ASP – Con Law I (Prof. Steinman)

Spring 2007 - Session #1

Santa Clara University School of Law

Bannan Engineering Room 106

Thursday, 8 February 2007 4:10 – 6:10 PM
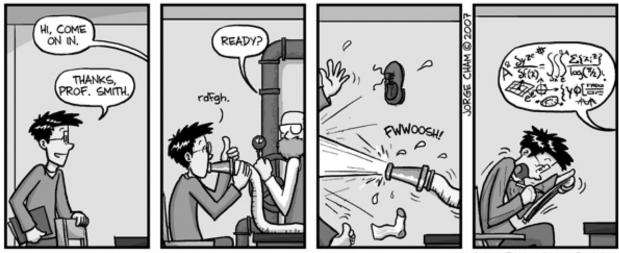
1. Introduction

    a. Session Leader: Sriranga Veeraraghavan

    b. Contact Information:

        i. Email: SVeeraraghavan@scu.edu OR rangav@mac.com

        ii. Phone: (408) 446-0959 (Home), (408) 832-0776 (Cell)

2. General Q&A and Pointers re Law School, Con Law and Steinman

    a. What questions/concerns do you have?

    b. Some ideas on making Con Law easier

        i. Talk to Steinman!

            1. He is almost always in his office and loves to talk to students

            2. He wants people to learn and will try to answer almost any question

                a. Knowing what to ask is often the hard part

                b. Look at the additional questions before doing the reading – it might give you a better idea about the assignment

                c. Try outlining an answer for the additional questions

            3. Lunch w/ Steinman on Wednesday/Friday's is helpful

        ii. Being on Call

            1. Try to do the reading a few days before

            2. Go see Steinman and go over the add'l questions and the problem

    c. Some things to think about when reading a case:

        i. What is the Constitutional language that the Court is interpreting?

            1. Try to figure out what article/section the Court is talking about

            2. How does the Court think that a challenge under that constitutional provision should be evaluated?

                a. This is the RULE you've heard so much about

        b. Its not always (almost never?) clear

        c. You often have to piece the rule together from multiple cases

        d. Also look for POLICIES or CONCERNS the Court has – these are useful when working on problems.

    3. Are there other parts of the constitution that might be relevant – are any of the cases you read earlier related?

  ii. Application – Steinman focuses on problems

    1. What case(s) provide the applicable rule?

    2. How can you relate the facts of those case(s) to the problem?

    3. How can you apply the policies in the case(s) to the problem?

3. Con Law I Overview

    a. Jurisdiction Stripping

    b. Non-Judiciable Political Question

    c. Avoidance

    d. Review of state court decisions

    e. *McCulloch*

    f. Commerce Clause (Art. I § 8 cl. 3)

    g. Spending Power (Art. I § 8 cl. 1)

    h. War Power (Art. I § 8 cl. 11?)

    i. Treaty Power

    j. External Limits on Congress

    k. Presidential Powers

    l. Dormant ("Negative") Commerce Clause

    m. Privileges and Immunities (Art. IV § 2 cl. 1)

    n. Preemption

    o. Privileges or Immunities (14th amend. § 1)

    p. Incorporation

    q. Substantive Due Process

    r. Procedural Due Process

    s. Equal Protection

4. Group Outlining
    a. Group 1 – Commerce Clause
        i. What are the important cases?
            1. What factually happened in those cases?
            2. How did the Court decide those cases?
            3. What did the Court base its decision on [RULE]?
        ii. Based on these cases, how do you think the Court decides commerce clause cases?
    b. Group 2 – External Limits on Congress
        i. What are important cases you've read so far?
            1. What factually happened in those cases?
            2. How did the Court decide those cases?
            3. What did the Court base its decision on [RULE]?
        ii. Based on these cases, how do you think the Court decides whether Congress has overstepped its power?
5. Commerce Clause Hypo [Time Permitting]
6. Next Session
    a. Bannan Engineering Room 106, Thursday, 22 February 2007 4:10 – 6:10 PM

What Con Law Often Feels Like