

Con Law I

March 23, 2009

Class Notes and Discussion Questions

1. What does it mean to say that the Reconstruction Amendments are self-executing?
2. What is “state action” after *The Civil Rights Cases*?
3. What power does Section 2 of the 13th Amendment grant to Congress?
4. What power does Section 5 of the 14th Amendment grant to Congress?
5. In your mind, what is the most obvious Constitutional provision that would authorize Congress to enact the statute at issue in *Jones*? What Constitutional authority does the Court find to be most relevant?
6. Ask the same questions in relation to *Morrison*.
7. Compare *McCulloch*’s ends-means test to *Boerne*’s congruence and proportionality test. How are they different?
8. The Rehnquist Court’s “federalism revolution” (including cases like *Lopez*, *Morrison*, *Boerne*, and *Seminole Tribe*) includes a powerful strain of what critics refer to as “judicial supremacy.” What do you think this means? Can you see any examples of arguments made by the Court? Review *Boerne*, especially, for an example.
9. What role does state sovereign immunity play in regard to statutes Congress enacts in accordance with its Reconstruction amendments-related powers.