CONSTITUTIONAL LAW I. Section W, 8:15 to 11:30 a.m. Saturdays. FALL 2012

PROFESSOR MARY JANE MORRISON OFFICE HOURS: during open hours on Saturdays and Sundays and by appointment during on weekdays—but "always open": mmorrison@hamline.edu less likely: 651-523-2892

Catalog Course Description: Introduces constitutional interpretation, including doctrines and competing philosophies, and the framework of state and federal government under the Constitution. It includes the historical background of the drafting and interpretation of the Constitution, the development of the Supreme Court as an institution, the powers of the three branches of the federal government and of the states, and the structure of the Constitution, all as interpreted by the Supreme Court. Required course. 3 credits.

Required Text: E. Chemerinsky, Constitutional Law (3d ed. Aspen Publishers imprint of Wolters Kluwer)—You do not have to have a copy of the 2012 supplement or his treatise. I will provide you with excerpts from the Patient Protection and Affordable Care Act decisions of last summer at the appropriate time.

Goals and Learning Outcomes: Students will

- acquire basic understanding of the constitutional structure of the United States as a federal republic with three forms of sovereignty,
- become fluent in the patterns of constitutional analysis,
- become familiar with the impact of judicial philosophies on constitutional interpretation, and
- become adept at identifying, analyzing, and resolving a range of issues arising under some provisions in the Constitution for
    - inter-branch federal relations,
    - inter-governmental federal-state relations, and
    - government-individual relations.

Policies for Laptops, Cell Phones, and Other Electronic Devices: Students who make irresponsible uses of laptops, cell phones, or other electronic devices during class will lose their privileges for using or having these devices during class for the remainder of the semester. Students who have a complaint about how a classmate is using one of these devices during class should bring the matter to my attention.

Code of Conduct: The HUSL Code of Conduct applies in this class, including to initialing the Attendance Sheet, which specifically notes that you are affirming by your initials that you were on time for class, prepared for class, and present for the entire class. If you were insufficiently prepared for a compelling and legitimate reason [family emergency, serious-even-if-non-contagious illness, house fire], please tell me before class to obtain my permission to initial the Attendance Sheet.

Class Participation: Education works best when we all are involved in it: Each student must be prepared to participate in each class, but each also student has the right to request the help of any other student in this class in responding to a question from me or to a

statement by another student. If you are unprepared for class for a compelling and legitimate reason [family emergency, serious illness, house fire], please tell me before class so that I will not embarrass either of us by calling on you unless you volunteer.

Excessive Absences: Excessive absences will result in your not being eligible to take the final exam and, therefore, in an F in this course. There are 13 classes. Being absent for in excess of two (2) classes— whether physical absence or intellectual absence in the form of insufficient preparation for class—is prima facie excessive.

Exams and Grades: Although we regularly will work on problems during class, the grade for this course is a function solely of your performance on the final exam. That exam will be a three-hour, closed-book exam; it will consist of three essay questions, of equal weight. You will find copies of old exams in the law library's archives. Some of the exams have comments from me; others have sample student A and C answers. Please note, however, that the law of constitutional law changes over time, as do the topics of lively interest.

Reading Assignments: In the beginning weeks, we will be moving at a pace of 22 to 25 pages per class hour; in the last few weeks, we will be covering around 15 to 17 pages per class hour, but those are harder cases, when the problems also will begin covering the entire course.

We will cover all of Chapter 1, all but pages 248-64 of Chapter 2, all of Chapters 3 and 4, all of section B of chapter 5, Chapter 6 to page 646 [i.e., we will skip the Contracts Clause and Takings Clause], and all of Chapter 8 except for parts I, J, K, and (probably) L.

Here's another way of organizing the reading/class assignments by class:

1. "doing constitutional interpretation"—Marbury and Heller
2. justiciability, including some habeas corpus cases

3 &4. [before & after Labor Day] congressional power [Commerce Clause: old views, new views, and the PPACA opinions; taxing and spending powers, power to abrogate state sovereign immunity to private damages suits using power of section 5 of 14th A]

5. & 6. executive power [inherent presidential power, administrative state, separation of powers, appoint/removal power, foreign affairs, treaties, war, immunity and impeachment]

7 & 8. some of the limits on state power [preemption/consent, our federalism: dormant commerce clause—plus its exception—and the P&I clause of article IV]

9 & 10. individual rights [first set: incorporation doctrine, early civil rights cases, economic SDP then and now]

11 & 12, individual rights [second set: non-economic SDP (through abortion)]

13. individual rights [final set: from abortion through Lawrence; P or I of 14th A]

If you do not know much about American government or history, you may need to do extra reading. In general, you can rely on Wikipedia, for once. You might also like to know that there will be some members of the class who have taken one or more constitutional law courses when they were undergraduates; you therefore may need at least occasionally to read passages in Chemerinsky's treatise, copies of which you will find in the law library.