

PLSC 471: American Constitutional Law

Midterm Examination Study Guide Fall 2025

Case List

These are cases you will be expected to know well; i.e. recall the facts of the case, have a thorough understanding of the majority and (if applicable) minority holding(s), state the doctrine set forth in the case and its importance, and understand the broader constitutional and political significance of the case.

The Judiciary

- *Marbury v. Madison* (1803)
- *Baker v. Carr* (1962)
- *Flast v. Cohen* (1968)
- *Nixon v. U.S.* (1993)

The Legislature

- *McCulloch v. Maryland* (1819)
- *U.S. v. Curtis-Wright Export Co.* (1936)
- *Watkins v. U.S.* (1957) / *Barenblatt v. U.S.* (1959)
- *South Carolina v. Katzenbach* (1966)
- *Powell v. McCormack* (1969)
- *U.S. Term Limits v. Thornton* (1995)

The Executive

- *In Re Neagle* (1890)
- *Humphrey's Executor v. U.S.* (1935)
- *Korematsu v. U.S.* (1944)
- *Youngstown Sheet & Tube Company v. Sawyer* (1952)
- *U.S. v. Nixon* (1974)
- *Nixon v. Fitzgerald* (1982)
- *Clinton v. Jones* (1997)
- *Bush v. Gore* (2000)
- *Trump v. Hawaii* (2018)
- *Trump v. Thompson* (2022)

Concepts

These are key concepts for you to know and understand for the exam.

- Literalism
- Originalism
- Precedent
- Pragmatism
- Legislative centrality
- Judicial review
- Countermajoritarian difficulty
- (SCOTUS) Jurisdiction
- Mootness
- Political questions
- Standing
- (Congressional) Term limits
- Enumerated power
- Implied power
- Inherent power
- Amendment-enforcing power
- Investigatory power
- Immunity
- Electoral college
- Impeachment
- Line item veto
- “Faithfully execute” clause
- Independent agency
- Pardon power
- Executive privilege
- Presidential immunity (absolute, presumptive)
- Habeas corpus
- Vesting theory

Example Questions

These are some example essay questions, of the sort that may appear on the midterm exam.

1. The Court is constrained because it cannot hear a case if it is not *justiciable*. Explain what it means for a case to be considered justiciable, and cite cases we have read to support your argument. Finally, is justiciability a constraint on the Court? Why or why not?
2. Contemporary constitutional scholars recognize four broad types of legislative powers, each with a different basis for its exercise by the Congress. Outline and discuss each of these four types of legislative power. From where does Congress derive the right to exercise each? What is the relative scope of each, where are its limits, and how has the status of each changed over time?
3. The sentiment of the Philadelphia Convention was that the Articles of Confederation were flawed because they did not provide for an executive, but few delegates would have supported the far-reaching powers wielded by modern Presidents. The framers would likely be amazed at the vast military resources over which the President serves as commander in chief, to say nothing of the hundreds of departments, agencies, and bureaus that constitute the executive branch. Some scholars lay the blame (or credit, depending on your perspective) for this “aggrandizement” of the American presidency directly on the Supreme Court. Do you agree? Specifically, do you believe the Court has been particularly generous to the President in interpreting the scope of his constitutional powers? In addressing this question, be sure (1) to justify your response with reference to existing U.S. Supreme Court precedent and (2) to consider, incorporate or, at least, acknowledge arguments that may not support your response.

4. Has the Supreme Court been more willing to uphold actions taking by Congress or the president that violate the separation of powers on domestic issues or on issues relating to foreign relations? Use examples from cases in the chapter to justify your argument. Then, explain why you think the Court has taken such a position on the separation of powers.
5. Writing three years after leaving the White House, President Harry Truman argued that "the President...must always act in a national emergency...[He] must be able to act at all times to meet any sudden threat to the nation's security." With reference to the cases and issues discussed in class, evaluate the status of President Truman's assertion. When and under what historical circumstances has the Court approved of such a broad construction of presidential emergency power, and when has it been less willing to do so? Most important, what are the *reasons* for both the extent and limits of Presidential emergency power?