

American Constitutional Law

Eleventh Edition

Louis Fisher
Katy J. Harriger



CAROLINA ACADEMIC PRESS
Durham, North Carolina

Contents

ABOUT THE AUTHORS	xvii	<i>Marbury v. Madison</i>	44
ACKNOWLEDGMENTS	xix	Martin v. Hunter's Lessee	
		14 U.S. (1 Wheat.) 304 (1816)	46
INTRODUCTION	xxi	Cohens v. Virginia	
		19 U.S. (6 Wheat.) 264 (1821)	48
1 CONSTITUTIONAL POLITICS	1	D. Constraints on Judicial Review	50
A. Litigation as a Political Process	3	Readings:	
B. Lobbying the Courts	6	Eakin v. Raub: Gibson's Dissent	
C. The Executive in Court	7	12 S. & R. 330 (Pa. 1825)	54
Reading:		The Boundaries of Judicial Review:	
Steel Seizure Case of 1952:		Interview with Justice Powell	56
Oral Argument Before		E. Methods of Constitutional Interpretation	58
the District Court	11	Readings:	
D. Congressional Duties	12	The Doctrine of Original Intent:	
Reading:		Attorney General Meese versus	
Raines v. Byrd		Justice Brennan	65
521 U.S. 811 (1997)	15	The Natural Law Debate:	
E. Judge As Lawmaker	16	Frankfurter Against Black	67
F. Judge as Administrator	18	Robert Jackson's Advice	68
G. Independent State Action	19	Notes and Questions	69
H. Who Has the "Last Word"?	20	Selected Readings	69
Readings:			
Congress Responds to the Sedition Act	22	3 THRESHOLD REQUIREMENTS:	
Jackson's Veto of the Bank Bill	24	HUSBANDING POWER AND PRESTIGE	71
The Senate Debates Jackson's		A. Cases and Controversies	71
Veto Message	25	Readings:	
Lincoln's Critique of <i>Dred Scott</i>	26	Ashwander v. TVA	
WALTER F. MURPHY,		(The Brandeis Rules)	
Who Shall Interpret?	27	297 U.S. 288 (1936)	75
Notes and Questions	29	Bellotti v. Baird (Advisory Opinions)	
Selected Readings	29	443 U.S. 622 (1979)	76
2 THE DOCTRINE OF JUDICIAL REVIEW	31	B. Standing to Sue	77
A. Sources of Judicial Review Authority	31	Readings:	
B. The Framers' Intent	34	Frothingham v. Mellon	
Reading:		262 U.S. 447 (1923)	81
ALEXANDER HAMILTON,		Flast v. Cohen	
Federalist No. 78	36	392 U.S. 83 (1968)	82
C. The Road to <i>Marbury</i>	37	United States v. Richardson	
Readings:		418 U.S. 166 (1974)	85
<i>Marbury v. Madison</i>		Allen v. Wright	
5 U.S. (1 Cr.) 137 (1803)	42	468 U.S. 737 (1984)	87
WILLIAM W. VAN ALSTYNE,		C. Mootness	89
A Critical Guide to		Reading:	

DeFunis v. Odegaard			
416 U.S. 312 (1974)	91		
D. Ripeness	93		
Reading:			
Poe v. Ullman			
367 U.S. 497 (1961)	95		
E. Political Questions	96		
Readings:			
Baker v. Carr			
369 U.S. 186 (1962)	100		
Nixon v. United States			
506 U.S. 224 (1993)	102		
Virtues and Vices:			
Bickel versus Gunther	104		
F. Equitable Discretion	106		
Notes and Questions	107		
Selected Readings	107		
4 JUDICIAL ORGANIZATION	109		
A. Federal Court System	109		
B. Legislative and Specialized Courts	113		
C. The Appointment Process	117		
Reading:			
Nomination Hearings of			
Sandra Day O'Connor	122		
D. Tenure, Removal, and Compensation	123		
E. Judicial Lobbying	128		
Reading:			
Burger on Judicial Lobbying	132		
Notes and Questions	133		
Selected Readings	133		
5 DECISION MAKING:			
PROCESS AND STRATEGY	135		
A. Jurisdiction: Original and Appellate	136		
B. The Writ of Certiorari	137		
Reading:			
DAVID LAUTER, Certiorari Strategies	140		
C. From Oral Argument to Decision	141		
Reading:			
FRANK M. COFFIN, The Process of			
Writing a Decision	148		
D. Unanimity and Dissent	149		
Readings:			
WILLIAM O. DOUGLAS, The Dissent:			
A Safeguard of Democracy	153		
ROBERT H. JACKSON, The Limitation			
of Dissent	154		
E. Caseload Burdens	155		
Notes and Questions	157		
Selected Readings	158		
6 SEPARATION OF POWERS:			
DOMESTIC CONFLICTS	159		
A. The Separation Doctrine	159		
		Readings:	
		Congress Interprets the	
		Ineligibility Clause	164
		Presidential Signing Statements	165
		Madison's Analysis of the	
		Separation Doctrine	166
		B. Presidential Power	168
		Reading:	
		Hamilton on Executive Power	169
		C. Creating the Executive Departments	171
		Readings:	
		Bowsher v. Synar	
		478 U.S. 714 (1986)	176
		Attorney General Opinion on	
		Ministerial Duties	178
		Morrison v. Olson	
		487 U.S. 654 (1988)	179
		D. Appointments and Removals	182
		Readings:	
		Buckley v. Valeo	
		424 U.S. 1 (1976)	185
		OLC Memo on President Obama's	
		Recess Appointments (2012)	188
		NLRB v. Noel Canning	
		573 U.S. ____ (2014)	189
		Myers v. United States	
		272 U.S. 52 (1926)	193
		Humphrey's Executor v. United States	
		295 U.S. 602 (1935)	196
		Free Enterprise Fund v. Public Company	
		Accounting Oversight Board	
		561 U.S. 477 (2010)	198
		E. Delegation of Legislative Power	201
		Readings:	
		Hampton & Co. v. United States	
		276 U.S. 394 (1928)	204
		Schechter Corp. v. United States	
		295 U.S. 495 (1935)	206
		F. Congressional Oversight	208
		Readings:	
		Clinton v. City of New York	
		524 U.S. 417 (1998)	212
		INS v. Chadha	
		462 U.S. 919 (1983)	214
		LOUIS FISHER, Legislative Vetoes	
		After <i>Chadha</i>	217
		G. Investigations and Executive Privilege	219
		Readings:	
		Watkins v. United States	
		354 U.S. 178 (1957)	225
		Barenblatt v. United States	
		360 U.S. 109 (1959)	228
		United States v. Nixon	
		418 U.S. 683 (1974)	230

Negotiating Executive Privilege:		War Powers Resolution	303
The AT&T Cases	233	Dellums v. Bush	
Clinton v. Jones		752 F. Supp. 1141 (D.D.C. 1990)	304
520 U.S. 681 (1997)	235	Campbell v. Clinton	
H. Congressional Membership		203 F.3d 19 (D.C. Cir. 2000)	306
and Prerogatives	238	Military Operations in Libya	
Reading:		OLC opinion	308
Powell v. McCormack		E. Rights of Citizenship	309
395 U.S. 486 (1969)	240	Conclusions	310
I. Immigration Policy	243	Notes and Questions	311
Conclusions	245	Selected Readings	311
Notes and Questions	245		
Selected Readings	246	8 FEDERAL-STATE RELATIONS	313
7 SEPARATION OF POWERS: EMERGENCIES		A. The Principle of Federalism	313
AND FOREIGN AFFAIRS	249	Readings:	
A. External and Internal Affairs	249	McCulloch v. Maryland	
Readings:		17 U.S. 315 (1819)	320
United States v. Curtiss-Wright Corp.		Missouri v. Holland	
299 U.S. 304 (1936)	253	252 U.S. 416 (1920)	323
Congress Interprets <i>Curtiss-Wright</i> :		B. The Commerce Clause	325
The Iran-Contra Report	255	Readings:	
Zivotofsky v. Kerry		Gibbons v. Ogden	
576 U.S. ____ (2015)	256	22 U.S. (9 Wheat.) 1 (1824)	327
Haig v. Agee		Cooley v. Board of Wardens	
453 U.S. 280 (1981)	259	53 U.S. 299 (1852)	330
B. An Executive Prerogative?	261	C. Nationalization of the Economy	331
Readings:		Readings:	
The Prize Cases		Champion v. Ames (Lottery Case)	
2 Black (67 U.S.) 635 (1863)	265	188 U.S. 321 (1903)	333
Ex parte Milligan		Hammer v. Dagenhart	
4 Wall. (71 U.S.) 2 (1866)	267	247 U.S. 251 (1918)	335
Korematsu v. United States		D. The New Deal Watershed	337
323 U.S. 214 (1944)	268	Readings:	
Youngstown Co. v. Sawyer		Carter v. Carter Coal Co.	
343 U.S. 579 (1952)	271	298 U.S. 238 (1936)	340
New York Times Co. v. United States		NLRB v. Jones & Laughlin	
403 U.S. 713 (1971)	273	301 U.S. 1 (1937)	342
ERWIN N. GRISWOLD, How Sensitive		United States v. Darby	
Were the “Pentagon Papers”?	275	312 U.S. 100 (1941)	345
C. Treaties and Executive Agreements	276	Wickard v. Filburn	
Readings:		317 U.S. 111 (1942)	346
Goldwater v. Carter		E. From <i>National League</i> to <i>Garcia</i>	349
444 U.S. 996 (1979)	280	Readings:	
Dames & Moore v. Regan		National League of Cities v. Usery	
453 U.S. 654 (1981)	282	426 U.S. 833 (1976)	350
D. The War Power	285	Garcia v. San Antonio	
Readings:		Metro. Transit Auth.	
Hamdi v. Rumsfeld		469 U.S. 528 (1985)	352
542 U.S. 507 (2004)	296	F. State Powers Revived	354
Hamdan v. Rumsfeld		Readings:	
548 U.S. 557 (2006)	298	United States v. Lopez	
Boumediene v. Bush		514 U.S. 549 (1995)	359
553 U.S. 723 (2008)	300	United States v. Morrison	
		529 U.S. 598 (2000)	362

Gonzales v. Raich		Slaughter-House Cases	
545 U.S. 1 (2005)	364	16 Wall. 36 (1873)	426
G. The Spending and Taxing Powers	366	Munn v. Illinois	
Readings:		94 U.S. 113 (1877)	429
Bailey v. Drexel Furniture Co.		E. Substantive Due Process	431
(Child Labor Tax Case)		Readings:	
259 U.S. 20 (1922)	370	Lochner v. New York	
Steward Machine Co. v. Davis		198 U.S. 45 (1905)	435
301 U.S. 548 (1937)	371	Adkins v. Children's Hospital	
South Dakota v. Dole		261 U.S. 525 (1923)	437
483 U.S. 203 (1987)	373	West Coast Hotel Co. v. Parrish	
National Federation of Independent		300 U.S. 379 (1937)	439
Business v. Sebelius		Ferguson v. Skrupa	
567 U.S. ____ (2012)	375	372 U.S. 726 (1963)	441
King v. Burwell		Conclusions	442
576 U.S. ____ (2015)	378	Notes and Questions	443
H. Preemption and Abstention	382	Selected Readings	443
Readings:			
Pennsylvania v. Nelson		10 FREE SPEECH IN A	
350 U.S. 497 (1956)	386	DEMOCRATIC SOCIETY	445
Arizona v. United States		A. Free Speech and National Security	445
567 U.S. ____ (2012)	387	Readings:	
I. Nationalization of the Bill of Rights	390	Schenck v. United States	
Reading:		249 U.S. 47 (1919)	450
The Incorporation Doctrine:		Abrams v. United States	
Testimony by Justice Rehnquist	394	250 U.S. 616 (1919)	451
Conclusions	395	Gitlow v. New York	
Notes and Questions	396	268 U.S. 652 (1925)	452
Selected Readings	397	Whitney v. California	
9 ECONOMIC LIBERTIES	399	274 U.S. 357 (1927)	454
A. The Meaning of Property	399	Dennis v. United States	
Reading:		341 U.S. 494 (1951)	456
Madison's Essay on Property	400	Brandenburg v. Ohio	
B. The Contract Clause	401	395 U.S. 444 (1969)	458
Readings:		Holder v. Humanitarian Law Project	
Calder v. Bull		561 U.S. 1 (2010)	460
3 U.S. (3 Dall.) 385 (1798)	404	B. Associational Rights	463
Fletcher v. Peck		Reading:	
10 U.S. (6 Cr.) 87 (1810)	406	Congress Seeks to Remove	
Dartmouth College v. Woodward		"Subversives" from FDR's	
17 U.S. (4 Wheat.) 517 (1819)	407	Administration	466
Charles River Bridge v. Warren Bridge		C. The Regulation of Speech	467
36 U.S. (11 Pet.) 420 (1837)	409	Readings:	
Home Bldg. & Loan Assn. v. Blaisdell		Walker v. Texas Div., Sons of	
290 U.S. 398 (1934)	411	Confederate Veterans, Inc.	
C. The Takings Clause	413	576 U.S. ____ (2015)	476
Readings:		Cohen v. California	
Hawaii Housing Authority v. Midkiff		403 U.S. 15 (1971)	479
467 U.S. 229 (1984)	420	R.A.V. v. St. Paul	
Kelo v. City of New London		505 U.S. 377 (1992)	482
545 U.S. 469 (2005)	422	Tinker v. Des Moines School Dist.	
Congress Responds to Kelo	424	393 U.S. 503 (1969)	484
D. The Police Power	425	Morse v. Frederick	
Readings:		551 U.S. 393 (2007)	486
		D. Forms of Speech	488

Readings:		The House Responds	
Texas v. Johnson		to <i>Stevens</i> (2010)	566
491 U.S. 397 (1989)	492	Conclusions	567
Snyder v. Phelps		Notes and Questions	567
562 U.S. 443 (2011)	494	Selected Readings	567
E. Commercial Speech	496		
F. Campaign Finance	499	12 RELIGIOUS FREEDOM	569
G. Broadcasting Rights	500	A. The Virginia Statute	570
Reading:		Readings:	
FCC v. Pacifica Foundation		Virginia Statute for Establishing	
438 U.S. 726 (1978)	503	Religious Freedom (1786)	571
Conclusions	506	House Debate on the Religion Clauses	
Notes and Questions	506	(1789)	573
Selected Readings	507	B. Free Exercise Clause	574
11 FREEDOM OF THE PRESS	509	Readings:	
A. The Evolution of Press Freedoms	509	Minersville School District v. Gobitis	
Readings:		310 U.S. 586 (1940)	581
John Milton Areopagitica (1644)	511	West Virginia State Board of	
House Debate on the		Education v. Barnette	
Sedition Act of 1798	513	319 U.S. 624 (1943)	582
B. Regulating the Press	514	Goldman v. Weinberger	
Readings:		475 U.S. 503 (1986)	584
Near v. Minnesota		Congress Reverses <i>Goldman</i>	586
283 U.S. 697 (1931)	520	Burwell v. Hobby Lobby Stores, Inc.	
New York Times Co. v. United States		573 U.S. ____ (2014)	588
403 U.S. 713 (1971)	522	C. Establishment Clause	591
Branzburg v. Hayes		Readings:	
408 U.S. 665 (1972)	525	Lynch v. Donnelly	
C. Free Press vs. Fair Trial	527	465 U.S. 668 (1984)	598
Readings:		Allegheny County v.	
Nebraska Press Assn. v. Stuart		Greater Pittsburgh ACLU	
427 U.S. 539 (1976)	530	492 U.S. 573 (1989)	600
Gannett Co. v. DePasquale		Employment Division v. Smith	
443 U.S. 368 (1979)	532	494 U.S. 872 (1990)	603
Richmond Newspapers, Inc. v.		Congress Reacts to <i>Smith</i>	604
Virginia, 448 U.S. 555 (1980)	534	City of Boerne v. Flores	
D. Libel Law	536	521 U.S. 507 (1997)	606
Readings:		D. Financial Assistance to	
New York Times Co. v. Sullivan		Sectarian Schools	608
376 U.S. 254 (1964)	540	Readings:	
Gertz v. Robert Welch, Inc.		Everson v. Board of Education	
418 U.S. 323 (1974)	543	330 U.S. 1 (1947)	617
Hustler Magazine v. Falwell		Lemon v. Kurtzman	
485 U.S. 46 (1988)	546	403 U.S. 602 (1971)	619
E. Obscenity	548	Zelman v. Simmons-Harris	
Readings:		536 U.S. 639 (2002)	621
Roth v. United States		E. Religious Instruction and Prayers	623
354 U.S. 476 (1957)	557	Readings:	
Miller v. California		Engel v. Vitale	
413 U.S. 15 (1973)	559	370 U.S. 421 (1962)	629
New York v. Ferber		Congressional Hearings on	
458 U.S. 747 (1982)	560	School Prayer (1964)	631
Reno v. ACLU		Wallace v. Jaffree	
521 U.S. 844 (1997)	563	472 U.S. 38 (1985)	632

Lee v. Weisman		Glossip v. Gross	
505 U.S. 577 (1992)	634	576 U.S. ____ (2015)	708
Santa Fe Independent		JUSTICE LEWIS POWELL, JR., The Death	
Sch. Dist. v. Doe		Penalty and Public Opinion	711
530 U.S. 290 (2000)	636	H. Prisoners' Rights	712
McCreary County v. ACLU		I. The Right to Bear Arms	716
545 U.S. 844 (2005)	638	Reading:	
F. Nine Justices in Search of a Model	640	District of Columbia v. Heller	
Notes and Questions	641	554 U.S. 570 (2008)	719
Selected Readings	641	Notes and Questions	723
		Selected Readings	723
13 DUE PROCESS OF LAW	643		
A. The Concept of Due Process	643	14 SEARCH AND SEIZURE	725
Readings:		A. Expectations of Privacy	725
Powell v. Alabama		B. Arrest and Search Warrants	727
287 U.S. 45 (1932)	646	Reading:	
B. Due Process for Juveniles	647	Congress Responds to <i>Zurcher</i>	731
Readings:		C. Exceptions to the Warrant Requirement	733
In re Gault		Readings:	
387 U.S. 1 (1967)	649	Coolidge v. New Hampshire	
C. Grand Juries and Jury Trials	651	403 U.S. 443 (1971)	749
Readings:		California v. Ciraolo	
Duncan v. Louisiana		476 U.S. 207 (1986)	752
391 U.S. 145 (1968)	657	United States v. Ross	
Apodaca v. Oregon		456 U.S. 798 (1982)	754
406 U.S. 404 (1972)	659	Terry v. Ohio	
Ballew v. Georgia		392 U.S. 1 (1968)	756
435 U.S. 223 (1978)	661	Chimel v. California	
D. Fundamentals of a Fair Trial	663	395 U.S. 752 (1969)	758
Reading:		New Jersey v. T.L.O.	
Palko v. Connecticut		469 U.S. 325 (1985)	760
302 U.S. 319 (1937)	669	D. Electronic Eavesdropping	762
E. Self-Incrimination	671	Readings:	
F. Assistance of Counsel	675	Olmstead v. United States	
Readings:		277 U.S. 438 (1928)	767
Gideon v. Wainwright		Katz v. United States	
372 U.S. 335 (1963)	681	389 U.S. 347 (1967)	770
Escobedo v. Illinois		E. The Exclusionary Rule	772
378 U.S. 478 (1964)	683	Readings:	
Miranda v. Arizona		Weeks v. United States	
384 U.S. 436 (1966)	684	232 U.S. 383 (1914)	777
Dickerson v. United States		Mapp v. Ohio	
530 U.S. 428 (2000)	686	367 U.S. 643 (1961)	779
G. The Eighth Amendment	688	United States v. Leon	
Readings:		468 U.S. 897 (1984)	781
Investigation of the Ferguson		Conclusions	783
Police Department,		Notes And Questions	784
March 4, 2015	698	Selected Readings	784
Furman v. Georgia			
408 U.S. 238 (1972)	700	15 RACIAL DISCRIMINATION	787
Gregg v. Georgia		A. Slavery	787
428 U.S. 153 (1976)	703	Reading:	
Atkins v. Virginia		Dred Scott v. Sandford	
536 U.S. 304 (2002)	705	60 U.S. (19 How.) 393 (1857)	791
		B. Civil War Amendments	794

Readings:		Readings:	
Civil Rights Cases		Bradwell v. State	
109 U.S. 3 (1883)	798	83 U.S. 130 (1873)	866
Plessy v. Ferguson		Congress Responds to <i>Bradwell</i>	868
163 U.S. 537 (1896)	800	Equal Pay Act of 1963:	
C. School Desegregation	803	Congressional Debate	869
Readings:		Civil Rights Act of 1964:	
Government's Brief in <i>Brown</i>	811	Congressional Debate	870
Brown v. Board of Education		B. Contemporary Gender Issues	872
347 U.S. 483 (1954)	812	Readings:	
Bolling v. Sharpe		Frontiero v. Richardson	
347 U.S. 497 (1954)	815	411 U.S. 677 (1973)	881
Brown v. Board of Education		Craig v. Boren	
349 U.S. 294 (1955)	816	429 U.S. 190 (1976)	883
Cooper v. Aaron		Michael M. v. Sonoma County	
358 U.S. 1 (1958)	817	Superior Court	
Swann v. Charlotte-Mecklenburg		450 U.S. 464 (1981)	885
Bd. of Ed., 402 U.S. 1 (1971)	819	Personnel Administrator of Mass.	
Milliken v. Bradley		v. Feeney, 442 U.S. 256 (1979)	887
418 U.S. 717 (1974)	820	Johnson v. Transportation Agency	
Parents Involved in		480 U.S. 616 (1987)	889
Community Schools v.		Automobile Workers v.	
Seattle School District No. 1		Johnson Controls	
551 U.S. 701 (2007)	822	499 U.S. 187 (1991)	890
D. Desegregating Other Activities	826	Rostker v. Goldberg	
Readings:		453 U.S. 57 (1981)	892
Shelley v. Kraemer		Senate Debates Women in Combat	894
334 U.S. 1 (1948)	830	United States v. Virginia	
Congress Interprets the		518 U.S. 515 (1996)	895
Commerce Clause	831	C. Rights of Aliens	898
Heart of Atlanta Motel v. United States		Readings:	
379 U.S. 241 (1964)	832	Yick Wo v. Hopkins	
E. Employment and Affirmative Action	835	118 U.S. 356 (1886)	901
Readings:		Plyler v. Doe	
Regents of the University		457 U.S. 202 (1982)	902
of California v. Bakke		D. Rights of the Poor	905
438 U.S. 265 (1978)	845	Readings:	
Fullilove v. Klutznick		Shapiro v. Thompson	
448 U.S. 448 (1980)	847	394 U.S. 618 (1969)	908
Richmond v. Croson Co.		San Antonio School Dist. v.	
488 U.S. 469 (1989)	850	Rodriguez	
Adarand Constructors, Inc. v. Pena		411 U.S. 1 (1973)	910
515 U.S. 200 (1995)	851	E. Equal Protection for Gays and Lesbians	912
Gratz v. Bollinger		Readings:	
539 U.S. 244 (2003)	854	Romer v. Evans	
Grutter v. Bollinger		517 U.S. 620 (1996)	915
539 U.S. 306 (2003)	855	Attorney General Letter to Congress	
Conclusions	857	Regarding DOMA	918
Notes And Questions	857	United States v. Windsor	
Selected Readings	858	570 U.S. ____ (2013)	919
16 THE EXPANSION OF		Conclusions	922
EQUAL PROTECTION	861	Notes And Questions	923
A. The Struggle for Women's Rights	861	Selected Readings	923

17 RIGHTS OF PRIVACY	925	18 POLITICAL PARTICIPATION	989
A. Dimensions of Privacy	925	A. Presidential Elections	989
Readings:		Reading:	
Buck v. Bell		Bush v. Gore	
274 U.S. 200 (1927)	929	531 U.S. 98 (2000)	996
Stanley v. Georgia		B. Voting Rights	999
394 U.S. 557 (1969)	931	Readings:	
B. Use of Contraceptives	932	Smith v. Allwright	
Reading:		321 U.S. 649 (1944)	1008
Griswold v. Connecticut		Harper v. Virginia Board of Elections	
381 U.S. 479 (1965)	934	383 U.S. 663 (1966)	1010
C. Reproductive Freedom	936	South Carolina v. Katzenbach	
Readings:		383 U.S. 301 (1966)	1012
Roe v. Wade		Mobile v. Bolden	
410 U.S. 113 (1973)	946	446 U.S. 55 (1980)	1014
Hyde Amendment of 1976:		Congress Reverses <i>Mobile v. Bolden</i>	1016
Congressional Debate	948	Shelby County v. Holder	
Harris v. McRae		570 U.S. ____ (2013)	1017
448 U.S. 297 (1980)	950	C. Reapportionment	1019
Akron v. Akron Center for		Readings:	
Reproductive Health		Colegrove v. Green	
462 U.S. 416 (1983)	952	328 U.S. 549 (1946)	1030
Planned Parenthood v. Casey		Baker v. Carr	
505 U.S. 833 (1992)	954	369 U.S. 186 (1962)	1032
Stenberg v. Carhart		Wesberry v. Sanders	
530 U.S. 914 (2000)	956	376 U.S. 1 (1964)	1034
Gonzales v. Carhart		Reynolds v. Sims	
550 U.S. 124 (2007)	958	377 U.S. 533 (1964)	1036
D. The Right to Die	960	Shaw v. Reno	
Readings:		509 U.S. 630 (1993)	1038
Cruzan v. Director,		Miller v. Johnson	
Missouri Dept. of Health		515 U.S. 900 (1995)	1040
497 U.S. 261 (1990)	963	D. Campaign Financing	1042
Vacco v. Quill		Readings:	
521 U.S. 793 (1997)	965	Buckley v. Valeo	
E. Homosexuality and Privacy Rights	967	424 U.S. 1 (1976)	1054
Readings:		Citizens United v. FEC	
Bowers v. Hardwick		558 U.S. 310 (2010)	1056
478 U.S. 186 (1986)	972	Testimony by Lawrence Lessig	1059
Lawrence v. Texas		E. Lobbying	1061
539 U.S. 558 (2003)	974	Reading:	
Obergefell v. Hodges		Madison's Views on Factions	1063
576 U.S. ____ (2015)	976	Conclusions	1065
F. Defining the Limits of Privacy	980	Notes And Questions	1066
Readings:		Selected Readings	1066
Financial Privacy Act of 1978:		19 EFFORTS TO CURB THE COURT	1069
Congressional Debate	983	A. Constitutional Amendments	1070
The Right to Privacy:		B. Statutory Reversals	1072
The Bork Hearings	984	Reading:	
Conclusions	987	Statutory Reversal: Lilly Ledbetter	1074
Notes And Questions	987	C. Court Packing	1076
Selected Readings	988	Reading:	

FDR's Court-Packing Plan:		Conclusions	1102
Senate Report	1079	Notes and Questions	1102
D. Withdrawing Jurisdiction	1081	Selected Readings	1103
Readings:			
Jurisdiction-Stripping Proposals:		APPENDICES	
ABA Report	1086	Appendix 1	
Human Life Bill: Senate Hearings	1087	The Constitution of the United States	1105
Ex Parte McCardle		Appendix 2	
74 U.S. (7 Wall.) 506 (1869)	1089	Justices of the Supreme Court	
E. Noncompliance	1090	(1789–2016)	1119
Readings:		Appendix 3	
Sustaining Public Confidence	1092	Glossary of Legal Terms	1121
Prayers in Public Schools	1093	Appendix 4	
F. Constitutional Dialogues	1094	How to Research the Law	1127
Readings:		TABLE OF CASES	1133
Is the Supreme Court		INDEX	1175
the Constitution?	1098		
The “Finality” of Supreme Court			
Decisions: Senate Hearings	1099		