicial Review</i> , 115 Yale L.J. 1346 (2006) | U.S. Const. art. III, § 1; art. III, § 2, cls. 1, 2; art. VI, cl. 2 (“Supremacy Clause”); art. VI, cl. 3 (“Oath Clause”) |
| <i>Class 2</i> WE 01/11 | Sources of constitutional analysis: original meaning | Antonin Scalia, <i>Originalism: The Lesser Evil</i> , 57 U. Cin. L. Rev. 849 (1989) UFv2 pp. 1160-62 <i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008) | U.S. Const. amend. II |
| MO 01/16 | No class today (MLK Day) | | |

| Class/Date | Topics | Cases/Materials | Constitutional/Statutory Provisions |
|---|---|--|--|
| <i>Class 3</i> WE 01/18 | Sources of constitutional analysis: tradition; precedent; democratic process; justice | <i>McDonald v. City of Chicago</i> , 561 U.S. 742 (2010) | U.S. Const. amend. II; amend. XIV, § 1 (“Due Process Clause”) |
| <i>Class 4</i> MO 01/23 <ul style="list-style-type: none"> • Standing framework assignment due by 12:00 noon today via TWEN (have your completed framework accessible in class today) • Standing problem posted (due 02/06) | Introduction to frameworks: standing to adjudicate in the federal courts | <i>Allen v. Wright</i> , 468 U.S. 737 (1984) | U.S. Const. art. III, § 2, cl. 1 |
| <i>Class 5</i> WE 01/25 | The Constitution and equality: slavery under the 1789 Constitution | UFv1 pp. 64-66, 81-82, 98-100, 105-13, 115-18, 377-83, 409, 431-41 Declaration of Independence [UFv1 pp. A1-A4] <i>Dred Scott v. Sandford</i> , 60 U.S. 393 (1857) | U.S. Const., art. I, § 2, cl. 3; art. I, § 9, cl. 1; art. IV, § 2, cl. 3; amend. V, Due Process Clause |
| <i>Class 6</i> MO 01/30 | The Constitution and equality: the Reconstruction Amendments; the meaning of “the equal protection of the laws” | UFv1 pp. 447-52, 472-76, 479, 489-92, 497-504, 539-42, 546-50 <i>Strauder v. West Virginia</i> , 100 U.S. 303 (1879) <i>Plessy v. Ferguson</i> , 163 U.S. 537 (1896) | U.S. Const., amend. XIV, § 1, Equal Protection Clause |

| Class/Date | Topics | Cases/Materials | Constitutional/Statutory Provisions |
|--|--|--|-------------------------------------|
| Class 7 WE 02/01 | The Constitution and equality: the meaning of “the equal protection of the laws,” cont. | <i>Plessy</i> , cont. UFv2 pp. 662-66, 851-70 <i>Brown v. Board of Education</i> , 347 U.S. 483 (1954) <i>Bolling v. Sharpe</i> , 347 U.S. 497 (1954) | |
| Class 8 MO 02/06 • Standing problem due by 12:00 noon today via TWEN • Equal protection framework assignment posted (due 02/24) | The Constitution and equality: equal protection “strict scrutiny” | <i>Korematsu v. United States</i> , 323 U.S. 214 (1944) <i>Loving v. Virginia</i> , 388 U.S. 1 (1967) | |
| Class 9 WE 02/08 | The Constitution and equality: equal protection “rational basis” scrutiny | <i>Railway Express Agency, Inc. v. New York</i> , 336 U.S. 106 (1949) <i>New York Transit Authority v. Beazer</i> , 440 U.S. 568 (1979) | |
| Class 10 MO 02/13 | The Constitution and equality: equal protection “intermediate” scrutiny | <i>United States v. Virginia</i> , 518 U.S. 515 (1996) <i>Nguyen v. INS</i> , 533 U.S. 53 (2001) | |
| Class 11 WE 02/15 | The Constitution and equality: tiers of equal-protection scrutiny and discriminatory purpose | <i>Yick Wo v. Hopkins</i> , 118 U.S. 356 (1886) <i>Washington v. Davis</i> , 426 U.S. 229 (1976) | |

| Class/Date | Topics | Cases/Materials | Constitutional/Statutory Provisions |
|--|--|---|--|
| Class 12 MO 02/20 | The Constitution and equality: equal protection “strict scrutiny” revisited | <i>Regents of the University of California v. Bakke</i> , 438 U.S. 265 (1978) <i>Grutter v. Bollinger</i> , 539 U.S. 306 (2003) <i>Gratz v. Bollinger</i> , 539 U.S. 244 (2003) | |
| Class 13 WE 02/22 | The Constitution and equality: equal protection “rational basis” scrutiny revisited | <i>Romer v. Evans</i> , 517 U.S. 620 (1996) | |
| Class 14 MO 02/24 • Equal protection framework due by 12:00 noon today via TWEN • Substantive due process framework assignment posted (due 03/17) | The Constitution and liberty: “incorporation” of the Bill of Rights | UFv1 pp. 135-41, 542-44 <i>The Slaughter-House Cases</i> , 83 U.S. 36 (1872) <i>McDonald v. Chicago</i> , 561 U.S. 742 (2010) (review) | U.S. Const., amend. XIV, § 1, Due Process Clause; amend. I-X |
| Class 15 WE 03/01 | The Constitution and liberty: “incorporation of the Bill of Rights and “substantive” due process | UFv1 pp. 569-84, 587; UFv2 pp. 591, 615-18, 626-30 <i>Lochner v. New York</i> , 198 U.S. 45 (1905) | U.S. Const., amend. V, Due Process Clause; amend. XIV, § 1, Due Process Clause |
| Class 16 MO 03/06 | The Constitution and liberty: “substantive” due process, cont. | UFv2 pp. 621-23, 698-700, 710-13, 737-55, 758-59, 761-74 <i>West Coast Hotel Co. v. Parrish</i> , 300 U.S. 379 (1937) <i>United States v. Carolene Products Co.</i> , 304 U.S. 144 (1938) | |

| Class/Date | Topics | Cases/Materials | Constitutional/Statutory Provisions |
|--|--|---|--|
| <i>Class 17</i> WE 03/08 | The Constitution and liberty: “substantive” due process, cont. | UFv2 pp.897, 917-20, 996-99, 1029-30, 1052-56, 1152-53 <i>Griswold v. Connecticut</i> , 381 U.S. 479 (1965) <i>Roe v. Wade</i> , 410 U.S. 113 (1973) | |
| <i>Class 18</i> MO 03/13 • EP and substantive DP problem posted (due 04/03) | The Constitution and liberty: “substantive” due process, cont. | <i>Lawrence v. Texas</i> , 539 U.S. 558 (2003) <i>Obergefell v. Hodges</i> , 135 S. Ct. 2584 (2015) | |
| <i>Class 19</i> WE 03/15 | The Constitution and federalism: background history and theory | UFv1 pp. 91-97, 102-03, 105-13 (review), 114-30, 141-48 <i>Federalist No. 15</i> <i>Federalist No. 10</i> Richard E. Levy, <i>Federalism and Collective Action</i> , 45 U. Kan. L. Rev. 1241 (1996) Barry Friedman, <i>Valuing Federalism</i> , 82 Minn. L. Rev. 317 (1997) | Articles of Confederation [UFv1 pp. A5-A10] (skim) |
| FR 03/17 • Substantive due process framework due by 5:00 pm today via TWEN | | | |
| 03/20-03/26 | Spring break | | |
| <i>Class 20</i> MO 03/27 | The Constitution and federalism: the Marshall Court’s nationalist vision | UFv1 pp. 242-47, 248-51 <i>McCulloch v. Maryland</i> , 17 U.S. 316 (1819) <i>Gibbons v. Ogden</i> , 22 U.S. 1 (1824) | U.S. Const., art. I, § 8 |

| Class/Date | Topics | Cases/Materials | Constitutional/Statutory Provisions |
|---|---|--|---|
| <i>Class 21</i> WE 03/29 | The Constitution and federalism: the restrictive era of Commerce Clause jurisprudence | UFv2 pp. 602-06, 618-20, 757-58 <i>United States v. E.C. Knight Co.</i> , 156 U.S. 1 (1895) <i>Hammer v. Dagenhart</i> , 247 U.S. 251 (1918) <i>Carter v. Carter Coal Co.</i> , 298 U.S. 238 (1936) | |
| <i>Class 22</i> MO 04/03 • EP and substantive DP problem due by 12:00 noon today via TWEN • Commerce power framework assignment posted (due 04/17) | The Constitution and federalism: the permissive era of Commerce Clause jurisprudence | UFv2 pp. 775-79, 877-79, 887 <i>United States v. Darby</i> , 312 U.S. 100 (1941) <i>Wickard v. Filburn</i> , 317 U.S. 111 (1942) <i>Heart of Atlanta Motel v. United States</i> , 379 U.S. 241 (1964) | |
| <i>Class 23</i> WE 04/05 | The Constitution and federalism: the modern era of Commerce Clause jurisprudence (and the Taxing and Spending powers) | UFv2 pp. 1070-76 <i>United States v. Lopez</i> , 514 U.S. 549 (1995) <i>Gonzales v. Raich</i> , 545 U.S. 1 (2005) <i>National Federation of Independent Businesses v. Sebelius</i> , 132 S. Ct. 2566 (2012) | U.S. Const. art. I, § 8, cl. 1 |
| <i>Class 24</i> MO 04/10 | The Constitution and federalism: other sources of Congress' regulatory power | <i>NFIB v. Sebelius</i> , cont. UFv1 pp. 497-504 (review), 539-40 (review), 544-46 <i>The Civil Rights Cases</i> , 109 U.S. 3 (1883) <i>United States v. Morrison</i> , 539 U.S. 498 (2000) | U.S. Const. amend. XIII, § 2; amend. XIV, § 5 |

| Class/Date | Topics | Cases/Materials | Constitutional/Statutory Provisions |
|--|---|---|---|
| <i>Class 25</i> WE 04/12 | The Constitution and the allocation of national powers: background history and theory | UFv1 pp. 51-55, 76-77, 91-97, 112-13, 120-21, 133-35, 152-59 <i>Federalist No. 51</i> <i>Federalist No. 69</i> <i>Federalist No. 70</i> | |
| <i>Class 26</i> MO 04/17 • Commerce power framework assignment due by 12:00 noon today via TWEN | The Constitution and the allocation of national powers: congressional authority vs. presidential authority | UFv2 pp. 829-32, 845-48 <i>Youngstown Sheet & Tube Co. v. Sawyer</i> , 343 U.S. 579 (1952) (“ <i>The Steel Seizure Case</i> ”) | U.S. Const., art. I, §§ 1, 8; art. II, § 1, cl. 1 (“Vesting Clause”); art. II, § 2; art. II, § 3 (“Take Care Clause”) |
| <i>Class 27</i> WE 04/19 | The Constitution and the allocation of national powers: presidential authority and armed conflict | UFv2 pp. 1111-33 Memorandum from John C. Yoo, Deputy Assistant Attorney Gen., U.S. Dep’t of Justice, to the Deputy Counsel to the President (Sep. 25, 2001) Louis Fisher, <i>John Yoo and the Republic</i> , 41 Pres. Stud. Q. 177 (2011) | U.S. Const., art. II, § 1, cl. 1 (“Vesting Clause”); art. II, § 2, cl. 1 (“Commander-in-Chief Clause”); art. II, § 3 (“Take Care Clause”) |
| <i>Class 28</i> MO 04/24 | The Constitution and the allocation of national powers: presidential authority to execute the laws | <i>Morrison v. Olson</i> , 487 U.S. 654 (1988) <i>Texas v. United States</i> , 809 F.3d 134 (5 th Cir. 2015) | U.S. Const., art. II, § 1, cl. 1 (“Vesting Clause”); art. II, § 3 (“Take Care Clause”) |
| TBD | Optional online Q&A review sessions | | |
| TBD | Final exam | | |