

American Constitution - POLI 4020

Spring 2015

McKinzie Craig Hall
Office Hours: TR) 10:30am-11:30am
and by appointment

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Course Description

In this course, we examine the development and application of constitutional law in the US. Specifically, this course covers the development of the governing institutions, using original texts from the founding, the US Constitution and cases decided by the US Supreme Court. We cover a vast array of topics including those stemming from the founding of the nation to present day policy issues. Our focus is on the jurisprudential dictates which have followed from the US Constitution to develop a body of law and scholarship on the powers and authority of the American federal government and authority reserved to state government. Prerequisites: POLS 206 or approval of department head.

Course Objectives

Upon the completion of this course, the student should be able to:

- Understand basic principles outlined in the US Constitution and how those principles are applied to the federal, state and local governments by the Supreme Court;
- Discuss how those basic principles were agreed upon at the founding and how those principles may have evolved from the “intent” of the founders;
- Read and summarize rulings issued by the Supreme Court in institutional powers cases;
- Describe the legal reasons used by the Supreme Court in institutional powers cases;
- Evaluate the legal reasons used by the Court in significant cases and explore the process of formulating persuasive arguments that may be used before the Court.

Readings

Recommended: David M. O’Brien, *Constitutional Law & Politics: Struggles for Power and Governmental Accountability*, (vol. 1) (8th ed.) [NY: W.W. Norton] (2011)

Required, pdfs in course reserves: U.S. Constitution, Articles of Confederation, The Federalist Papers, Anti Federalist Papers, Supreme Court Process (Miller).

Other court opinions may be assigned (and pdfs of those opinions made available) throughout the semester.

NOTE: The O'Brien book is not required, however it is STRONGLY recommended. The text book contains selected passages from the opinions read for class. If you prefer to download the original opinions and read the full text for class, you may. This will result in a significant increase in the amount of reading (between 10 and 50 pages per case). All opinions can be found by searching on scholar.google.com (make sure you click the "legal opinions and journals" toggle under the search box).

Course Polices and Requirements

Participation

Given that this course focuses on the US constitution and cases decided by the US Supreme Court, the majority of the class will be spent discussing these original texts. It is important to know that the student will be required to know more than just the mere outcome in the case. The student is responsible for acquiring an understanding of the argument crafted by the Court, relying on precedent and constitutional interpretation. To aid in developing the skills necessary for the student to gain this understanding, and for the student to become familiar with the readings and the language of the Court, much of the course will proceed using the Socratic method.

For each class session, one or more students will be called upon to discuss the assigned cases. Students will be asked to summarize key elements of the case, including the facts, the constitutional question, the Court's reasoning and the Court's holding. Each student should expect to be called at least 4 times in the semester. The student's responses to this question and answer period will account for that student's participation grade. Wrong answers are not penalized; unprepared answers, however, will be. If a student is not present when his or her name is called, the student will be penalized, unless the student can present documentation for a university excused absence (a doctor's note or a note from a professor for Co-curricular event). Participation grades will be determined as follows: All students begin the semester with 60 points toward the final grade for participation. If a student is not present when called, 10 points will be deducted from the participation grade. If a student is present but unprepared when called, 5 points will be deducted from the participation grade. If the student is late and comes to class after his or her name is called, this is also deemed an unprepared answer. The instructor reserves the right to add extra points to the final grade beyond the 60 points allotted for participation, if a student shows unique insight or thoughtfulness when answering questions. The participation grade will not be lowered below 0.

As part of participation, student may be asked to submit written briefs during the semester. If a written brief is not submitted during class time on the day the brief is due, a student will be penalized as not present and will lose 15 points from the participation grade. These written briefs will be included in the participation grade as well. The written briefs cannot be submitted late without a documented illness or Co-curricular event.

Examinations

There will be three exams given during class time. The third exam is not comprehensive but will be administered during the final exam time for this course. Exams will consist of short answers, multiple choice and essay questions. The essay prompt will be handed out before the exam date. A double spaced, type written, hard copy of the essay is due in class at the start of the exam. Essays submitted after the start of the test will be penalized as late. Short answers and multiple

choice will be answered during class time. The in class portion of the exam will be closed book and closed note. Examinations can only be made up with a documented illness or Co-curricular event. **Unless a student makes arrangements to take an exam in advance, all make up exams will be short essays and will be given after the completion of the third exam during the final exam time for this course.**

Paper

Students will write an appellate brief for the US Supreme Court case *Arizona State Legislature v. Arizona Independent Redistricting Commission*. Students will read a Federal District Court decision and listen to the oral arguments for this case. Then students will then write an argument brief establishing a legal argument for one party from the case (either petitioner or respondent) as if they were submitting an appeal to the Supreme Court. This brief should be between 2000-2500 words. This brief will be expected to follow a standard brief writing format. This format will be explained during the semester. More information about the specific expectations of the paper will be provided in class.

The outline for this paper will be due as a paper proposal on Thursday, February 26, 2015. This outline accounts for 10 percent of the total paper grade. Late outlines will not be accepted. The final paper is due Tuesday, April 28, 2015. Papers submitted after the beginning of the class period on April 28 (9am) are considered late. Late papers will lose 5 points for every day late. Papers submitted on April 28 but after 9am will lose 5 points. Papers submitted on April 29 before 9am will only lose 5 points but papers submitted on April 29 but after 9am will lose 10 points (as this constitutes the beginning of day 2). The paper grade will not be lowered below 0.

Grading

24 percent	120 points	First exam
24 percent	120 points	Second exam
24 percent	120 points	Third exam
12 percent	60 points	Participation and briefs submitted
16 percent	80 points	Paper
100 percent	500 points	Final grade

Grades will be determined based on the following: **A: 450 points or higher, B: 449 to 400 points, C: 399 to 350 points, D: 349 to 325 points, F: less than 325 points.** All points awarded through out the semester are totaled together to arrive at the final grade. This includes (but may not be limited to) each portion of each exam, all participation points, the paper proposal, the term paper and any extra credit points awarded. In accordance with the Family Educational Rights and Privacy Act (FERPA), I am unable to discuss grades via email or on the phone. Specific grades can only be discussed in person so please see me during office hours to discuss grades.

Tentative Due Dates

First Exam: February 12

Paper proposal: February 26

Second Exam: March 24

Term paper: April 28

Third exam: Final Exam Time - Tuesday, May 5 at 10am

Tentative Schedule

- **R) Jan 15** - Intro Material
- **T) Jan 20** - Foundations
 - Read (required): Syllabus, U.S. Constitution and Amendments, Articles of Confederation, Federalist 10 and 51, Anti Federalist 21, 22
 - Read (recommended) : O'Brien, Chapter 1
- **R) Jan 22** - Supreme Court Intro
 - Read and brief: Marbury v. Madison p. 45, Flast v. Cohen p. 139
 - Read (required) : Lujan vs Defenders of Wildlife p. 150, Supreme Court Process (Miller)
 - Read (recommended) : Valley Forge Christian College vs Americans United for Separation of Church and State, O'Brien, Chapter 2
- **T) Jan 27** - Federalism
 - Read and brief: McCulloch vs MD p. 551
 - Read (required) : Federalist 6 and 15, Anti Federalist 6 and 17
 - Read (recommended) : O'Brien, Chapter 5 and 6A
- **R) Jan 29** - Federalism (cont)
 - Read and brief: US Term Limits vs Thornton p. 514, Powell vs McCormick p. 509
 - Read (required) : Hutchinson vs Proxmire p. 522
- **T) Feb 3** - Federal Commerce Power
 - Read and brief: Gibbons vs Ogden p. 562, Hammer vs Dagenhart p. 579
 - Read (required) : US vs EC Knight p. 574, Federalist 11 and Anti Federalist 11
 - Read (recommended) : O'Brien, Chapter 6, B and C
- **R) Feb 5** - Federal Commerce Power
 - Read and brief: NLRB vs Jones p. 590, Wickard vs Filburn p. 601
 - Read (required) : US vs Darby p. 597, Heart of Atlanta vs US p. 604
 - Discuss paper topic, Pass out essay prompt for exam 1
- **T) Feb 10** - Federal Commerce Power (cont)
 - Read and brief: US vs Morrison p. 639, US vs Lopez p. 613, Gonzales vs Raich p. 652
- **R) Feb 12** - Exam 1
- **R) Feb 19** - Taxing and Spending
 - Read and brief: South Dakota vs Dole p. 669, National Federation of Independent Businesses vs Sebelius p. 672
 - Read (required) : Federalist 12 and 30, Anti Federalist 12, 30-31

- Read (recommended) : O'Brien, Chapter 6 D
- **T) Feb 24** - Dormant Commerce Clause
 - Read and brief: *Cooley vs Board* p. 706
 - Read (required) : Federalist 39 and 45, Anti Federalist 39 and 45
 - Read (recommended) : O'Brien, Chapter 7 A
- **R) Feb 26** - Dormant Commerce Clause (cont)
 - Read and brief: *Bibb vs Navajo* p. 714, *Southern Pacific Co vs AZ* p. 711
 - Read (required) : *Main vs Taylor* p. 717
 - Paper outline due
- **T) Mar 3** - Tenth Amendment
 - Read and brief: *Printz vs US* p. 775, *NY vs US* p. 769
 - Read (required) : *Garcia vs SA Metro* p. 757
 - Read (recommended) : O'Brien, Chapter 7 B
- **R) Mar 5** - Executive's Foreign Powers
 - Read and brief: *US vs Curtiss-Wright* p. 253
 - Read (required) : Federalist 67, Anti Federalist 67 and 69
 - Read (recommended) : O'Brien, Chapter 3 A and B
- **T) Mar 10** - Executive's Foreign Powers (cont)
 - Read and brief: *Missouri vs Holland* p. 266, *US vs Pink* p. 269
 - Read (recommended) : O'Brien, Chapter 3 C
- **R) Mar 12** - Executive's Foreign Powers (cont)
 - Read and brief: *Ex Parte Milligan* p. 304, *Boudmediene vs Bush* p. 325
 - Read (required): *Korematsu vs US* p. 310, *Rasul vs Bush* p. 319
- **T) Mar 17** - Takings Clause
 - Read and brief: *Hawaii Housing Auth vs Midkif* p. 1084, *Kelo vs New London* p. 1093
 - Read (required) : *Lucas vs South Carolina Costal Council* p. 1087
 - Read (recommended) : O'Brien, Chapter 2
 - Pass out essay for exam 2
- **R) Mar 19** - Review for exam 2
- **T) Mar 24** - EXAM 2
- **R) Mar 26** - Substantive due process
 - Read and brief: *Slaughterhouse Cases* p. 1059, *Lochner vs NY* p. 1066, *West Coast Parish Hotel vs Parrish* p. 1075
 - Read (required) : *Munn vs IL* p. 1063, *Muller vs OR* p. 1072
 - Read (recommended) : O'Brien, Chapter 9B
- **T) Mar 31** - Voting
 - Read and brief: *Baker vs Carr* p. 162, *Reynolds vs Sims* p. 891, *Hunt v. Cromartie* p.914
 - Read (required) : *Wesberry vs Sanders* p. 885, *Shaw vs Reno* p. 909
 - Read (recommended) : O'Brien, Chapter 8 A and B
- **R) April 2** - Elections
 - Read and brief: *Bush vs Gore* p. 935
 - Read (required) : Federalist 59 and 61, Anti Federalist 59 and 61

- Read (recommended) : O'Brien, Chapter 8C
- **T) April 14** - Elections
 - Read and brief: Buckley vs Valeo p. 946, Citizens United p. 973
- **R) April 16** - Separation of Powers
 - Read and brief: Youngstown Sheet and Tube p. 366, Dames and Moore vs Regan p. 256
 - Read (required): Federalist 47 and 48, Anti Federalist 47, 48 and 51
 - Read (recommended) : O'Brien, Chapter 4 A
- **T) April 21** - Separation of Powers (cont)
 - Read and brief: Humphrey's Executor vs US p. 407, Myers vs US p. 396
 - Read (required) : Morrison vs Olson p. 418
 - Read (recommended) : O'Brien, Chapter 4 B
- **R) April 23** - Separation of Powers (cont)
 - Read and brief: Clinton vs City of NY p. 464, INS vs Chadha p. 453
 - Read (required) : Schechter Poultry Corp vs US p. 444
 - Read (recommended) : O'Brien, Chapter 4 C
- **T) April 28** - Separation of Powers (cont)
 - Read and brief: US vs Nixon p. 483, Clinton vs Jones p. 495
 - Read (recommended) : O'Brien, Chapter 4 D
 - Term paper due
- **R) April 30** - Review for exam 3
 - Pass out essay for exam 3
- **FINAL EXAM TIME: R) MAY 7 at 10am EXAM 3** - Review for exam 3

Course Materials and Copyright

The handouts used in this course are copyrighted. By "handouts," I mean all materials generated for this class, which include but are not limited to syllabi, quizzes, exams, lab problems, in-class materials, review sheets, and additional problem sets. Because these are copyrighted, you do not have the right to copy the handouts, unless I expressly grant permission.

Academic Dishonesty and Plagiarism

High standards of academic integrity are crucial for the University to fulfill its educational mission. To uphold these standards, procedures have been established to address academic misconduct.

As a guiding principle, the University expects Students to model the principles outlined in the University Commitment to Community, especially as it pertains to accepting responsibility for their actions and holding themselves and others to the highest standards of performance in an academic environment. For example, LSU students are responsible for submitting work for evaluation that reflects their individual performance and should not assume any assignment given by any professor is a "group" effort or work unless specifically noted on the assignment. In all other cases, students must assume the work is to be done independently. If the student has a

question regarding the instructors expectations for individual assignments, projects, tests, or other items submitted for a grade, it is the students responsibility to seek clarification.

Any Student found to have committed or to have attempted to commit Academic Misconduct is subject to the disciplinary sanctions set forth in Section 9.0. (*LSU Code of Student Conduct, Sect 8.1*)

Co-curricular Events Policy

Classes missed due to participation in college-sponsored co-curricular events are considered excused absences provided appropriate procedures are followed. In order for the absence to be excused, the instructor must receive notification before the student misses the class. The activity must be a performance, professional meeting, or contest to be considered an excused absence.

An excused absence allows the student to make up exams or quizzes given during the absence, to reschedule oral presentations, or to make some other equitable arrangement as determined by the faculty and the student. Students must recognize that many classroom and laboratory activities cannot be replicated and that absences may be detrimental to the students performance. It is the responsibility of the student to get notes from the class and to compensate as much as possible for the absence. It is also the students responsibility to work with the instructor in determining a time for make-up assignments.