The Lochner Era
Interdisciplinary Summer Workshop for Junior Faculty
Institute for Constitutional History
Stanford Constitutional Law Center
July 9-14, 2017
Stanford, California
Professor Barry Cushman
University of Notre Dame

The texts for the course are Cushman, *Rethinking the New Deal Court: The Structure of a Constitutional Revolution* (Oxford, 1998); David Bernstein, *Rehabilitating Lochner* (Chicago, 2011); and a set of materials made available by the Institute.

**Session I: Substantive Due Process in the Lochner Era**

Munn v. Illinois (1877)
Lochner v. New York (1905)
Muller v. Oregon (1908)
Bunting v. Oregon (1917)
Coppage v. Kansas (1915)
Adkins v. Childrens Hospital (1923)
Wolff Packing v. Court of Industrial Relations (1923)
Tyson & Bro. v. Banton (1927)

**Session II: Lochner Historiography**


**Session III: Race, Sex, and Lochner**

Bernstein, *Rehabilitating Lochner*, pp. 56-89
Session IV: The Commerce Clause in the Progressive Era


Session V: New Deal Historiography I

Cushman, Rethinking the New Deal Court, pp. 3-32
Cushman, “The Place of Economic Crisis in American Constitutional Law: The Great Depression as a Case Study” (in draft)

Session VI: New Deal Historiography II

Cushman, Rethinking the New Deal Court, pp. 33-43

Session VII: Substantive Due Process in the New Deal Era

Nebbia v. New York (1934)
Cushman, Rethinking the New Deal Court, pp. 45-138

Session VIII: The Commerce Clause in the New Deal Era

Cushman, Rethinking the New Deal Court, pp. 139-225
Session IX: The Fiscal Powers


Session X: The Lochner Era, Then and Now

Bernstein, Rehabilitating Lochner, pp. 108-24
Patel v. Texas Dept. of Licensing & Regulation, 469 S.W.3d 69, 92-123 (2015) (Willett, J., concurring); id. at 126-40 (Hecht, C.J., dissenting)