Corporations and Constitutions Seminar

Course Syllabus

Preliminaries

Course Meeting Time & Location: Fridays 12:10pm-1:30pm; JGH 101

Instructors: Richard Brooks and Geeyoung Min

Brooks Office hours: Thur. 2:00pm-3:00pm & by appointment; JGH 919; (212) 854-3264 (not good for voice-massages); richard.brooks@law.columbia.edu

Min Office hours: Thur. 3:00pm-5:00pm & by appointment: JGH 606; (212) 854-1082; geeyoung.min@law.columbia.edu

Course Admin. Assistant: Khamla Pradaxay; kprada@law.columbia.edu

Description

This weekly Friday lunchtime seminar is devoted exploring various topics at the intersection of constitutions (state and federal, and public law more generally) with the law of associations and business organizations. The first few sessions will introduce students to the topic of corporate sovereignty beginning with medieval political theory and concluding with royal and colonial charters. We will then turn our focus to incorporation and the constitutions of states and the United States. Here we will begin historically, working through foundational early debates and cases, such as Trustees of Dartmouth College v. Woodward (1819) (Contract Clause), Santa Clara Co. v. Southern Pacific Railroad (1886) (Equal Protection Clause), and make our way to more recent cases and controversies, including National Association for the
Advancement of Colored People v. Alabama (1958) (Due Process), Citizens United v. Federal Election Commission (2010) (Freedom of Speech), and Burwell v. Hobby Lobby (2014) (Religious Freedom). In most sessions, we will have speakers who are experts on the topic.

Readings, Grading and Requirements

Readings  In addition to reading legal opinions, the seminar will explore theoretical and historical writings on the constitution of corporations, with emphasis on personhood and personality. Readings for each session will be posted on the Course Pages.

Student Responsibilities  The seminar is graded credit/no credit, but students may petition for a grade, and an additional credits by completing a substantial paper on the topic. (prior approval of faculty required)

Reaction Papers  There will be no exam. Instead, students will write a brief reaction paper every week. Each student may opt not to submit three papers for any class at their choices. However, students are still responsible for the reading for the class that they dont submit a reaction paper. A reaction paper should be no longer than one (1) double-spaced page long. Students should not focus on summarizing or describing the reading. Rather, student should pose two questions on the reading and then discuss them. Each paper should (1) be based on the assigned reading, and (2) contain student’s own argument. The comment should start with a question you raise. All papers should be submitted through Course Pages by 6:00pm on the day before the class each week. In each file name and the first page of the papers, please include both your name and the class number (e.g. J. Smith, week 2) for which the paper is being submitted. Late papers will not be credited toward the course requirements.

Class Participation  Students are expected to attend all twelve classes. It is hoped that all students will choose to participate in the discussion. Also, occasional cold calls should be expected.
Tentative Schedule and Assignments

Week 1. (Jan 20) Introduction and Course Plan

No Reading Assignment

Week 2. (Jan 27) Medieval Corporate and Political Theory


Week 3. (Feb 3) Royal and Colonial Charters


2. Cases to Skim: Fletcher v. Peck, 10 U.S. 87 (1810); Trustees of Dartmouth College v. Woodward, 17 U.S. 518 (1819); Charles River Bridge v. Warren Bridge 36 U.S. 420 (1837)


5. Primary Sources: *King’s College Royal Charter; Dartmouth College Royal Charter*; Wakelyn, J. L. (Ed., 2006) America’s Founding Charters: Primary Documents of Colonial and Revolutionary Era Governance, Greenwood Press — selections: preface, table of contents and short introductions to document (this is offered mostly as a reference).

**Week 4. (Feb 10) General Incorporation, Eric Hilt**


3. other background materials: cases or primary docs?

**Week 5. (Feb 17) Equal Protection, Ruth Bloch & Naomi Lamoreaux**


Week 6. (Feb 24) From Plessy to Progressive Era Conceptions, David Bernstein & Jeremy Kessler


Week 7. (Mar 3) Nonprofit Incorporation, Norman Silber


4. Note (1957), State Control over Political Organizations, Yale Law Journal 66: 545–

Week 8. (Mar 10) Municipal Incorporation, Speaker TBA


Spring Break, March 16

Week 9. (Mar 24) Religion, Douglas Laycock

1. Hobby Lobby


Week 10. (Apr 1) Speech, Richard Briffault

1. Citizen’s United

2. Other Readings TBA
Week 11. (Apr 7) Search, Self-incrimination, Double Jeopardy &c., Brandon Garrett


Week 13 (April 21) The Court as Corporation, Speaker(s) TBA

2. Kantorowicz, E.H., (1957) The King’s Two Bodies: A Study in Medieval Political Theology, Princeton University Press — selections:

Week 14 (Apr 28) Comparative Corporate Rights, Mila Versteeg