

LAW 558, CONSTITUTIONAL LAW (Fall 2018)

Mon., Wed. & Fri., 10:10–11:40, Rm. 101; [Prof. Johnstone](#), Rm. 312 (x6711)

Constitutional law constitutes the legal system and governs government. This course surveys the United States Constitution, who interprets it, and how. The course follows the text of the Constitution, beginning with popular sovereignty as expressed in the Preamble. Next the course examines the vesting and limitation of legislative powers in Article I, executive power in Article II, and judicial power in Article III, as well as the relationship of the federal government to the States. Then the course examines the Bill of Rights with a focus on the First Amendment's Religion and Speech Clauses. The course concludes by examining the Fourteenth Amendment's Due Process and Equal Protection Clauses.

Learning outcomes. Students taking this course will: identify constitutional issues, and analyze them with a practical understanding of separation of powers, federalism, freedom of speech, due process, and equal protection; compare the roles of courts, political actors, and the people in the development of constitutional doctrines over time; research and write a short brief applying a constitutional rule to a current legal issue; recognize principles of diversity and equal opportunity in constitutional doctrine; practice reflection through self-assessment.

Readings. In addition to the constitutional provision(s) at issue, the text is Choper, Fallon, Dorf & Schauer, *Leading Cases in Constitutional Law* (West 2018). The syllabus, also a course outline, lists assignments by day (including page count), "(Chapter.Section:Pages)" provides casebook readings, and an asterisk (*) denotes readings on Moodle. Boldface denotes leading cases. Each assignment includes questions to guide your reading.

Questions. Stop by my office any time my door is open or email for an appointment. Please post questions on Moodle rather than emailing so your colleagues can benefit from them. Email me before any absence (you need not provide an excuse).

No Laptops. To improve learning outcomes, laptop use is prohibited in class.

Assessment. Your grade has three components: *discussion* (10%), *brief* (30%), and *exam* (60%). Each component includes self-assessments. See the attached rubric for details.

Discussion measures constructive engagement in class discussion: two responses made on call, plus three volunteered responses in class or online to posted events. You may submit a self-assessment at midterm and end-of-term to receive a current discussion score.

Brief measures the research, analysis, and writing of two 750-word (maximum) briefs posted on Moodle (no attachments or footnotes): an opening brief arguing a single issue related to a day's topic (15%, posted within a week after the topic's day, limit two per day), and a response in opposition to a classmate's brief from a different section (15%, posted as a reply within two weeks of the topic's day, one response per opening brief); day selections are final. Please submit a self-assessment after the response brief is posted for each round of briefing.

Exam measures a three-hour, closed-book, multiple-essay exam. You may submit a self-assessment to receive your exam score and final grade.

Academic Honesty. All students must practice academic honesty. Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the University. All students need to be familiar with the [Student Conduct Code of the University of Montana](#). Law students should also be familiar with the Law School Honor Code.

Accommodation. Students with disabilities may request reasonable modifications by contacting me. The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and Disability Services for Students. "Reasonable" means the University permits no fundamental alterations of academic standards or retroactive modifications.

Course Rubric

Grades will be posted on Moodle according to the rubric below.

Excellent: Substantially exceeds standards.	Good: Fully satisfies course standards; normal.	Satisfactory: Substantially satisfies standards.	Poor: Partially satisfies course standards.	No Credit: Does not satisfy course standards.
<p>Discussion: 10 pts. (2 x 2 pts. on call; 3 x 2 pts. volunteer*)</p> <p><i>*Volunteer includes posted responses to relevant events during semester; contact me to nominate an event.</i></p>				
2. Insightful engagement. Well-prepared, engaged in materials, advances discussion.		1. Basic engagement. Makes basic effort to understand, respond to discussion.		0. Disengaged. Absent / disruptive.
<p>Opening & Response Brief: 2 x 15 pts. (5 pts. research, 5 pts. analysis, 5 pts. writing)</p>				
5. Deep research. Applies law to novel issue; concise background; cites on-point cases beyond leading cases, and secondary sources where appropriate.	4. Good research. Applies law to relevant court case on issue; covers key background; cites leading cases, including cases outside the readings.	3. Basic research. Applies law to relevant case; covers basic background; cites appropriate leading cases from the readings.	2. Poor research. Applies law to obvious case without apparent research; cites few other cases; apparently no significant outside research.	0-1. No research. Reiterates existing case; no original case citations; no indication of research beyond the readings.
5. Compelling analysis. Synthesizes law persuasively; headings caption each step; engages strongest arguments and counter-arguments.	4. Good analysis. Applies law accurately; clearly structured with headings; fully-supported claims; addresses strongest arguments in support of position.	3. Basic analysis. States law accurately; basically structured argument section; covers core argument but missing points.	2. Poor analysis. Misstates law; lacks structure or basic headings; misses core argument or makes irrelevant argument.	0-1. No analysis. Conclusory or adopts underlying case analysis without demonstrating comprehension of applicable law.
5. Lucid Writing. Winning introduction; structured to serve argument at document, section, and paragraph levels; clear, nearly flawless prose.	4. Good writing. Clear introduction, well-organized; proportionally structured to explain argument within word limits; minor errors, typos.	3. Basic writing. Basic introduction and organization; overemphasizes law or facts relative to length of brief; some errors.	2. Poor writing. Poorly organized throughout; wasting words on unnecessary background or citations; little or no revision; many errors.	0-1. Writing fail. Incomplete; lacking organization at every level; missing law, facts, or both; apparently not proofread.
<p>Exam: 3 questions x 20 pts. (multiple issues in each question; per issue)</p>				
Excellent: Argues both sides of issue.	Good: Applies law to issue's facts.	Satisfactory: States rule for issue.	Poor: Identifies issue; no rule.	No Credit: Misses issue; wrong issue.
<p>Self-Assessment (100 words): To receive your assessment, please self-assess after each opening brief and response (wait until the response is filed); discussion and exam optional.</p>				
<p>Email me a reflection on your performance for the relevant assignment. (Please include <u>Con18</u> in the subject.) Consider <i>whether</i> your performance met expectations, <i>what</i> choices you could have made differently, <i>why</i> you made the choices you did (for yourself, for others involved, and for social/institutional reasons), and <i>how</i> your thinking process changed as a result of the performance.</p>				

Syllabus

The syllabus is subject to change depending on course and legal developments.

THE PREAMBLE & THE SECOND AMENDMENT: INTRODUCTION	
<p>1. Mon 8/27 (9)</p>	<p>I. “We the People ... do ordain and establish this Constitution,” Preamble.</p> <p>A. Judicial Review and Democracy (1.1: pp 9-11)</p> <ol style="list-style-type: none"> 1. Supremacy & Oath Clauses (U.S. Const. Art. VI, cl. 2-3, App. B) 2. <i>Eakin v. Raub</i> (Pa. 1825) (Gibson, J., dissenting) 3. Jefferson, <i>Writings</i> (1804) 4. Jackson, Veto Message (1832) 5. Lincoln, Inaugural Address (1861) 6. <i>Cooper v. Aaron</i> (1958) <p>Q1.1: Who decides what the Constitution means?</p> <p>II. “[T]he right of the people to keep and bear Arms,” Amend. II.</p> <p>A. The Right to Keep and Bear Arms (6.3: pp 305-12)</p> <ol style="list-style-type: none"> 1. <i>District of Columbia v. Heller</i> (2008) <p>Q1.2: How do Justices legitimate their opinions with various arguments in <i>Heller</i>? (Look for arguments from <u>text</u>, <u>structure</u>, <u>history</u>, <u>precedent</u>, <u>policy</u>, and <u>principle</u>.)</p> <p>Q1.3: How do courts scrutinize laws infringing the Right to Keep and Bear Arms?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
ARTICLE I: NATIONAL LEGISLATIVE POWERS	
<p>2. Wed 8/29 (8)</p>	<p>I. “All legislative Powers herein granted,” Art. I, § 1.</p> <p>Q2.1: What does “herein granted” mean? (<i>Cf.</i> Art. II, § 1; Art. III, § 1.)</p> <p>Q2.2: Which powers are granted by Article I? (<i>See, e.g.</i>, Art. I, § 8.)</p> <p>II. “[A]ll Laws which shall be necessary and proper,” Art. I, § 8, cl. 18.</p> <p>A. Sources and Nature of Congressional Powers (2.1: pp 27-33)</p> <ol style="list-style-type: none"> 1. <i>McCulloch v. Maryland</i> (1819) 2. <i>United States v. Comstock</i> (2010) 3. <i>United States v. Kebodeaux</i> (2013) <p>B. Treaties as a Source of Legislative Power (2.4: 77-79)</p> <ol style="list-style-type: none"> 1. <i>Missouri v. Holland</i> (1920) 2. <i>Bond v. United States</i> (2014) <p>Q2.3: How far from the granted powers does Necessary and Proper extend?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>

<p>3. Fri 8/31 (14)</p>	<p>III. "To regulate Commerce ... among the several States," Art. I, § 8, cl. 3.</p> <p>A. Foundations of Commerce Regulation (2.2.I: pp 33-37)</p> <ol style="list-style-type: none"> 1. <i>Gibbons v. Ogden</i> (1824) 2. <i>Champion v. Ames (Lottery Case)</i> (1903) 3. <i>Houston, E & W Texas Ry. v. U.S. (Shreveport Rate Case)</i> (1914) <p>Q3.1: What does "to regulate" mean?</p> <p>B. Limitations on Commerce Power (2.2.II.A: pp 37-39)</p> <ol style="list-style-type: none"> 1. <i>Hammer v. Dagenhart</i> (1918) 2. <i>A.L.A. Schechter Poultry Corp. v. United States</i> (1935) 3. <i>Carter v. Carter Coal</i> (1936) <p>C. Expansion of Commerce Power (2.2.II.B: pp 39-44)</p> <ol style="list-style-type: none"> 1. <i>NLRB v. Jones & Laughlin Steel Corp.</i> (1937) 2. <i>United States v. Darby Lumber</i> (1941) 3. <i>United States v. Sullivan</i> (1948) 4. <i>Scarborough v. United States</i> (1977) 5. <i>Wickard v. Filburn</i> (1942) 6. <i>Maryland v. Wirtz</i> (1968) 7. <i>Perez v. United States</i> (1971) <p>Q3.2: What does "among the several States" mean?</p> <p>D. Commerce Regulation of Noncommercial Interests (2.2.III: pp 44-47)</p> <ol style="list-style-type: none"> 1. <i>Heart of Atlanta Motel, Inc. v. United States</i> (1964) 2. <i>Katzenbach v. McClung</i> (1964) 3. <i>Hodel v. Virginia Surface Mining and Reclamation Ass'n</i> (1981) <p>Q3.3: What does "Commerce" mean?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
<p>Mon 9/3</p>	<p style="text-align: center;">Labor Day</p>
<p>4. Wed 9/5 (20)</p>	<p>A. Renewed Limits on Commerce Regulation (2.2.IV: pp 47-67)</p> <ol style="list-style-type: none"> 1. <i>United States v. Morrison</i> (2000) 2. [<i>United States v. Lopez</i> (1995)] 3. <i>Gonzales v. Raich</i> (2005) 4. <i>Pierce County v. Guillen</i> (2003) 5. <i>NFIB v. Sebelius (The Health Care Cases)</i> (2012) <p>Q4.1: What <i>isn't</i> the regulation of commerce among the several states?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>

<p>5. Fri 9/7 (10)</p>	<p>IV. “To lay and collect Taxes,” Art. I, § 8, cl. 1. A. The Taxing Power (2.3.I: pp 67-70) 1. NFIB v. Sebelius (2012) Q5.1: What (or who) limits the power to tax? V. “To ... provide for the ... general Welfare,” Art. I, § 8, cl. 1. A. The “Spending” Power (2.3.II: pp 70-77) 1. South Dakota v. Dole (1987) 2. Sabri v. United States (2004) 3. NFIB v. Sebelius (The Health Care Cases) (2012) Q.5.2: What limits the power to spend for the general Welfare? Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>FEDERAL SUPREMACY & STATE RESERVED POWERS</p>	
<p>6. Mon 9/10 (17)</p>	<p>I. “The powers not delegated ... are reserved,” Amend. X. A. Federal Immunity from State Regulation (2.5: p 79) 1. McCulloch v. Maryland (1819) B. State Immunity from Federal Regulation (2.5: pp 79-84) 1. Maryland v. Wirtz (1968) 2. National League of Cities v. Usery (1976) 3. Garcia v. San Antonio Metro. Transit Auth. (1985) 4. South Carolina v. Baker (1988) 5. Gregory v. Ashcroft (1991) Q6.1: What are “the political safeguards of federalism”? C. Reserved Powers (2.5: pp 84-90) 1. Printz v. United States (1997) 2. [New York v. United States (1992)] 3. Reno v. Condon (2000) 4. Murphy v. National Collegiate Athletic Ass’n (2018) Q6.2: When can’t the federal government regulate the states? 5. *United States v. Lara (2004) Q6.3: What is the status of the Indian Tribes in our federalism? Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

<p>7. Wed 9/12 (15)</p>	<p>II. “[T]he supreme Law of the Land,” Art. VI, cl. 2.</p> <p>A. Federal Preemption (4.0: pp 135-37)</p> <ol style="list-style-type: none"> 1. Crosby v. National Foreign Trade Council (2000) 2. <i>Gibbons v. Ogden</i> (1824) <p>Q7.1: When is enacted federal law supreme over state laws?</p> <p>B. The “Dormant” Commerce Clause (4.2: pp 139-47, 149-53)</p> <ol style="list-style-type: none"> 1. Wyoming v. Oklahoma (1992) 2. Pike v. Bruce Church, Inc. (1970) 3. <i>Baldwin v. G.A.F. Seelig, Inc.</i> (1935) 4. <i>Dean Milk Co. v. Madison</i> (1951) 5. <i>Philadelphia v. New Jersey</i> (1978) 6. <i>Maine v. Taylor</i> (1986) 7. <i>Sporhase v. Nebraska</i> (1982) 8. <i>United Haulers v. Oneida-Herkhimer Mgmt. Auth.</i> (2007) <p>Q7.2: When is a “dormant” area of federal law still supreme over state laws?</p> <p>III. “... all Privileges and Immunities of Citizens in the several States.” Art. IV, § 2.</p> <p>A. Interstate Privileges & Immunities (4.4: pp 167 & 169 n. 16)</p> <ol style="list-style-type: none"> 1. [<i>Baldwin v. Montana Fish & Game Com’n</i> (1978)] <p>Q7.3: How do “Dormant” Commerce and Privileges and Immunities differ?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
<p>* Thu 9/13</p>	<p style="text-align: center;">Happy 231st Constitution Day (Observed)!</p> <p style="text-align: center;">Lecture: Prof. Michael Zuckert (Notre Dame)</p> <p style="text-align: center;">“Constitutionalism, Populism, and Popular Sovereignty”</p> <p style="text-align: center;">[Discussion credit available for attendance at and posted response]</p>
<p>ARTICLE II: THE EXECUTIVE POWER</p>	
<p>8. Fri 9/14 (13)</p>	<p>I. “The executive Power shall be vested in a President,” Art. II, § 1, cl. 1.</p> <p>A. Separation of Powers, Domestic & Foreign (3.1.I: pp 91-100)</p> <ol style="list-style-type: none"> 1. Youngstown S&T Co. v. Sawyer (Steel Seizure Case) (1952) 2. <i>Dames & Moore v. Regan</i> (1981) 3. <i>Medellin v. Texas</i> (2008) <p>Q8.1: What is the “executive Power”?</p> <p>II. “[President] shall have Power [with] the Senate, to make Treaties,” Art. II, § 2, cl.2.</p> <p>III. “[President] shall receive Ambassadors and other public Ministers,” Art. II, § 3.</p> <p>A. Foreign Affairs and War (3.1.II: pp 100-104)</p> <ol style="list-style-type: none"> 1. United States v. Curtiss-Wright Export Corp. (1936) 2. <i>Zivotofsky v. Kerry</i> (2015) <p>Q8.2: Whose power prevails when the President and Congress conflict?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>

<p>9. Mon 9/17 (17)</p>	<p>I. “The Congress shall have Power ... To declare War,” Art. I, § 8, cl. 11. II. “The President shall be Commander in Chief,” Art. II, § 2, cl. 1. Q.9.1: Who is responsible for war under the Constitution? III. “[T]he Writ of Habeas Corpus shall not be suspended ...” Art. I, § 9, cl. 2. A. War and Individual Rights (3.1.III: pp 104-12) 1. <i>Hamdi v. Rumsfeld</i> (2004) 2. <i>Rasul v. Bush</i> (2004) 3. <i>Hamdan v. Rumsfeld</i> (2006) 4. <i>Boumediene v. Bush</i> (2008) 5. <i>Trump v. Hawaii</i> (2018), majority & concurrences (8.2.1: 700-708) Q.9.2: What is the courts’ jurisdiction over war (and national security)? Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>10. Wed 9/19 (16)</p>	<p>VII. “[President] shall take Care that the Laws be faithfully executed,” Art. II, § 3. A. Delegation of Rulemaking Power (3.2.I: pp 112-114) 1. <i>Yakus v. United States</i> (1944) 2. <i>Whitman v. American Trucking Ass’ns, Inc.</i> (2001) 3. <i>United States v. Mead Corp.</i> (2001) 4. *<i>City of Arlington v. FCC</i> (2013) [4] 5. <i>[Chevron v. Natural Resources Defense Council (1984)]</i> Q10.1: How does Congress delegate rulemaking power to the Executive? IX. “[The President] ... shall appoint ... Officers,” Art. II, § 2. A. Appointment and Removal of Officers (3.2.III: pp 119-29) 1. <i>Myers v. United States</i> (1926) 2. <i>Humphrey’s Executor v. United States</i> (1935) 3. <i>Buckley v. Valeo</i> (1976) 4. <i>Bowsher v. Synar</i> (1986) 5. <i>Morrison v. Olson</i> (1988) 6. <i>Mistretta v. United States</i> (1989) 7. <i>Metro. Wash. Airports Auth. v. Citizens for Abatement</i> (1991) 8. <i>Free Enterprise Fund v. Public Co. Acct’ing Oversight Bd.</i> (2010) 9. <i>Nat’l Labor Relations Bd. v. Noel Canning</i> (2014) Q10.2: How does the President “take care that the Laws be faithfully executed”? Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>11. Fri 9/21 (10)</p>	<p>X. “The executive Power shall be vested in a President,” <i>revisited</i> Art. II, § 1, cl. 1. A. Executive Privilege and Immunity (3.3: pp 129-33) 1. <i>United States v. Nixon</i> (1974) 2. <i>Nixon v. Fitzgerald</i> (1982) 3. <i>Clinton v. Jones</i> (1997) 4. *Epps, <u>The Only Way to Find Out If the President Can Be Indicted</u> (6) Q11.1: How does the Constitution ensure the President follows the law? Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

ARTICLE III: THE JUDICIAL POWER	
<p>12. Mon 9/24 (18)</p>	<p>I. "The judicial Power ... shall be vested in one supreme Court," Art. III, § 1.</p> <p>A. Nature and Scope of Judicial Review (1.1: pp 1-9)</p> <p>1. Marbury v. Madison (1803)</p> <p>Q12.1: Why does "the judicial Power" authorize judicial review?</p> <p>B. Political Questions (1.2: pp 15-24)</p> <p>1. Nixon v. United States (1993)</p> <p>2. <i>Vieth v. Jubelirer</i> (2004)</p> <p>3. <i>Zivotofsky v. Clinton</i> (2012)</p> <p>Q12.2: When does the "judicial Power" not authorize judicial review?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
<p>13. Wed 9/26 (17)</p>	<p>II. "The judicial Power shall extend to all Cases," Art. III, § 2.</p> <p>A. Standing (12.1.I-II: pp 927-944)</p> <p>1. Allen v. Wright (1984)</p> <p>2. <i>Friends of the Earth v. Laidlaw Env. Servs., Inc.</i> (2000)</p> <p>3. <i>Heckler v. Mathews</i> (1984)</p> <p>4. <i>Clapper v. Amnesty International</i> (2013)</p> <p>5. <i>Regents of the University of California v. Bakke</i> (1978)</p> <p>6. <i>Los Angeles v. Lyons</i> (1983)</p> <p>7. Lujan v. Defenders of Wildlife (1992)</p> <p>8. <i>FEC v. Akins</i> (1998)</p> <p>9. <i>Spokeo, Inc. v. Robins</i> (2016)</p> <p>Q13.1: Who can bring a case invoking the "judicial Power"?</p> <p>B. Mootness (12.2.I: pp 915-18)</p> <p>1. DeFunis v. Odegaard (1974)</p> <p>2. <i>Friends of the Earth v. Laidlaw Env. Servs. (TOC), Inc.</i> (2000)</p> <p>Q13.2: When is it too late to bring a case invoking the "judicial Power"?</p> <p>C. Ripeness (12.2.II: pp 918)</p> <p>1. [Abbott Laboratories v. Gardner (1967)]</p> <p>Q13.3: When is it too early to bring a case invoking the "judicial Power"?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>

THE FIRST AMENDMENT: THE RELIGION CLAUSES	
<p>14. Fri 9/28 (17)</p>	<p>I. “[N]o law respecting an establishment of religion,” Amend. I, cl. 1.</p> <p>A. Aid to Religion (8.1.I-II: pp 661-69)</p> <ol style="list-style-type: none"> 1. <i>Everson v. Board of Education</i> (1947) 2. <i>Walz v. Tax Comm’n</i> (1970) 3. <i>Texas Monthly Inc. v. Bullock</i> (1989) 4. <i>Lemon v. Kurtzman</i> (1971) 5. <i>Mitchell v. Helms</i> (2000) 6. <i>Zelman v. Simmons-Harris</i> (2002) <p>Q14.1: What’s the Establishment Clause about?</p> <p>Q14.2: When can government provide financial or other aid to religion?</p> <p>B. Acknowledgement of Religion (8.IV: pp 678-87)</p> <ol style="list-style-type: none"> 1. <i>McCreary County v. ACLU</i> (2005) 2. <i>Van Orden v. Perry</i> (2005) 3. <i>Lee v. Weisman</i> (1992) 4. <i>Town of Greece v. Galloway</i> (2014) 5. <i>Elk Grove Unified School Dist. v. Newdow</i> (2004) 6. <i>Santa Fe Ind. School Dist. V. Doe</i> (2000) 7. <i>Capitol Square Review & Advisory Board v. Pinette</i> (1995) 8. <i>Salazar v. Buono</i> (2010) <p>Q14.3: When can government acknowledge religion?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
<p>15. Mon 10/1 (19)</p>	<p>II. “[N]o law ... prohibiting the free exercise [of religion],” Amend. I, cl. 1.</p> <p>A. The Free Exercise Clause (8.2.I: pp 687-99, 708-15)</p> <ol style="list-style-type: none"> 1. <i>Reynolds v. United States</i> (1878) 2. <i>West Virginia State Bd. of Educ. v. Barnette</i> (1943) <p>Q15.1: What’s the Free Exercise Clause about?</p> <ol style="list-style-type: none"> 3. <i>Sherbert v. Verner</i> (1963) 4. <i>Jimmy Swaggert Ministries v. Board of Equal.</i> (1990) 5. <i>United States v. Lee</i> (1982) 6. <i>Gillette v. United States</i> (1971) 7. <i>Johnson v. Robison</i> (1974) 8. <i>Bob Jones Univ. v. United States</i> (1983) 9. <i>Lyng v. Northwest Indian Cemetery Protective Ass’n</i> (1988) 10. <i>Employment Division v. Smith (Peyote Case)</i> (1990) 11. <i>Church of the Lukumi Babalu Aye, Inc. v. Hialeah</i> (1993) 12. <i>Locke v. Davey</i> (2004) 13. <i>Trinity Lutheran Church of Columbus, Inc. v. Comer</i> (2017) 14. <i>Hosanna-Tabor Evang. Church & School v. EEOC</i> (2012) 15. <i>Masterpiece Cakeshop, Ltd. V. Colorado Civil Rights Comm’n</i> (2018) 16. <i>Trump v. Hawaii</i> (2018), dissents (708-15) <p>Q15.2: Which laws prohibit the free exercise of religion?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>

THE FIRST AMENDMENT: THE FREEDOM OF SPEECH & THE PRESS	
<p>16. Wed 10/3 (17)</p>	<p>I. “[N]o law ... abridging the freedom of speech [or] press,” Amend. I, cl. 2.</p> <p>A. Introduction: Scope & Strength of the First Amendment (321)</p> <p>Q16.1: Why protect “the freedom of speech”?</p> <p>B. Dangerous Speech: Incitement & True Threats (7.1.I.D: pp 347-50)</p> <ol style="list-style-type: none"> 1. <i>Brandenburg v. Ohio (1969)</i> 2. <i>Hess v. Indiana (1973)</i> 3. <i>Holder v. Humanitarian Law Project (2010)</i> 4. <i>Virginia v. Black (2003)</i> (7.3.IV: p 507, <i>only intro. & first para.</i>) <p>Q16.2: When is incitement of illegal action sufficiently dangerous to prohibit?</p> <p>C. Prior Restraints (7.4.II: p. 514-26)</p> <ol style="list-style-type: none"> 1. <i>Lovell v. Griffin (1938)</i> 2. <i>Watchtower Bible & Tract Society v. Stratton (2002)</i> 3. <i>Near v. Minnesota (1931)</i> 4. <i>Walker v. Birmingham (1967)</i> 5. <i>New York Times Co. v. United States (1971)</i> 6. <i>United States v. Progressive, Inc. (W.D. Wis. 1979)</i> 7. <i>Snepp v. United States (1980)</i> <p>Q16.3: How can government prohibit sufficiently dangerous speech?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
<p>*. Fri 10/5</p>	<p>BROWNING SYMPOSIUM: FEDERAL INDIAN LAW</p> <p>Discussion credit for each panel or keynote attended with a response posted on Moodle (or a question asked at the presentation and posted on Moodle).</p>
<p>17. Mon 10/8 (13)</p>	<p>D. Defamatory Speech (Public Officials) (7.II.B: pp 351-52; pp 354-60)</p> <ol style="list-style-type: none"> 1. <i>New York Times Co. v. Sullivan (1964)</i> 2. <i>Curtis Pub. Co. v. Butts / Assoc. Press v. Walker (1967)</i> <p>Q17.1: How (Why) do courts protect false speech?</p> <p>E. Defamatory Speech (Private Individuals) (7.II.C: pp 360-72)</p> <ol style="list-style-type: none"> 1. <i>Gertz v. Robert Welch, Inc. (1974)</i> 2. <i>Time, Inc. v. Firestone (1976)</i> 3. <i>Hustler Magazine v. Falwell (1988)</i> 4. <i>Snyder v. Phelps (2011)</i> <p>Q17.2: Which persons are subject to a higher standard of liability for speech?</p> <p>Q17.2: Which issues are subject to a higher standard of liability for speech?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>

<p>18. Wed 10/10 (13)</p>	<p>A. Offensive Speech (7.1.V: pp 406-10) 1. <i>Cohen v. California</i> (1971) Q18.1: Why do courts protect “low value” speech? B. Harmful Speech (and Overbreadth) (7.VI.B-D: pp 418-27) 1. <i>American Booksellers Ass’n v. Hudnut</i> (7th Cir. 1985) 2. <i>Collin v. Smith</i> (7th Cir. 1978) Q18.2: What categories of speech are outside the “freedom of speech”? 3. <i>United States v. Stevens</i> (2010) 4. <i>Snyder v. Phelps</i> (2011) Q18.3: How do courts scrutinize laws that “abridge the freedom of speech”?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>19. Fri 10/12 (21)</p>	<p>A. Expressive Conduct & Manner Regulation (7.2: pp 438-59) 1. <i>United States v. O’Brien</i> (1968) 2. <i>Texas v. Johnson</i> (1989) 3. <i>United States v. Eichman</i> (1990) Q19.1: What kinds of expression count as “speech”? 4. <i>Clark v. Community for Creative Non-Violence</i> (1984) 5. <i>Masterpiece Cakeshop, Ltd. V. Colorado Civil Rights Comm’n</i> (2018) Q19.2: How do courts scrutinize content-neutral (non-“abridging”) laws?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>20. Mon 10/15 (18)</p>	<p>I. The Public Forum (7.6.I-II: pp 545-49, 557-61) 1. <i>Hague v. CIO</i> (1939) 2. <i>Schneider v. Irvington</i> (1939) 3. <i>Cox v. New Hampshire</i> (1941) 4. <i>Heffron v. Int’l Society for Krishna Consciousness</i> (1981) 5. <i>Ward v. Rock Against Racism</i> (1989) 6. <i>Chicago Police Dept. v. Mosley</i> (1972) Q20.1: Where is “the freedom of speech” traditionally at its greatest? 7. <i>Lehman v. Shaker Heights</i> (1974) 8. <i>Burson v. Freeman</i> (1992) 9. <i>Minnesota Voters Alliance v. Mansky</i> (2018) 10. <i>Packingham v. North Carolina</i> (2017) 11. <i>Reed v. Town of Gilbert, Arizona</i> (2015) (pp 570-80) Q20.2: What is the difference between a “public forum” and “nonpublic forum”?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

<p>21. Wed 10/17 (16)</p>	<p>J. Government Speech (7.7: pp 580-96)</p> <ol style="list-style-type: none"> 1. <i>Pleasant Grove City v. Summum</i> (2009) 2. <i>Rust v. Sullivan</i> (1991) 3. <i>National Institute of Family & Life Advocates v. Becerra</i> (2018) 4. <i>Rosenburger v. University of Virginia</i> (1995) <p>Q21.1: How do courts scrutinize government speech?</p> <ol style="list-style-type: none"> 5. <i>Walker v. Texas Div., Sons of Confederate Veterans</i> (2015) <p>Q21.2: How do courts scrutinize speech in a nonpublic forum? (Review)</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>22. Fri 10/19 (16)</p>	<p>K. The Right Not to Speak (7.9.I: pp 622-32)</p> <ol style="list-style-type: none"> 1. <i>West Virginia State Bd. of Educ. v. Barnette</i> (1943) 2. <i>Wooley v. Maynard</i> (1977) 3. <i>Rumsfeld v. Forum for Academic and Inst. Rights, Inc.</i> (2006) 4. <i>Hurley v. Irish-American Gay, Lesbian & Bisexual Group</i> (1995) 5. <i>NAACP v. Claiborne Hardware Co.</i> (1982) 6. <i>Knox v. Service Employees Int’l Union</i> (2012) 7. <i>Harris v. Quinn</i> (2014) 8. <i>Johanns v. Livestock Marketing Ass’n</i> (2005) 9. <i>McIntyre v. Ohio Elections Comm’n</i> (1995) 10. <i>Brown v. Socialist Workers</i> (1982) <p>Q22.1: When does a law impermissibly compel individual speech?</p> <p>L. Expressive Association (7.9.II: pp 632-638)</p> <ol style="list-style-type: none"> 1. <i>Roberts v. United States Jaycees</i> (1984) 2. <i>Boy Scouts of America v. Dale</i> (2000) 3. <i>Christian Legal Society v. Martinez</i> (2010) <p>Q22.2: When does a law impermissibly abridge associational speech?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>23. Mon 10/22 (15)</p>	<p>M. Commercial Speech (7.3.II: pp 473-488)</p> <ol style="list-style-type: none"> 1. <i>Virginia Board of Pharmacy v. Citizens Consumer Council</i> (1976) <p>Q23.1: What makes speech “commercial” for freedom of speech?</p> <ol style="list-style-type: none"> 2. <i>Ohralik v. Ohio State Bar Ass’n</i> (1978) 3. <i>In re Primus</i> (1978) 4. <i>Edenfield v. Fane</i> (1993) / <i>Florida Bar v. Went For It</i> (1995) 5. <i>Martin v. Struthers</i> (1943) <p>Q23.2: Why is commercial speech less protected than non-commercial speech?</p> <ol style="list-style-type: none"> 6. <i>Central Hudson Gas & Elec. Corp. v. Pub. Svc. Cmm’n</i> (1980) 7. <i>Lorillard Tobacco Co. v. Reilly</i> (2001) 8. <i>Expressions Hair Design v. Schneiderman</i> (2017) <p>Q23.3 How do courts scrutinize laws regulating commercial speech?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

<p>24. Wed 10/24 (20)</p>	<p>N. Campaign Speech and Political Equality (7.10: 638-58)</p> <p>1. <i>Buckley v. Valeo</i> (1976)</p> <p>Q24.1: Why is campaign spending protected by the “freedom of speech”?</p> <p>2. <i>Randall v. Sorrell</i> (2006)</p> <p>3. <i>McCutcheon v. FEC</i> (2014)</p> <p>Q24.2: How do courts scrutinize laws regulating campaign spending?</p> <p>4. <i>Citizens United v. FEC</i> (2010)</p> <p>Q24.3: How can laws regulate campaign spending?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
<p>* TBD</p>	<p>OPTIONAL MID-TERM REVIEW AND PRACTICE EXAM</p>

THE FIFTH AMENDMENT: DUE PROCESS & TAKINGS	
<p>25. Fri 10/26 (14)</p>	<p>I. "... [D]eprived of life, liberty, or property, without due process of law;" Amend. V. A. *'Procedural' Due Process (Moodle Excerpts 6.I.1-4)</p> <ol style="list-style-type: none"> 1. <i>Goldberg v. Kelly</i> (1970) 2. <i>Bell v. Burson</i> (1971) 3. <i>Board of Regents v. Roth</i> (1972) 4. <i>Castle Rock v. Gonzales</i> (2005) 5. <i>DeShaney v. Winnebago Co. Dep't of Social Serv.</i> (1989) (10.6: 881-82) <p>Q25.1: What kind of liberty or property deprivation (by whom) needs due process? 6. <i>Mathews v. Eldridge</i> (1976)</p> <p>Q25.2: How much process is due before (or after) the deprivation? 7. <i>Caperton v. Massey Coal Co.</i> (2009)</p> <p>Q25.3: When can the probability of biased decision making violate due process?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>26. Mon 10/29 (10)</p>	<p>I. "[N]or shall private property be taken for public use ..." Amend. V. A. Takings (5.4a: pp 197-203)</p> <ol style="list-style-type: none"> 1. <i>Penn. Central Transp. Co. v. New York City</i> (1978) 2. <i>Horne v. Dep't of Agriculture</i> (2015) 3. <i>Lucas v. South Carolina Coastal Council</i> (1992) 4. <i>Stop the Beach Renourishment v. Florida Dept. Env. Protect.</i> (2010) 5. <i>Murr v. Wisconsin</i> (2017) 6. <i>Eastern Enterprises v. Apfel</i> (1998) <p>Q26.1: What is a taking of private property? 7. <i>Kelo v. New London</i> (2005)</p> <p>Q26.2: What is a public use?</p> <p>II. "No State shall pass any Law impairing the Obligation of Contracts" Art. I, § 10. A. Impairment of Contracts (5.4b: pp 204-206)</p> <ol style="list-style-type: none"> 1. <i>Proprietors of Charles River Bridge</i> (1837) (5.1.II: 176) 2. <i>Home Building & Loan Ass'n v. Blaisdell</i> (1934) 3. <i>United States Trust Co. v. New Jersey</i> (1977) 4. <i>Allied Structural Steel v. Spannaus</i> (1978) 5. <i>Energy Resources Group v. Kansas Power & Light Co.</i> (1983) 6. <i>Exxon Corp. v. Eagerton</i> (1983) <p>Q26.3: What kind of laws impair the obligation of contracts?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

THE FOURTEENTH AMENDMENT: DUE PROCESS & LIBERTY	
<p>27. Wed 10/31 (20)</p>	<p>I. “[O]ther[] [rights] retained by the people,” Amend. IX. A. Unenumerated Rights (5.1.I-II: pp 173-77) 1. <i>Calder v. Bull</i> (1798) 2. <i>Barron v. Mayor and City Council of Baltimore</i> (1833) 3. [<i>Fletcher v. Peck</i> (1810)] 4. <i>Dred Scott v. Sandford</i> (1857) (also 734-39) Q27.1: How do we know which unenumerated constitutional rights we have?</p> <p>II. “No State shall ...,” Amend. XIV, § 1. A. Incorporation of Rights Against the States (5.1.III: 176-83) 1. <i>Slaughter-House Cases</i> (1873) 2. <i>McDonald v. City of Chicago</i> (2010) (6.1.III: p 211) 3. *<i>Santa Clara Pueblo v. Martinez</i> (1978) (3) Q27.2: Why does most of the Bill of Rights apply to the States (not Tribes)?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>28. Fri 11/2 (18)</p>	<p>I. “No State shall ...,” cont. Amend. XIV, § 1. A. The Concept of State Action (10.1: pp 863-65) 1. <i>Civil Rights Cases</i> (1883) Q27.1: Why does the Constitution apply only to the States (not private parties)?</p> <p>II. “Congress shall have the power to enforce,” Amends. XIII, XIV, & XV. A. Congressional Enforcement Powers (11.2: pp 910-26) 1. <i>South Carolina v. Katzenbach</i> (1966) 2. <i>Katzenbach v. Morgan</i> (1966) 3. <i>Boerne v. Flores</i> (1997) Q27.2: When may Congress recognize constitutional rights the Court does not? 4. <i>Shelby County v. Holder</i> (2013) 5. <i>Rome v. United States</i> (1980) 6. <i>United States v. Morrison</i> (2000) Q27.3: Who decides what the Constitution means? (Again.)</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

<p>29. *Fri 11/2 (12)</p>	<p style="text-align: center;">[MAKEUP CLASS, 2:30 – 3:50]</p> <p>III. “No State shall ... deprive any person of ... <i>liberty</i>,” Amend. XIV, § 1.</p> <p>A. Economic Liberty (5.2: pp 183-89)</p> <ol style="list-style-type: none"> 1. <i>Munn v. Illinois</i> (1876) / <i>Mugler v. Kansas</i> (1887) 2. <i>Allgeyer v. Louisiana</i> (1897) 3. <i>Lochner v. New York</i> (1905) 4. <i>Muller v. Oregon</i> (1908) 5. <i>Adair v. United States</i> (1908) 6. <i>Coppage v. Kansas</i> (1915) 7. <i>Epic Systems Corp. v. Lewis</i> (2018) 8. <i>Adkins v. Children's Hospital</i> (1923) <p>Q28.1: What does economic liberty have to do with the Fourteenth Amendment?</p> <p>B. Transition to a Double Standard of Scrutiny (5.3: pp 190-95)</p> <ol style="list-style-type: none"> 1. <i>Nebbia v. New York</i> (1934) 2. <i>West Coast Hotel Co. v. Parrish</i> (1937) 3. <i>United States v. Carolene Products Co.</i> (1938) 4. <i>Olsen v. Nebraska</i> (1941) 5. <i>Lincoln Federal Labor Union v. Northwestern Iron & Metal</i> (1949) 6. <i>Williamson v. Lee Optical</i> (1944) 7. <i>Ferguson v. Skrupa</i> (1963) <p>Q28.2: Why not scrutinize economic liberty anymore?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>30. Mon 11/5 (17)</p>	<p>C. Family Liberty (6.2a: pp 216-33)</p> <ol style="list-style-type: none"> 1. [<i>Meyer v. Nebraska</i> (1923)] / [<i>Pierce v. Society of Sisters</i> (1925)] 2. <i>Skinner v. Oklahoma</i> (1942) / [<i>Buck v. Bell</i> (1927)] <p>Q29.1: What does family liberty have to do with the Fourteenth Amendment?</p> <ol style="list-style-type: none"> 3. <i>Griswold v. Connecticut</i> (1965) 4. <i>Poe v. Ullman</i> (1961) (Harlan, J., dissenting) 5. <i>Eisenstadt v. Baird</i> (1972) <p>Q29.2: What particular rights follow from a general commitment to family liberty?</p> <ol style="list-style-type: none"> 6. <i>Roe v. Wade</i> (1973) 7. <i>Doe v. Bolton</i> (1973) <p>Q29.3: How does the right to abortion follow from the family liberty cases?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>31. Wed 11/7 (25)</p>	<p>B. Reproductive Liberty (continued) (6.2b: pp 235-260)</p> <ol style="list-style-type: none"> 1. <i>Planned Parenthood v. Casey</i> (1992) 2. <i>Whole Woman’s Health v. Hellerstedt</i> (2016) <p>Q30.1: What kind of scrutiny is the undue burden analysis of the right to abortion?</p> <p>Q30.2: (How) Does precedent bind the Court to decide <i>Casey</i>, given <i>Roe</i>?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

<p>32. Fri 11/9 (23)</p>	<p>C. Personal Liberty (6.2c: pp 266-77, 281-93) 1. Washington v. Glucksberg (1997) Q31.1: How do we know whether a particular right is a liberty interest? Q31.2: Is <i>Glucksberg</i> consistent with <i>Casey's</i> definition of a liberty interest? 2. Lawrence v. Texas (2003) Q31.3: Is <i>Lawrence</i> consistent with <i>Gluckberg's</i> definition of a liberty interest? Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>Mon 11/12</p>	<p style="text-align: center;">Veterans Day</p>
<p>33. Wed 11/14 (23)</p>	<p>D. Sexual Orientation: Liberty, Equality, and Democracy (9.4.I: pp 816-26) 1. <i>Romer v. Evans</i> (1996) 2. <i>Lawrence v. Texas</i> (2003) 3. <i>United States v. Windsor</i> (2013) (and 6.2: p 266) 4. Obergefell v. Hodges (2015) (and 6.2: pp 266, 293-305) Q32.1: Are the gay rights cases primarily about liberty or equality? Q32.2: What other liberty interests / classifications might the Court recognize? Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p style="text-align: center;">THE FOURTEENTH AMENDMENT: EQUAL PROTECTION</p>	
<p>34. Fri 11/16 (18)</p>	<p>I. "[T]he equal protection of the laws," Amend. XIV, § 1, cl. 3. A. Race and Ethnic Ancestry (9.2.II: pp 725, 739-55) 1. <i>Strauder v. West Virginia</i> (1880) Q33.1: What is the Equal Protection Clause about? 2. <i>Plessy v. Ferguson</i> (1896) 3. <i>Korematsu v. United States</i> (1944) 4. Brown v. Board of Education (I) (1954) 5. <i>Bolling v. Sharpe</i> (1954) 6. <i>Brown v. Board of Education (II)</i> (1955) 7. <i>Loving v. Virginia</i> (1967) (and 6.2: p 263) 8. <i>Palmore v. Sidoti</i> (1984) 9. <i>Johnson v. California</i> (2005) 10. <i>Cooper v. Aaron</i> (1958) (and Note 1) Q33.2: How do courts scrutinize race-based classifications? Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

<p>35. Mon 11/19 (13)</p>	<p>B. Discriminatory Purpose vs. Discriminatory Effect (9.2.IV: pp 767-76)</p> <ol style="list-style-type: none"> 1. <i>Yick Wo v. Hopkins</i> (1886) 2. <i>Washington v. Davis</i> (1976) 3. <i>Memphis v. Greene</i> (1981) 4. <i>Personnel Administrator v. Feeney</i> (1979) 5. <i>United States v. Armstrong</i> (1996) 6. <i>Mobile v. Bolden</i> (1980) (9.5.D: pp 852-56, & note on Voting Rights Act) <p>Q34.1: What is the difference between a discriminatory purpose and effect?? Q34.2: Why isn't discriminatory effect unconstitutional? Q34.3: Is discriminatory purpose a matter of law or a matter of proof?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>
<p>Wed 11/21 & Fri 11/23</p>	<p style="text-align: center;">[Thanksgiving Break]</p>
<p>36. Mon 11/26 (16)</p>	<p>C. Affirmative Action (9.2.V: pp 776-80, 788-96)</p> <ol style="list-style-type: none"> 1. <i>Regents of Univ. of California v. Bakke</i> (1978) 2. <i>Wygant v. Jackson Bd. of Ed.</i> (1986) / <i>Richmond v. J.A. Croson</i> (1989) 3. <i>Fisher v. University of Texas</i> (2016) 4. <i>Adarand Contractors, Inc. v. Pena</i> (1995) 5. *<i>Morton v. Mancari</i> (1974) <p>Q35.1: What is the difference between "benign" and "invidious" discrimination? Q35.2: Why is "benign" discrimination suspect? Q35.3: What is the status of American Indians under the Equal Protection Clause?</p> <p>Opening 1: _____ Response 1: _____ Opening 2: _____ Response 2: _____</p>

<p>37. Wed 11/28 (20)</p>	<p>A. Discrimination Based on Gender (9.3.I: pp 796-809)</p> <ol style="list-style-type: none"> 1. <i>Reed v. Reed</i> (1971) 2. <i>Frontiero v. Richardson</i> (1973) 3. <i>Craig v. Boren</i> (1976) 4. <i>United States v. Virginia</i> (1996) <p>Q36.1: How is gender like and unlike race under the Equal Protection Clause?</p> <p>Q36.2: How do courts scrutinize gender-based classifications?</p> <p>B. Gender Differences- Real and Imagined (9.3.II: pp 809-812)</p> <ol style="list-style-type: none"> 1. <i>Geduldig v. Aiello</i> (1974) 2. <i>Nguyen v. INS</i> (2001) 3. <i>Sessions v. Morales-Santana</i> (2017) <p>C. “Benign” or “Remedial” Discrimination (9.3.III: pp 812-816)</p> <ol style="list-style-type: none"> 1. <i>Califano v. Webster</i> (1977) 2. <i>Orr v. Orr</i> (1979) 3. <i>Mississippi Univ. for Women v. Hogan</i> (1982) <p>Q36.3: When do gender differences justify gender-based classifications?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
<p>38. Fri 11/30 (14)</p>	<p>D. Regulatory & Other Classifications (9.1: pp 725-34)</p> <ol style="list-style-type: none"> 1. <i>Railway Express Agency v. New York</i> (1949) 2. <i>New Orleans v. Dukes</i> (1976) 3. <i>New York City Transit Auth. v. Beazer</i> (1979) 4. <i>Department of Agriculture v. Moreno</i> (1973) <p>Q37.1: How do courts scrutinize other classifications?</p> <p>Q37.2: What reasons for other classifications fail Equal Protection scrutiny?</p> <p>E. Alienage Classifications, State and Federal (9.4.II: pp 826-31)</p> <ol style="list-style-type: none"> 1. <i>Graham v. Richardson</i> (1971) 2. <i>Sugarman v. Dougall</i> (1973) 3. <i>Ambach v. Norwick</i> (1979) 4. <i>Plyler v. Doe</i> (1982) 5. <i>Mathews v. Diaz</i> (1976) 6. <i>Toll v. Moreno</i> (1982) 7. <i>Arizona v. United States</i> (2012) <p>Q37.3: When can the state or federal government discriminate based on alienage?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>

<p>39. Mon 12/3 (15)</p>	<p>F. Political Equality (9.5.I.A-C: pp 831-42; D: 842 (intro)l E: 868-72)</p> <p>1. <i>Harper v. Virginia State Bd. of Elec.</i> (1966)</p> <p>Q38.1: What do fundamental rights have to do with Equal Protection?</p> <p>Q38.2: How is the right to vote a fundamental right?</p> <p>2. <i>Kramer v. Union Free School District</i> (1969)</p> <p>3. <i>Crawford v. Marion County Elec. Bd.</i> (2008)</p> <p>4. <i>Reynolds v. Sims</i> (1964)</p> <p>5. <i>Bush v. Gore</i> (2000)</p> <p>Q38.3: How do courts scrutinize laws that deny or dilute the “right to vote”?</p> <p>Opening 1: _____ Response 1: _____</p> <p>Opening 2: _____ Response 2: _____</p>
<p>*</p> <p>12/4</p>	<p style="text-align: center;">FALL 2018 LAWLAPALOOZA</p> <p>Discussion credit for each student AWR presentation attended with a response posted on Moodle (or a question asked at the presentation and posted on Moodle).</p>