

Fall 9-1-2004

## PSC 471.01: American Constitutional Law - Federalism and Separation of Powers

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### Recommended Citation

Lopach, James J., "PSC 471.01: American Constitutional Law - Federalism and Separation of Powers" (2004). *Syllabi*. 6601.  
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PSc 471  
Con Law I: Federalism and Separation of Powers  
Fall 2004

The course deals with governmental power in the American political system, especially its source, nature, and conflicts. Two constitutional principles provide the critical perspectives: separation of powers and federalism. The discussion of separation of powers will treat national governmental powers as legal and political relationships among the federal courts, the congress, the president, and the bureaucracy. Examples of topics are judicial review, delegation of legislative power, legislative investigations, and presidential war power. The discussion of federalism will emphasize tensions resulting from the constitution's distribution of governmental authority between the national and state governments. Important themes will be the nature of state sovereignty, and state regulation and taxation of interstate commerce. Opinions of the United States Supreme Court will serve as the basis of class discussion.

INSTRUCTOR: Jim Lopach, 243-4829, LA 348, james.lopach@umontana.edu

CLASS FORMAT: Students are expected to complete reading assignments prior to class meetings. In class, students will present analyses of Supreme Court opinions. The instructor will lead discussion and lecture as required. Class discussion will concentrate on the meaning and significance of case principles, evolution of doctrine, and related contemporary problems of a practical nature.

READING ASSIGNMENT: Seven to ten pages per class meeting.

EXAMINATIONS: The midterm examinations will be October 11 and November 10. The final examination, which will cover material from the second midterm to the end of the course, is scheduled for Friday, December 17, 8:00 a.m. Each examination will use definition questions to test knowledge of key principles and short-essay questions to test analytical reasoning.

GRADE:

Class participation - 20 points	A+	196-200	B+	176-179	C+	156-159	D+	136-139
Examination 1 - 60 points	A	188-195	B	168-175	C	148-155	D	128-135
Examination 2 - 60 points	A-	180-187	B-	160-167	C-	140-147	D-	120-127
Examination 3 - 70 points							F	- 119

HOLIDAYS: November 24, 26

TEXT: Mason and Stephenson, American Constitutional Law, 13th Edition

## Writing Assignments for PSC 300 and PSC 400

Each student enrolled for PSC 300 or 400 will write four essays on topics central to the course. The essays will be no more than two manuscript pages in length, and will be assigned several days prior to their due date. Grading will be based upon content (clarity and validity of argument) and correctness of writing (grammar, diction, syntax, and logical development). The first essay may be rewritten and resubmitted. Each essay can earn 25 points, and grades will be based on a 100-point system.

1. Essay on judicial review. In a two-page, double-spaced essay argue either for or against judicial review as it has come to be practiced in the United States. The introductory paragraph should define judicial review, present a clear thesis statement, and preview your arguments and the order of their appearance. Each of the following paragraphs should be devoted to one of your points of argument. A concluding paragraph is not necessary. You may submit a revision of this essay. In your writing use clear transitions both within and between paragraphs, precise and simple diction, direct and straightforward syntax, the active voice, and brief quotations. Remember that good writing flows from good thinking and the willingness to revise.
2. Essay on an instructor-assigned course topic. Follow the general directions for the judicial review essay.
3. Essay on a recent Supreme Court case. In a two-page, double-spaced essay summarize and give a critique of the majority opinion in one of the following Supreme Court Cases: Saenz v. Roe (the 1999 two-tiered welfare benefits case); Whitman v. American Trucking (the 2001 Clean Air Act/delegation case); Nevada Department of Human Resources v. Hibbs (the 2003 Family and Medical Leave Act/state sovereign immunity case); McConnell v. FEC (the 2003 McCain-Feingold case); Tennessee V. Lane (the 2004 ADA/sovereign immunity case); and Rasul v. Bush or Hamdi v. Rumsfeld (the 2004 "enemy combatant" cases). Work from the full report of the case, copies of which are in the Mansfield Library reserve room, the Law Library stacks on the first floor on the west side, and at Findlaw.com. Follow the general writing guidelines above. In addition to these instructions, organize your essay as follows: Paragraph 1 - give a brief overview of your case and of your essay; Paragraph 2 - identify and explain one of the opinion's key legal arguments; Paragraph 3 - identify and explain a second key legal argument in the opinion; and Paragraph 4 - identify and explain the most important political implications of the decision, (e.g., who wins and who loses in our society).
4. Essay on law review article. In a two-page, double-spaced essay summarize and evaluate the argument of a law review article which deals with a constitutional law topic covered in Constitutional Law I. Follow the general writing guidelines presented above. To locate law review titles, use the Current Index to Legal Periodicals (copies for 1989 to 2002 are located in binders in the Political Science office; the entire set is located in the reference section of the Law Library). For example, in the issue for August 9, 1996, is the entry: "Scott, John M. Note. Constitutional law — Supreme Court invalidates federal Gun-Free School Zones Act. (United States v. Lopez, 115 S. Ct. 1624, 1995.) 18 U. Ark. Little Rock L.J. 513-531 (1996)." Law reviews are found in the Law Library on the east and west balconies. The instructor must approve your selection of a law review article.