

Week 1:

The Constitution and the Health Care Bill: <http://www.washingtonpost.com/wp-dyn/content/article/2009/08/21/AR2009082103033.html>

Forrest McDonald intro to Beard, *An Economic Interpretation of the Constitution* (plus the 1935 Beard intro as recommended)

Heckelman / Dougherty on the Beard thesis

The Federalist, numbers 10-14

Acemolgu / Johnson on institutions

Barry Weingast, *Constitutions as Governance Structures: The Political Foundations of Secure Markets*, 149 *J. Institutional and Theoretical Economics* 286-311 (1993)

The U.S. Constitution

Recommended — *Articles of Confederation*)

Week 2:

Secondary Works:

Scheiber, *The Transportation Revolution and American Law: Constitutionalism and Public Policy* (1981)

Scheiber, *Federalism and the American Economic Order, 1789-1910*, 10 *Law & Society Rev* 57, pp. 72-100 (1975)

Cases:

McCulloch v. Maryland (1819)

Dartmouth College (1819)

Sturges v. Crowninshield (1819)

Gibbons v. Ogden (1824)

Ogden v. Saunders (1827)

Charles River Bridge (1837)

West River Bridge (1848)

Executive Documents:

Hamilton, "Report on Manufactures" (1791)

Jackson's Maysville Road veto (1830)

Jackson's bank veto speech (1832)

Week Three

Don Fehrenbacher, book excerpts on Dred Scott and its antecedents
James Oakes, Slavery and Freedom excerpts on antislavery constitutional
Structure [I'll shortly have pages for Fehrenbacher and Oakes for scanning]

William Forbath, "Law and the Shaping of the American Labor Movement," Harv. L.
Rev. circa 1989

Charles W. McCurdy, "The 'Liberty of Contract' Regime in American Law," in Harry
Scheiber ed., *The State and Freedom of Contract* (1998)

Morton Horwitz, *The Transformation of American Law, 1870-1960* [short excerpt on
Santa Clara County – I will give page numbers]
Santa Clara County v. South Pacific, 118 US 394 (1886)

John Fabian Witt, *The Accidental Republic*, ch. 6 ("The Passion of William Werner")

Week 4: The Constitution and the Twentieth-Century Economy

Richard McCormick, "The Discovery That Business Corrupts Politics," *American
Historical Review* (1981)

Naomi Lamoreaux, "The Great Merger Movement and Antitrust Policy," ch. 6 of *The
Great Merger Movement in American Business*.

Nebbia v. New York (1934)
Schechter Poultry v. United States (1935)
U.S. v. Butler (1936)
West Coast Hotel v. Parrish (1937)
Helvering v. Davis (1937)

Barry Cushman, "From *Adkins* to *Nebbia*," in *Rethinking the New Deal Court*
Laura Kalman, "Law, Politics, and the New Deal," *Yale Law Journal* (1999)
Daniel Ho & Kevin Quinn, "Did a Switch in Time Save Nine?" (SSRN, 2009),
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1432743

Wk 5: The Constitution and the Regulatory State

Theodore Lowi, "The Delegation of Power and Its Fallacies," from *The End of
Liberalism*

US v Lopez
US v. Morrison

Gonzalez v. Raich

Lessig's brief in the Eldred case:

<http://cyber.law.harvard.edu/openlaw/eldredvashcroft/supct/opening-brief.pdf>;

Lessig's essay, "How I Lost the Big One"

The Eldred decision: <http://www.copyright.gov/docs/eldredd1.pdf>;

James Surowiecki,

http://www.newyorker.com/archive/2003/07/14/030714ta_talk_surowiecki

Steven Eagle, "Birth of the Property Rights Movement":

<http://www.cato.org/pubs/pas/pa404.pdf>;

Epstein on *Lake Tahoe*: <http://www.cato.org/pubs/scr/2002/epstein.pdf>
and the Court's decision in *Kelo*

Wk 6: The Constitution and the Twenty-First-Century Economy

Curtis Milhaupt and Katharina Pistor, *Law & Capitalism: What Corporate Crises Reveal about Legal Systems and Economic Development around the World*, ch. 2

Avner Greif, "Commitment, Coercion, and Markets: The Nature and Dynamics of Institutions Supporting Exchange," in Menard & Shirley eds., *Handbook of New Institutional Economics* 727-86 (Springer, 2005)

Farber, "Climate Change, Federalism, and the Constitution,"

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1081664&rec=1&srcabs=1033496

[A piece TBA on the French carbon tax decision from December 2009]

Stepan Wood and Stephen Clarkson, "Nafta Chapter 11 as Superconstitution,"

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1500564

Steve Charnovitz, "WTO Cosmopolitics,"

http://www1.law.nyu.edu/journals/jilp/issues/34/pdf/34_2_j.pdf