

**Econ 451 Constitution and the Economy
Fall 2008**

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. . . . a Constitution is not intended to embody a particular economic theory, whether of paternalism
and the organic relation of the citizen to the state or of laissez faire.

Justice Holmes, Lochner v. New York (1905)

Textbook & Readings

1. The Constitution of the United States of America

2. Most of the readings will be Supreme Court opinions and these can be freely obtained online at FindLaw.
<http://www.findlaw.com/casecode/supreme.html>

Course Grade

Your course grade will be determined by: (1) seminar discussions (150 points total), (2) 3 written case summaries which are also presented to the seminar (100 points each, 300 points total), and (3) a take home final (450 points). The take home final is attached. It is due December 16.

Most weeks our class time will be spent discussing 3 Supreme Court opinions. Your participation in seminar discussions will be graded in terms of both quantity and quality. I will explain the way in which your participation will be graded during the second meeting of the semester. Our weekly discussion of the opinions will begin with a presentation by the student assigned (or volunteered) to provide a summary of the Court's opinion. I will provide an illustration of what is expected in a case summary for the opinion *Jacobson v. Commonwealth of Massachusetts, 197 U.S. 11 (1905)*. Your written summaries will be graded, but your presentation and discussion of your 3 summaries will not be graded. Each summary will have 5 sections: a summary of the case, a summary of the Court's opinion, your conclusion about whether the case was correctly or incorrectly decided, your analysis of how the case would be decided for a corrective state constitution, and your analysis of how the case would be decided for a protective state constitution. You may also add a final section which offers a quotation from the opinion you find particularly interesting.

Schedule

August 26

Introduction & Other Preliminaries

September 2

Labor Day Holiday NO CLASS

September 9

Jacobson v. Commonwealth of Massachusetts, 197 U.S. 11 (1905)

You will submit 3 essays for this final exam. The questions are weighted equally. This exam is due December 16. Please submit your exam as an email attachment sent to prfeubanks@aol.com. It should be sent in one of the following formats: Word, Word Perfect, or Adobe Acrobat.

Answer the Following Question

1. How is the concept of “police power” important in Supreme Court opinions? Evaluate the Court’s use of the concept of “police power.”

Answer 1 of the Following Questions

2. Is the Constitution and its interpretation by the Supreme Court consistent with the role of government as the protective state?

3. Is the Constitution and its interpretation by the Supreme Court consistent with the role of government as the corrective state?

Answer 1 of the Following Questions

4. Let’s think about amending the Constitution by removing the expressed powers found in Article I, Section 8 and replacing them with the following:

“Congress shall have the power to tax and spend as necessary and proper for purposes that promote the general welfare. Every bill shall be passed by at least two-thirds majority vote in both houses of Congress.”

What do you think? What do you see as the pros and cons of this proposed amendment? How do you think it would change our system of political economy? How would this amendment be related to the corrective state? How would this amendment be related to the protective state? Would you support this amendment or a variation of it?

5. In *Power and Prosperity* Mancur Olson explains that there are two necessary conditions for economic prosperity: (1) secure and precisely delineated rights to private property, including the right to impartial enforcement of contracts, and (2) the absence of predation of any kind (which includes rent seeking). Identify four Court opinions studied in this course that either most damaged, or most enhanced, these conditions for economic prosperity in our system of political economy. On your reading of the Constitution, would you say that these four opinions were correctly decided?

6. At times the Supreme Court has seemed to interpret the Constitution to minimize rent seeking, while at other times the Court seems to allow, if not encourage, rent seeking. Identify two Court opinions that reduced or interrupted rent seeking, and also two opinions that enhanced or encouraged rent seeking in our system of political economy. On your reading of the Constitution, would you say that each of these four opinions was correctly decided? What might be done to reduce rent seeking in our system of political economy?

7. Based upon the opinions studied in the course, evaluate the Court’s interpretation of the Takings Clause.

Schedule & Readings

August 26

Introduction & Other Preliminaries

September 2

Labor Day Holiday NO CLASS

September 9

Jacobson v. Commonwealth of Massachusetts, 197 U.S. 11 (1905)

September 16

Slaughterhouse Cases, 83 U.S. 36 (1873)

Mugler v. Kansas, 123 U.S. 623 (1887)

US v E.C. Knight, 156 U.S. 1 (1895)

September 23

Allgeyer v. Louisiana, 165 U.S. 578 (1897)

Holden v. Hardy, 169 U.S. 366 (1898)

McCray v US, 195 U.S. 27 (1904)

September 30

Swift & Co v. US, 196 U.S. 375 (1905)

Lochner v New York, 198 U.S. 45 (1905)

Muller v. Oregon, 208 U.S. 412 (1908)

October 7

Buchanan v. Warley, 245 U.S. 60 (1917)

Hammer v. Dagenhart, 247 U.S. 251 (1918)

Pennsylvania Coal v. Mahon, 260 U.S. 393 (1922)

October 14

Adkins v. Children's Hospital, 261 U.S. 525 (1923)

Euclid v. Ambler Realty, 272 U.S. 365 (1926)

New State Ice v. Liebmann, 285 U.S. 262 (1932)

October 21

Nebbia v. New York, 291 U.S. 502 (1934)

Home Building & Loan v. Blaisdell, 290 U.S. 398 (1934)

Schechter Poultry v. US, 295 U.S. 495 (1935)

US v. Butler, 297 U.S. 1 (1936)

October 28

West Coast Hotel v. Parrish, 300 U.S. 379 (1937)

Helvering v Davis, 301 U.S. 619 (1937)

US v. Carolene Products, 304 U.S. 144 (1938)

November 4

Mulford v. Smith, 307 U.S. 38 (1939)

US v. Darby, 312 U.S. 100 (1941)

Wickard v. Filburn, 317 U.S. 111 (1942)

Berman v. Parker, 348 U.S. 26 (1954)

November 11

Williamson v. Lee Optical, 348 U.S. 483 (1955)
City of New Orleans v. Dukes, 427 U.S. 297 (1976)
Hunt v. Washington Apple, 432 U.S. 333 (1977)
Penn Central Trans. v. New York, 438 U.S. 104 (1978)

November 18

Hawaii Housing Auth v Midkiff, 467 U.S. 229 (1984)
Keystone Bit. Coal v. DeBenedictis, 480 U.S. 470 (1987)
Nollan v. Calif Coastal Comm, 483 U.S. 825 (1987)

November 25

Lucas v. South Carolina Coastal , 505 U.S. 1003 (1992)
US v. Lopez, 514 U.S. 549 (1995)
Whitman v. American Trucking, 531 U.S. 457 (2001)

December 2

Tahoe-Sierra Preservation Council v Tahoe Regional Planning Agency, 535 U.S. 302 (2002)
Lawrence v. Texas, 539 U.S. 558 (2003)
Granholm v. Heald, 544 U.S. 460 (2005)

December 9

Kelo v. New London, 545 U.S. 469 (2005)
Gonzalez v. Raich, 545 U.S. 1 (2005)

December 16

Take Home Final Due

September 16		
1. Slaughterhouse Cases, 83 U.S. 36 (1873)	Austin	Annette
2. Mugler v. Kansas, 123 U.S. 623 (1887)	Blake	
3. US v E.C. Knight, 156 U.S. 1 (1895)	Brenda	
September 23		
4. Allgeyer v. Louisiana, 165 U.S. 578 (1897)	Danielle	
5. Holden v. Hardy, 169 U.S. 366 (1898)	Jaeson	
6. McCray v US, 195 U.S. 27 (1904)	Robbie	Alex
September 30		
7. Swift & Co v. US, 196 U.S. 375 (1905)	Brendon	
8. Lochner v New York, 198 U.S. 45 (1905)	Adam	Peter
9. Muller v. Oregon, 208 U.S. 412 (1908)	Brandon	
October 7		
10. Buchanan v. Warley, 245 U.S. 60 (1917)	Michelle	
11. Hammer v. Dagenhart, 247 U.S. 251 (1918)	Alan	
12. Pennsylvania Coal v. Mahon, 260 U.S. 393 (1922)	Luke	Tim
October 14		
13. Adkins v. Children's Hospital, 261 U.S. 525 (1923)	Nicole	Chris
14. Euclid v. Ambler Realty, 272 U.S. 365 (1926)	Jaeson	
15. State Ice v. Liebmann, 285 U.S. 262 (1932)	Austin	
October 21		
16. Nebbia v. New York, 291 U.S. 502 (1934)	Alan	Danielle
17. Home Building & Loan v. Blaisdell, 290 U.S. 398 (1934)	Blake	
18. Schechter Poultry v. US, 295 U.S. 495 (1935)	Brandon	

19. US v. Butler, 297 U.S. 1 (1936)	Nicole	
October 28		
20. West Coast Hotel v. Parrish, 300 U.S. 379 (1937)	Tim	Robbie
21. Helvering v Davis, 301 U.S. 619 (1937)	Michelle	
22. US v. Carolene Products, 304 U.S. 144 (1938)	Brenda	
November 4		
23. Mulford v. Smith, 307 U.S. 38 (1939)	Brendon	
24. US v. Darby, 312 U.S. 100 (1941)	Peter	
25. Wickard v. Filburn, 317 U.S. 111 (1942)	Annette	Adam
26. Berman v. Parker, 348 U.S. 26 (1954)	Luke	
November 11		
27. Williamson v. Lee Optical, 348 U.S. 483 (1955)	Chris	
28. City of New Orleans v. Dukes, 427 U.S. 297 (1976)	Alex	
29. Hunt v. Washington Apple, 432 U.S. 333 (1977)	Blake	
30. Penn Central Trans. v. New York, 438 U.S. 104 (1978)	Austin	Brandon
November 18		
31. Hawaii Housing Auth v Midkiff, 467 U.S. 229 (1984)	Alan	Chris
32. Keystone Bit. Coal v. DeBenedictis, 480 U.S. 470 (1987)	Jaeson	
33. Nollan v. Calif Coastal Comm, 483 U.S. 825 (1987)	Luke	
November 25		
34. Lucas v. South Carolina Coastal , 505 U.S. 1003 (1992)	Brendon	Robbie
35. US v. Lopez, 514 U.S. 549 (1995)	Adam	
36. Whitman v. American Trucking, 531 U.S. 457 (2001)	Brenda	

December 2		
37. Tahoe-Sierra Preservation Council v Tahoe Regional Planning Agency, 535 U.S. 302 (2002)	Michelle	
38. Lawrence v. Texas, 539 U.S. 558 (2003)	Tim	
39. Granholm v. Heald, 544 U.S. 460 (2005)	Annette	Peter
December 9		
40. Kelo v. New London, 545 U.S. 469 (2005)	Nicole	Alex
41. Gonzalez v. Raich, 545 U.S. 1 (2005)	Danielle	