

**PLSC 3150-01**  
**Constitutional Law II: Civil Liberties & Civil Rights**  
**Millsaps College**

Semester:	Spring 2014	Kenneth Townsend
Classroom:	Sullivan Harrell 268 Monday 6:30-9:00 pm	Office: Whitworth Hall, Presidential Suite Office Hours: Friday, 3:00-4:00 pm; most Mondays 9:00-10:00 pm at Rueben's

Texts: Epstein and Walker, *Constitutional Law for a Changing America: Institutional Powers and Constraints*, Eighth Edition, (Washington: CQ Press, 2013).

Selected Supreme Court opinions, in full text, in the *U.S. Reports* and *Supreme Court Reporter* as well as in electronic form.

Robert Cover, "Nomos and Narrative," 97 *Harvard Law Review* 4 (1983).

The American Constitutional Law sequence is concerned with the historical development of the United States Constitution and the judicial-political role played by the Supreme Court in the interpretation of the Constitution. The constitutional law sequence consists of two courses, with one course often taught each semester.

Constitutional Law, Political Science 3140, focuses attention on the Supreme Court's constitutional interpretation of the separation and distribution of power within the national government and between the national government and the state governments. Specific topics covered by the course include judicial review, federalism, the powers of Congress and the President, and the authority of the federal and state governments to regulate economic/business activity through their commerce and taxing powers. The course also examines individual property rights and economic liberties in the context of the doctrine of vested rights and the substantive interpretation of the Due Process Clause.

Our class, Civil Rights and Liberties, Political Science 3150, gives greater attention to the constitutional relationship between the government and the individual. The course examines the "nationalization" of the Bill of Rights, criminal procedure, capital punishment and the rights of privacy and abortion. Attention is also given to the First Amendment freedoms of religion, speech, and press, and to the Equal Protection Clause issues of racial and gender equality, school desegregation, and affirmative action programs.

## **Unit I: Intro to the Supreme Court and Constitution**

Week 1, Jan. 13

- Understanding the U.S. Supreme Court
  - o *Epstein and Walker (E&W)*, intro and chapter 1, pp. 3-43
- Law's Foundations
  - o Robert Cover's "Nomos and Narrative," (N&N) sections I-II.B (pp. 4-25)

Jan. 20: no class (MLK Holiday)

Week 2, Jan. 27

- The Judiciary: Institutional Powers and Constraints
  - o *E&W*, chapter 2
- Incorporation of the Bill of Rights
  - o *E&W*, chapter 3

## **Unit II: Civil Liberties**

Week 3, Feb. 3

- Religious Free Exercise
  - o *E&W*, chapter 4, pp. 89-127
  - o Full cases, to be provided
- Law's Foundations
  - o N&N section II.C (pp. 25-40)

Week 4, Feb. 10

- Establishment Clause
  - o *E&W*, chapter 4, pp. 128-196
  - o Full cases, to be provided

Week 5, Feb. 17

- Freedom of Speech Assembly, and Association
  - o *E&W*, chapter 5, pp. 197-230
  - o Full cases, to be provided

Week 6, Feb. 24

- Freedom of Speech Assembly, and Association
  - o *E&W*, chapter 5, pp. 230-297
  - o Full cases, to be provided
- Law's Foundations:
  - o N&N section II.D (pp. 40-44)

Week 7, March 3

- Freedom of Press, Freedom of Expression, the Internet, and Right to Bear Arms
  - o *E&W*, chapters 6, 7, 8, and 9. (These are short chapters; don't freak out.)

March 10, no class (spring break)

Week 8, March 17

- Right to Privacy
  - o *E&W*, chapter 10, pp. 397-454
  - o Full cases, to be provided

*Mid-term exam: A short mid-term exam will be administered during the first 50 minutes of class.*

### **Unit III: Rights of the Criminally Accused**

Week 9, March 24

- Investigations and Evidence
  - o *E&W*, chapter 11, pp. 464-539
- Attorneys, Trials, and Punishments
  - o *E&W*, chapter 12, pp. 540-599

### **Unit IV: Civil Rights**

Week 10, March 31

- Racial Discrimination

- *E&W*, chapter 13, pp. 611-652
- Full cases, to be provided
- Law's Foundations
  - N&N section III.A (pp. 44-53)

Week 11, April 7

- Discrimination Based on Sex, Sexual Orientation, and Economic Status
  - *E&W*, chapter 13, pp. 652-689
  - Full cases, to be provided
- Remediating the Effects of Discrimination: Affirmative Action
  - *E&W*, chapter 13, pp. 689-719
  - Full cases, to be provided
- Law's Foundations
  - N&N section III.B (pp. 53-60)

Week 12, April 14

- Voting and Representation
  - *E&W*, chapter 14, pp. 721-768
- Law's Foundations
  - N&N section IV (pp. 60-68)

**Unit V: Engaging a Case Currently Under Consideration by the Supreme Court**

Week 13, April 21

- Real-world style final group project
  - See note below regarding “real-world style final group project.” Further information will be provided before Spring Break.

Week 14, April 28

- Final group project, cont'd

*Comprehensive final exam: Thursday, May 1, 6:00-9:00 p.m.*

## **Grading:**

Grades will be determined based on the formula below.

### *Class Participation: 5%*

Students should have completed all reading assignments prior to class and should be prepared to discuss assignments. Class participation assessment will not simply take into account how often a student speaks, but also the substantive merit of what is offered. Students are expected to attend all classes. Absences should be discussed with the professor in advance, except under extreme and unexpected circumstances. Unexcused absences will negatively affect one's class participation grade. Students should arrive promptly to class. Tardiness will negatively affect one's class participation grade.

### *Mid-term exam: 15%*

### *Four case briefs: 20%*

Full texts of cases will be provided periodically throughout the course of the semester. Students will choose four of these full-text cases to brief. Case briefs should be 1-2 pages in length. Sample case briefs will be provided. Please note that you should read the full-text cases before writing briefs. Relying solely on the textbook excerpts will almost certainly not provide adequate information for completing a case brief.

### *Real-world style final group project: 20% (10% individual grade; 10% group grade)*

Students will complete final group projects in which they draft majority opinions for *Sebelius v. Hobby Lobby Stores, Inc.* and/or *Conestoga Wood Specialties Corp. v. Sebelius*. These consolidated cases concern whether provisions of the Affordable Care Act requiring employers to provide contraception coverage to employees run afoul of constitutional and statutory guarantees of religious liberty. At issue, in particular, is whether the business owners' religious-based opposition to contraception constitutes a cognizable religious liberty claim that merits exemption from the law's general requirements for employers. This project is designed to simulate the real-world collaboration of legal writing. For this project, the class will be divided into two groups, with a chairperson overseeing each group's work. Each group will write a majority opinion that will be divided into sections, with each member of the group being in charge of one section of about five pages per section. The chair will be responsible for compiling and integrating the sections. Each group's full opinion should be approximately 25 pages. As part of the assignment, students will have the opportunity to provide grade

recommendations for their classmates. The professor will take these grade recommendations into account when assigning student grades for the semester.

*Final Exam: 40%*

ADA Compliance: If you have disabilities relevant to your performance in this class, please notify the professor to arrange the necessary accommodation.