Matthew Castner
Constitutional Law, T/Th 12:00pm

Brief #1: *Eakin vs. Raub*

I – Citation

Mason, Alpheus Thomas and Donald Grier Stephenson, Jr. – 16th Edition "*American Constitutional Law – Introductory Essays and Selected Cases"* Longman Publishing, Pearson Books Copyright 2012, 2009, 2005

II – Issue being evaluated:

-Judicial Review

III – Case Facts

-The book gave no specific facts about the *Eaken vs. Raub* case. The case itself was not examined by the authors. Instead the focus is on the opinion of Pennsylvania Chief Supreme Court Justice John Bannister Gibson.

IV – The Political and Legal Context at the Time of Eakin vs. Raub (1825)

-During the Philadelphia Convention of 1787 the subject of judicial review was discussed but to no end. After heated debate on both sides of the issue, the convention ended without officially banning or accepting its exercise by the Supreme Court. This left an ambiguous area similar to that in the Constitution which allowed for argument, but generally left it to the judicial branch to interpret how much limitation the constitution put on their authority.

-The case ruling in the case of *Marbury vs. Madison* given by Chief Justice John Marshall years earlier was a precursor to the ruling presented by Gibson *in Eaken vs. Raub*.

-Marshall found for Marbury in all of the other issues present in the case, however he exercised judicial review, voiding the 13th piece of the Judiciary Act of 1789 on the grounds that it expanded the original jurisdiction of the Supreme Court which was unconstitutional.

-In doing so Marshall boldly set a precedent which allowed for judicial review to be exercised by Supreme Court justices and allowed for overturning of laws in conflict with the constitution if they were brought before the court in a specific case.

V – Gibson and His Opinion

-Pennsylvania Supreme Court Chief Justice John Bannister Gibson presided over the appellate case of *Eaken vs. Raub* in 1825.

-Gibson often made rulings based on whether or not the state's law at question was in agreement with its constitution rather than on precedent. These actions were quite the opposite of his stated opinion regarding federal judicial review of congressional acts! He is most widely known and studied today for his well thought out and masterfully worded dissenting opinion of Marshall's argument for judicial review in *Marbury vs. Madison*.

-It was Gibson's opinion that the checks each branch has on its counter parts balance the government well enough. Were judicial review to be expressly granted to the Supreme Court it would elevate the Judiciary to a seat of supremacy, which is unconstitutional to begin with.

-Gibson followed the school of thought that the people's voice would be expressed through their right of suffrage (voting) rather than through the constitution and interpretation of its meaning.

VI – Additional Points of Interest

-Because Gibson sits on a State's Supreme Court rather than the Federal Supreme Court regardless of his rulings they will not set precedent in federal matters.