**Notes On Reading Calder v. Bull**

The fact situation is relatively simple, though you cannot tell that from the way the justices state the facts.

In a dispute over who gets what under a will, Calder(and wife) won over Bull(and wife)

After 18 months by Connecticut law Bull was barred from contesting which is making a legal claim the outcome was wrong. Bull gets Conn. Legislature to change law so he can contest. Calder ends up on losing side during the next round. Calder now appeals to Supreme Court claiming Conn. Law is an *ex post facto* law. Read Constitution Article 1 Section 10 Clause 1. That the Connecticut legislature did not enact *an ex post facto* law is fairly clear, because, as the Court notes, this clause was meant to only apply to criminal cases not civil cases.

Justice Chase writes about the history of what *ex post facto* means to come up with his opinion, reaching back to English History as well. Justice Irdell comes up with same conclusion as Chase and reaches it in a different way not using English History.

O.K. so now you know a little about *ex post facto* laws. This will not be our main focus in this case. Still take note of how the justices use pre Constitution English history to interpret a clause of the Constitution.

What is most interesting about the case is the argument over natural law as it applies to the U.S. Constitution. This argument is “obiter dicta”, (see Van Geel if you do not know what this is. ) It is an argument that is unresolved to this day and still lurks behind many Supreme Court opinions to this day, regardless of what some justices may claim. Many Justices have taken more than one side on this issue. Liberals accused Justice Thomas of being a natural law advocate. Yet, as we will see, liberal justices often fall back on natural law ideas to justify their positions. Conservatives also have,,at times, been inconsistent on what role, if any, natural law plays in constitutional adjudication.

The problem with “natural law”, and there is no agreement on the source of “natural law” or even clarity in defining natural law is both what is it and how should it be considered, if at all. In this case Chase and Irdell argue about this issue, though neither mentions the words “natural law.”

If you do not know what natural law is, find some descriptions on the web or Wikipedia. We will flesh it out in class at various times. You should have a basic idea in order to get the most out of the Chase and Irdell opinions, you can get a sense of it from their clashing positions.

The dichotomy is often set up as positive law, constitutions and statutes versus natural law.