

# **Syllabus and Course Requirements**

**Constitutional Law I  
Government 2020**

Fall Semester, 2019  
Isaacson

## **Class Schedule**

Classes will be held on Mondays and Wednesdays from 10:05 to 11:30 a.m. in Sills 117.

## **Office Hours**

Office hours will be by appointment. It is best to arrange an appointment with me during the class break, at the close of class, or by email ([gisaacso@bowdoin.edu](mailto:gisaacso@bowdoin.edu)). Generally, I will hold office hours on Wednesday afternoons at my home at 38 Longfellow Avenue (just a short walk from campus). If you need to cancel an appointment, please call either my home (725-2695) or my office (786-3566).

## **Assessments and Accountability**

Tests will consist of an hour exam and a final. Both tests will be closed book-open notebook examinations. You may use your case briefs and class notes during the exams. You may not use the textbook, supplementary cases and articles, or other photocopied materials (also excluded are photocopies of other students' case briefs and notes). Small study groups are encouraged in preparation for exams, and you may use your personal notes from these study groups during exams.

Major Supreme Court opinions assigned for reading that are indicated in the syllabus with an asterisk should be “briefed.” (We will discuss how to brief cases in one of the early classes, and the Handout includes a sample brief.) Each student is expected to come to class prepared to discuss all cases in the reading assignment for that day. If, for any reason, you have not been able to complete the assigned reading, you should still attend class and inform me at the beginning of the class session that you are not prepared to participate. In that event, I will not call on you. Otherwise, because we use the Socratic Method (a structured dialogue between the student and teacher designed to probe the principles contained in court decisions), I will feel free to call upon students on a random basis. Students are encouraged to volunteer during class discussions. Participation will count toward the final grade for the course.

Early in the semester, you will be asked to write a short 800-word paper on an assigned topic. A 2,000-word research paper (approximately 8 double-spaced pages) on your choice of one of four subjects will be due on December 9.

## **Research Training**

The Library maintains a course guide for this class to assist students in conducting research. <https://bowdoinlibguides.com/fall2019-gov2020>. The assigned reference librarian for this class is Barbara Levergood ([blevergo@bowdoin.edu](mailto:blevergo@bowdoin.edu)). There will be a legal database research training session for this course, conducted by Ms. Levergood, on

Thursday, October 10 (in lieu of class on Wednesday, October 9) from 7-8 p.m. in the Electronic Classroom in Hawthorne-Longfellow Library.

## READING ASSIGNMENTS

The following readings are in Sullivan and Feldman, *Constitutional Law*, 19th Edition (2016) and in supplementary materials as indicated. This syllabus is intended as a guide, and the pace of our progress may be adjusted.

### **The Constitution - Its Context, Origins And Theories of Interpretation**

1. Introduction (Discussion of the origins of the U. S. Constitution, its political significance, structure, and methods of interpretation and the amendment process. An overview of the American court system and judicial decision-making.)
2. Political Theories That Influenced The Constitutional Convention of 1787—Articles by Wood and Smith. [Handout]; Text of the United States Constitution and Amendments (pp. 1ix-1xxiii); Review of major cases decided in the 2018-2019 Supreme Court Term [Handout].

### **The Supreme Court's Authority**

3. Judicial Review, pp. 1-20. *Marbury v. Madison*\*; *Martin v. Hunter's Lessee*\*; *Cohens v. Virginia*; How to brief cases.
4. Judicial Supremacy, Exclusivity, Political Questions, Advisory Opinions, and Standing, pp. 20-36, 38-43, 60-67, 70-74, *Cooper v. Aaron*\*; *Dickerson v. U.S.*; *Ex Parte McCardle*; *Reserve Army v. Municipal Court of L.A.*; *Lujan v. Defenders of Wildlife*; *Baker v. Carr*\*; *Powell v. McCormack*; *Bush v. Gore*.

### **Federalism**

5. The Relationship Between National and State Governments, pp. 77-101; 109-114; Article on American Federalism by Katz [Handout]; *McCulloch v. Maryland*\*; *U.S. Term Limits v. Thornton*\*, notes 1-4 on Values Served By Federalism.
6. The Commerce Clause As a Source of National Authority, pp. 115-142. *Gibbons v. Ogden*\*; *U.S. v. E.C. Knight Co.*\*; *The Shreveport Rate Case*; *Swift & Co. v. U.S.*; *Champion v. Ames*; *Hipolite Egg Co. v. U.S.*; *Hoke v. U.S.*; *Hammer v. Dagenhart*\*; *Railroad Retirement Board v. Alton Railroad Co.*; *Schechter Poultry Corp. v. U.S.*; *Carter v. Carter Coal Co.*\*; *N.L.R.B. v. Jones & Laughlin Steel Corp.*\*; *U.S. v. Darby*\*; *Wickard v. Filburn*\*; *Heart of Atlanta Motel v. U.S.*\*; *Perez v. U.S.*
7. Continued, pp.142-178. *U.S. v. Lopez*\*; *U.S. v. Morrison*\*; *Gonzales v. Raich*\*; *NFIB v. Sebelius*\*.
8. The Taxing, Spending, War and Treaty Powers As Sources of National Authority, pp. 195-217. *Bailey v. Drexel Furniture*\*; *U.S. v. Kahriger*; *NFIB v. Sebelius*\*; *U.S. v. Butler*\*; *Steward Machine v. Davis*; *South Dakota v. Dole*\*.
9. The Second Amendment—Guns and Federalism. *Dist. of Columbia v. Heller*\*; Articles re Second Amendment: *Matters of Debate-Right to Bear Arms*; *Not a*

*Second Class Right: The Second Amendment Today; The Second Amendment Does Not Transcend All Others; The Fight to Bear Arms* (Note: This is a European perspective on the U.S. Second Amendment debate.); *Worman v. Healy*\*(1<sup>st</sup> Circuit decision) [All Handouts].\

### **Separation of Powers**

10. Scope of Executive Authority Over Domestic and Foreign Affairs, pp. 303-330. *Youngstown Sheet & Tube Co. v. Sawyer*\*; *Zivototsky v. Kerry*\*; *U.S. v. Belmont*\*; *Dames & Moore v. Regan*; *Medellin v. Texas*\*; *Trump v. Intl. Refugee Ass. Proj.*; (Supp. P. 9); *Trump v. Hawaii*\* (Supp. pp. 10-18).
11. Executive Wartime Authority and Detention of Enemy Combatants, War Powers Resolution of 1973; Lincoln’s suspension of habeas corpus; emergency constitutionalism—a comparative perspective, pp. 330-360. *Ex Parte Milligan*\*; *Ex Parte Quirin*\*; *Johnson v. Eisentrager*; Resolution for the Authorization for Use of Military Force (2001); *Rasul v. Bush*; *Hamdi v. Rumsfeld*\*; *Rumsfeld v. Padilla*.
12. Continued, pp. 360-380, *Hamdan v. Rumsfeld*\*; *Boumediene v. Bush*\*.
13. Congressional War and Treaty Powers and Executive Privileges and Immunities, pp. 413-418 (mid-page), 421-439. *Woods v. Cloyd W. Miller Co.*\*; *Missouri v. Holland*\*; Bricker Amendment proposal; *Reid v. Covert*; notes 1 and 2; *U.S. v. Nixon*\*; *Nixon v. Fitzgerald*; *Clinton v. Jones*\*; Impeachment Authority.

### **The Fourteenth Amendment**

14. The Post-Civil War Amendments and The “Incorporation” Doctrine, pp. 441-470; 473-480. *Barron v. Mayor and City Council of Baltimore*\*; *Dred Scott v. Sandford*\*; *Slaughter-Houses Cases*\*; *Saenz v. Roe*\*; *Shapiro v. Thompson*; *Palko v. Connecticut*; *Adamson v. California*\*; *Duncan v. Louisiana*\*; *McDonald v. City of Chicago*.
15. Substantive Due Process - Economic Liberties, pp. 483-508; *Calder v. Bull*; *Munn v. Illinois*; *Mugler v. Kansas*; *Allgeyer v. Louisiana*; *Lochner v. New York*\*; *Adair v. U.S.*; *Coppage v. Kansas*; *Muller v. Oregon*; *Adkins v. Children’s Hospital*; *Bailey v. Alabama*; *Nebbia v. New York*\*; *West Coast Hotel v. Parrish*\*; *U.S. v. Carolene Products*\*; *Williamson v. Lee Optical Co.*\*
16. Substantive Due Process - Reproductive Privacy, pp. 508-544; *Griswold v. Connecticut*\*; *Eisenstadt v. Baird*; *Carey v. Population Services*; *Roe v. Wade*\*; *Planned Parenthood v. Casey*\*; *Stenberg v. Carhart*; *Gonzales v. Carhart*\*; *Whole Woman’s Health v. Hellerstedt*\* (Supp. pp. 21-24).
17. Substantive Due Process - Sexuality, Marital Rights, and “Right To Die,” pp. 561-572, 581-602; *Lawrence v. Texas*\*; *Obergefell v. Hodges*\*; *Cruzan v. Director*\*; *Washington v. Glucksberg*\*; *Vacco v. Quill*.
18. The “Takings” and “Contract” Clauses, pp. 609-631, 635-641; *Berman v. Parker*; *Hawaii Housing Authority v. Midkiff*\*; *Kelo v. City of New London*\*; *Pennsylvania Coal Co. v. Mahon*\*; *Miller v. Schoene*\*; *Keystone Bituminous Coal Assn. v. Debenedictis*; *Penn Central Transportation Co. v. New York City*\*; *Loretta v. Teleprompter Manhattan CMTV Corp.*; *Lucas v. South Carolina Coastal Council*; *Home Bldg. & Loan Assn. v. Blaisdell*\*; *United States Trust Co. v. New Jersey*; *Allied Structural Steel Co. v. Spannaus*.
19. Procedural Due Process, Equal Protection – the “Rationality” Standard of Review; Equal Protection—Racial Segregation, pp. 643-647, 658-673; *Railway Express Agency v. New York*\*; *Strauder v. West Virginia*; *Plessy v. Ferguson*\*; *Brown v.*

- Board of Education I\**; *Bolling v. Sharpe*; *Brown II*; *Green v. County School Bd.*; *Swann v. Charlotte-Mecklenburg Bd. of Ed.*; *Keyes v. School Dist.*; *Milleken v. Bradley*; *Missouri v. Jenkins*; *Bd. of Ed. of Okla. v. City of Dowell*.
20. Equal Protection and Race Continued, pp. 673-692; *Loving v. Virginia\**; *Palmore v. Sidotti*; *Johnson v. California\**; *Korematsu v. U.S.\**; *Yick Wo. v. Hopkins*; *Griffin v. Cnty. Sch. Bd. of Prince Edward County*; *Palmer v. Thompson*; *Washington v. Davis\**; *Arlington Heights v. Metropolitan Housing Corp.*; *Rogers v. Lodge*; *Hunter v. Underwood*.
  21. Equal Protection and Affirmative Action in Education, pp. 712-745; *Grutter v. Bollinger\**; *Gratz v. Bollinger\**; *Fisher v. University of Texas I\**; *Fisher v. University of Texas II\** (Supp. pp. 27-31); *Schuetz v. Coalition to Defend Affirmative Action*; *Parents Involved in Community Schools v. Seattle School District\**.
  22. Sex Discrimination, pp. 756-785; *Bradwell v. State*; *Minor v. Happersett*; *Goesaert v. Cleary*; *Reed v. Reed*; *Frontiero v. Richardson\**; *Craig v. Boren\**; *Mississippi University for Women v. Hogan\**; *J.E.B. v. Alabama*; *U.S. v. Virginia\**; *Geduldig v. Aiello*; *Michael M. v. Superior Court\**; *Rostker v. Goldberg\**; *Caban v. Mohammed*; *Nguyen v. INS*; *Session v. Morales-Santana* (Supp. pp. 31-32).
  23. Equal Protection and Voting as a “Fundamental Interest,” pp. 746-751, 805-809, 810-825; *Shaw v. Reno\**; *Harper v. Va. State Bd. Of Elections\**; *Kramer v. Union Free School District\**; *Richardson v. Ramirez*; *Crawford v. Marion County Election Bd.\**; *Bush v. Gore*; *Reynolds v. Sims\**; *Evenwell v. Abbott* (Supp. pp. 33-34); *Gaffney v. Cummings*; *Davis v. Bandemer\**; *Vieth v. Jubelirer*; *Rucho v. Common Cause\** [Handout]; *Arizona State Legislature v. Arizona Independent Redistricting Commission*.
  24. Equal Protection and Access to Court as a “Fundamental Right;” Rejection of Certain Interests as “Fundamental Rights,” pp. 825-849; *Griffin v. Illinois*; *Douglas v. California*; *Ross v. Moffitt*; *Halbert v. Michigan*; *Boddie v. Conn.*; *United States v. Kras*; *Ortwein v. Schwab*; *Little v. Streater*; *M.L.B. v. S.L.J.\**; *Dandridge v. Williams\**; *Lindsey v. Normet*; *San Antonio Ind. Sch. Dist. v. Rodriguez\**; *Plyler v. Doe\**.

Note: Access to a legal dictionary may be helpful to your understanding of certain terms used in court decisions. Here are the websites for two on-line legal dictionaries:

- <http://dictionary.law.com>
- <http://www.law.cornell.edu/wex>