

LS 190.6 Sp08 Brown

Syllabus for Federalism and Individual Rights

Federalism &
Individual
Rights

January 28

Individual rights in the Declaration of Independence. Republicanism and the division of power between the states and the federal government.

Readings: Pennsylvania Constitution; Articles of Confederation; U.S. Constitution of 1787; New York's Ratification Message; Virginia's Ratification Message; Amendments proposed by James Madison to the first Congress; Amendments proposed to the States.

February 5

The battle between the Federalist and the anti-Federalist; ratifying the Constitution and adding the Bill of Rights; Federalism in the Antebellum period

Federalist 10, 40, 45, 78; Alien and Sedition Acts; Virginia and Kentucky resolutions; Fletcher v. Peck; McCulloch v. Maryland; Ogden v. Saunders; Charles River Bridge v. Warren River Bridge; Barron v. Baltimore; Luther v. Borden.

February 12

Slavery and property rights in the antebellum period. Federalism and the Civil War.

Readings: Fugitive Slave Act; Dred Scott v. Sandford; Ableman v. Booth; Lincoln's House Divided Speech; South Carolina Secession Resolution; Lincoln's First Inaugural; Gettysburg Address; 13, 14 and 15th Amendments; Black Codes - Mississippi Acts 1865; Freedman's Bureau Act of 1865; Civil Rights Act of 1866.

February 18 - President's Day Holiday - No class

February 25

The Supreme Court interprets the Civil War Amendments

Readings: Slaughterhouse Cases; U.S. v. Reese; The Civil Rights Cases; Plessy v. Ferguson; Bailey v. Alabama.

March 3

Using the 14th to protect the new industrial order.

Readings: Sherman Anti-Trust Act; Interstate Commerce Commission; In re Debs; Loewe v. Lawlor; Coppage v. Kansas; Chicago, Milwaukee and St. Paul Railway Co. v. Minnesota; Smith v. Ames; Lochner v. New York; Atkins v. Children's Hospital; Pennsylvania Coal v. Mahon.

March 10

Progressivism, Women and Free Speech in the early 20th century.

Readings: Comstock Act; Mueller v. Oregon; Schenk v. United States; Abrams v. United States; Buck v. Bell.

March 17

The Great Depression and the redistribution of federal power.

Readings: FDR's First Inaugural Address, Home Building and Loan Assoc. v. Blaisdell; Nebbia v. New York; Schechter Poultry Corp. v. United States; Carter v. Carter Coal Co.; West Coast Hotel Co. v. Parrish; National Labor Relations Board v. Jones and Laughlin Steel Corp.; United States v. Carolene Products; Wicker v. Filburn.

March 24 - Have a Great Spring Break

March 31

The Supreme Court quests for values. The NAACP attacks Jim Crow.

Readings: Korematsu v. United States; Minersville School District v. Gobitis; West Virginia Board of Education v. Barnette; Dennis v. United States; Yates v. U.S.; Powell v. Alabama; Smith v. Allwright; Sweatt v. Painter; Brown v. Board of Education of Topeka; Cooper v. Aaron.

April 7

Undermining the State Action Doctrine and incorporating the Bill of Rights.

Readings: Smith v. Allwright; Shelley v. Kramer; Bell v. Maryland; Mapp versus Ohio; Gideon v. Wainwright; Miranda v. Arizona; Martin Luther King's letter from Birmingham Jail; Herbert Wechsler's speech to Harvard Law school.

April 14

Expanding the First amendment and Congressional power.

Readings: Gitlow v. New York; Near v. Minnesota; New York Times v. Sullivan; Brandenburg v. Ohio; Tinker v. Des Moines School District; The Civil Rights Act of 1964; The Voting Rights Act of 1965; Heart of Atlanta Hotel, Inc. v. United States; Baker v. Carr; Reynolds v. Sims; Katzenbach v. McClung; South Carolina v. Katzenbach.

April 21

New Property Rights and New Privacy Rights.

Readings: Robert Reich's "The New Property," Goldberg v. Kelly, The Endangered Species Act; Chapter from Betty Friedan's *The Feminine Mystique*; Griswold v. Connecticut; excerpts from Sarah Weddington's argument in Roe v. Wade; Roe v. Wade.

April 28

The Backlash against equality liberalism - reverse discrimination.

Readings: Regents of the University of California v. Bakke; University of Michigan cases; Parents Involved v. Seattle School District.

May 5

The attack on Roe and Privacy.

Readings: - Hyde amendment; Michael H. v. Gerald D.; Webster v. Reproductive Health Services; Casey v. Planned Parenthood; Carhart v. Gonzalez; Bowers v. Hardwick; Lawrence v. Texas.

May 12

The Attack on Government Power.

Readings: Proposition 13, Reagan's First Inaugural; Richard Epstein, "The Mistake of 1937", Lucas v. South Carolina Coastal Council; Lopez v. U.S.; Gonzales v. Raich.

**Information Sheet for LS 190
Federalism and Individual Rights
Spring 2008**

Professor Brown

Office hours: 2:00 - 3:00 Mondays or by appointment

e-mail - rbbrown@berkeley.edu.

Materials: Primary source documents on bspace and/or a reader if I prepare one.

Grading:

Grades will be based on four factors:

Mid-term exam - 20%

Paper and presentation - 25%

Participation in Seminar - 15%

Final exam - 40%

Your paper will be a case biography - an analysis of one of the cases we will be studying this semester. Required sources will be the entire case, party briefs, if available and most of them are, a book about the case and at least one law review article analyzing the case. In addition to 10 - 12 page paper analyzing the importance of the case for U.S. Constitutional history, you will present the case orally to the class when the case comes up for discussion.

Supplemental Materials:

For an overall narrative of United States legal history, see: Kermit Hall, [A Magic Mirror](#). For an encyclopedic overview of law in America, see: Lawrence Friedman, [A History of American Law](#). For an overview of constitutional history see: Melvin Urofsky and Paul Finkleman, [A March of Liberty: a Constitutional History of the United States](#). For a leftist perspective on constitutional history see: Peter Irons, [A People's History of the Constitution](#). To see transcripts of U.S. Supreme Court oral arguments and to hear tapes of some of these oral arguments, go to: <http://www.oyez.org/>. To find full versions of Supreme Court decisions go to: <http://www.findlaw.com>.