

SEMINAR IN CONSTITUTIONAL LAW: PRESIDENTIAL POWER

FALL, 2008 [Fridays, 6 p.m. to 7:50 p.m.]

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COURSE DESCRIPTION In addition to the following individual description of this course, consult the general course description for seminars at HUSL.

This seminar will focus on the power of the President of the United States in foreign and domestic affairs, especially as those powers intersect the powers of Congress. We will read the judicial leading decisions on presidential power, executive-branch documents, and a representative selection of journal articles, all of which materials will be available on the TWEN site for this course or in the law library.

This seminar will cover the Vesting Clause, the Veto Clauses, the Take Care Clause, the Commander-in-Chief Clause, the Appointments Clause, the Commissions Clause, the Reprieves and Pardons Clause, the State of the Union and Opinions Clauses, the Convening and Adjournment Clauses, the presidential power to conduct the non-war foreign affairs of the United States, the power/privilege to refuse to respond to subpoenas, and the Disqualification Clause. But the level of detail and manner of covering these substantive points will be a function of the interests of the members of the seminar and those members' approaches to those interests.

COURSE REQUIREMENTS There are three writing components for this seminar. First, in compliance with the general course description for seminars, each student will research and draft a substantial thesis paper on a topic I approve and will re-draft that paper after I provide critique. Second, each student also will provide members of the seminar a two to three-page executive summary of the thesis paper. Third, each student will prepare written briefs on cases and other materials I assign for written briefs.

There are two oral components for this seminar. First, each student will present and defend the thesis of his or her research paper. Second, each student will participate in class discussions each week and in critical analysis of other students' thesis presentations.

Please note the following definition of "draft" for the purposes of the first paragraph of this subsection of the syllabus: The initial draft of the research paper is to be complete and in a form the student would not be embarrassed to have a hiring partner in a law firm read. A rough draft will not meet this standard.

GRADING This seminar will include grading on all written work for punctuation, grammar, organization and style, as well as for quality of research and analysis. Grading also will cover fluidity of speech and quality of thought. I will assign advisory grades on the briefs and on the initial research-paper draft and presentation thereof. The ultimate grade for this course will reflect the quality of the work the student does as to research, writing, presentation and improvement. I am prepared to give—and, indeed, have given—grades of "A" to students at the end whose work started at the "D+" level. I

believe in telling students the truth about the quality of their work. I also believe any student can perform at the “A” level. I expect the best from students and have been used to getting it.

ATTENDANCE Students are to attend each class, period.

LEARNING OUTCOMES [formerly known as “course goals” but actually always really about grading] and **LAPTOP POLICY**

- Students will acquire a deeper understanding of the legal issues surrounding constitutional analysis of presidential-power issues, the law of presidential power, and the historical settings for those issues.
- Students will acquire a sharpened ability for doing relevant legal research, including historical documents; a command of when, how, and what to cite; and a refined command of elegant, persuasive writing that creates and maintains a trust-relation with the reader.
- Students will display civil, professional behaviors by marking each document, including emails, with appropriate identifying information and data; and using laptops during class solely for purposes immediately relevant to contributing positively to the class and enhancing their classmates’ educational experiences.
- Students will learn to brief cases and summarize statutes in language that is clear as to the relevant law and facts while fitting the context of use.
- Students will master the arts of making oral presentations and defenses of their seminar papers and of actively participating in free-wheeling exchanges of ideas on controversial topics.

ADVANCED ASSIGNMENT Write briefs of **each** of the opinions of United States v. Curtiss-Wright Corp., 299 U.S. 304 (1936), and Youngstown Sheet and Tube Steel v. Sawyer, 343 U.S. 579 (1952), that meet the professionalism and grading standards for this course.

I will collect these briefs at the end of the first class.

Members of this seminar will be able to enroll in the TWEN site for this course beginning on August 9, and I will post further assignments on that site.