

## Constitutional Law I Outline

- I. Authority for Judicial Review
  - A. Marbury: Est. authority for judiciary to review the constitutionality of executive & legislative acts, to declare statutes unconst., and to review the judgments of state courts in cases which fall w/in the fed. judicial power (Hunter v. Martin's Lessee) (S.Ct. created this power by means of its interpretation of the Const.)
    - i. Restrictions on judicial review:
      - 1. Authority, AND C/C re: fed. ? requirements.
        - a. C/C =:
          - i. Definite & concrete matter;
          - ii. Touches relations having adverse legal interests; AND
          - iii. Real and substantial controversy capable of specific relief
      - 2. Advisory opinions
        - a. Violates C/C requirement b/c no concrete controversy
        - b. If parties ignored ct's "advice" it would erode judicial power
        - c. Slack parties w/no true interest in outcome
        - d. W/real controversy before it the court may be able to avoid a const. issue altogether and decide case on narrower grounds.
      - 3. Mootness
        - a. Controversy is resolved after case is filed but before final outcome
          - i. Law changes
          - ii. Behavior has ended & can't reasonably be expected to reoccur
          - iii. Party dies or is no longer subject to statute
        - b. Must be a controversy at all stages of review, not just when complaint is filed
          - i. Exception:
            - 1. "Capable of repetition, yet evading review"