

## CONSTITUTIONAL LAW

Professor Manian

Wednesdays 1:30-3:20pm & Fridays 12:30-2:20pm

The text for our Constitutional Law section is Chemerinsky, CONSTITUTIONAL LAW (4th ed. 2013). You should also purchase the 2016 Supplement to the casebook.

Seats will be assigned at the first class.

### **First Assignment (Fall 2016):**

#### 1. **Register at the TWEN cite for this class:**

You can register starting August 22nd by going to *lawschool.westlaw.com*, then click on *TWEN*. If you have any problems, contact John Shafer at Zief (422-2240).

#### 2. **Read through the United States Constitution and its Amendments (pp. xli-lvii):**

First, skim through the text for the big picture (we will focus on particular provisions throughout the semester). What are the overall functions of the Constitution? How does the original document structure governmental power? How does the Bill of Rights (the first ten amendments) structure governmental power? How did the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> amendments alter this structure? Where is the right to privacy, which protects access to contraception and abortion among other rights, found in the Constitution?

Second, answer the following three questions based on the text of the Constitution and note where in the Constitution these provisions are located (these are short, easy and fun to find!):

(1) How much Hawaiian money do you have in your wallet?

(2) The original Constitution contemplated the continuation of slavery in those states that permitted slavery as of 1787. Find the first instance of the word “slave” or “slavery” in the Constitution. If you don’t find either of these words in the original Constitution, what are the hints that the original Constitution contemplated and tolerated slavery?

(3) How can the Constitution be amended? (Name two methods.)

#### 3. **Read excerpt of *Roper v. Simmons* (posted on TWEN site)**

*Roper* held that imposing the death penalty on juveniles violates the 8<sup>th</sup> Amendment. Although the death penalty is not traditionally studied in Constitutional Law courses, this case raises important themes that reverberate throughout constitutional law. When should the Supreme Court reverse its prior decisions versus adhering to the principle of *stare decisis*? What are the best methods for constitutional interpretation? Why is it appropriate for unelected judges to overturn the democratic will expressed by the political branches? Finally, what if any influence should international law have on our domestic constitutional law? We will briefly discuss these themes before moving on to *Marbury v. Madison*.

4. **Read pp. 1-11 of the casebook (*Marbury v. Madison* and note following case):**

*Marbury v. Madison* is the foundational case for constitutional law so we will be taking a close look at Chief Justice Marshall's reasoning. Why do you think *Marbury*, which is two centuries old, is still cited as the most important case in constitutional law? What exactly does *Marbury* hold? Do you think it is well reasoned at each step? Since the opinion is written in arcane language and may seem difficult to parse through at first, I recommend that you brief this case, outlining its ultimate holdings and key points of analysis.

This is a fascinating time to study constitutional law. The Roberts Court's recent decisions on campaign finance, health care reform, same sex marriage, abortion and affirmative action signal huge shifts in the law. The Roberts Court is now at a critical juncture, its future hanging in the balance since the upcoming presidential election will determine the Court's ninth member. I'm looking forward to the class and to meeting all of you on the 24<sup>th</sup>!

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