

American Constitutional Development Spring 2017

Course: PSC 2302-03

Time: MWF, 10:10-11am

Room: Draper 130 (Bennett Auditorium)

Instructor: Stephen Block

Instructor Office: Draper 350

Instructor Office Hours: Tuesdays and Thursdays, 10am-12pm, and by appointment

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Teaching Assistant: Elizabeth Goyette

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Office Hour: Tuesdays, 2-3pm

Goals and Objectives:

This course will examine the principles of the U.S. Constitution and the historical development of interpretations and applications of these principles through American history. The aim of this course is not only to learn “how” interpretations of the Constitution have developed. We will also consider why they developed the way they have and attempt to evaluate the adequacy and correctness of these interpretive developments. To this end, we will be investigating different Constitutional issues and institutions primarily, but not exclusively, through the lens of the Supreme Court and its interpretations of the structure of government laid out in the Constitution and rights and liberties protected by the Constitution. We will begin by briefly considering the purposes the Framers had in forming the Constitution and the means they employed in the Constitution to accomplish these ends. Following this, we will discuss Supreme Court opinions and other documents concerning governmental structures and processes, specifically the Constitutional doctrines of federalism and the separation of powers. We will conclude the course by examining issues involving questions of liberty and equality, such as race, economic rights, religion, and sexuality.

TEXTS

The following books are required for purchase:

- 1) Curry, et al. *Constitutional Government: The American Experience*. 10th Ed. (CG)
- 2) Curry, et al. *The American Constitutional Experience: Selected Readings and Supreme Court Opinions*. 3rd Ed. (ACE)
- 3) Any Turning Technologies Clicker w/ License

Note: Other readings not in ACE or CG will be distributed to the class through email or will be posted on Blackboard.

COURSE REQUIREMENTS

All members of the class are expected to attend all sessions of the course and to have completed the assigned readings before the date on which they are listed. In accordance with Baylor's attendance policy, a student who misses more than 25% of the scheduled classes (12 classes) will fail the course. A student may be absent from class three times without penalty. Each following recorded absence will result in a deduction of *two points* from the student's final grade. A student with a perfect attendance record will have one extra credit point added to their final course grade. Be prepared to discuss the assigned readings and contribute to class discussion.

There will be three exams, a series of announced and unannounced quizzes, a written assignment, and a participation grade. The course requirements contribute to the overall course grade in the following proportions:

Attendance/Participation:	5%
Quiz Average:	20%
Reflection Paper	15%
Exam 1:	15%
Exam 2:	20%
Final Exam:	25%

Grading Scale:

>93%= A >90-93%=A- >87-90%=B+ >83-87%=B >80-83%=B- >77-80%=C+
>73-77%=C >70-73%=C- >67-70%=D+ >63-67%=D >60-63%=D- 0-60%=F

Note on Technology: The use of cell phones during class is prohibited. Each violation of this rule will result in a deduction of *five points* from the student's final grade. The use of laptop computers/tablets may only be used in class with the consent of the instructor, and consent will only be given for good cause (learning disability or to aid someone with a learning disability). If the instructor discovers improper use of a computer in class (i.e. anything but taking notes) *five points* will be deducted from the student's final grade.

Title IX Office: If you or someone you know would like help related to an experience of sexual violence including sexual assault, harassment, domestic violence, dating violence, stalking or other type of non-consensual sexual conduct, please contact Kristan Tucker, the Title IX Coordinator at Baylor University, by email Kristan.Tucker@baylor.edu or phone (254-710-8454). Anonymous reporting for students or third parties is also available on the Title IX website www.Baylor.edu/TitleIX.

Turnitin.com: Students agree that by taking this course, all required papers, exams, class projects or other assignments submitted for credit may be submitted to turnitin.com or similar third parties to review and evaluate for originality and intellectual integrity. A description of the services, terms and conditions of use, and privacy policy of turnitin.com is available on its website: [<http://www.turnitin.com/>](http://www.turnitin.com/). Students understand all work submitted to turnitin.com will be added to its database of papers. Students further understand that if the results of such a review support an allegation of academic dishonesty, the course work in question as well as any supporting materials may be submitted to the Honor Council for investigation and further action.

Tentative Course Reading Schedule:

1/9: Course Introduction

1/11-1/13: No Class

The Origins of the Constitution

1/18: The American Revolution: CG (Brief 1.4; 32-35), *Declaration of Independence*

1/20: The Legacy of the Revolution: CG (36-42); Diamond, “The Revolution of Sober Expectations” (Martin Diamond), *Articles of Confederation*

1/23: The Constitutional Convention: CG (42-47), Selections from the Records of the Federal Convention of 1787, *US Constitution*

Ratifying the Constitution

1/25: The Small v. Large Republic Debate: *Brutus #1, Federalist 10*

1/27: Debate Over the Separation of Powers: *Federalist 51*

1/30: The Federal Judicial Power: CG (60-74); Article III

2/1: Debate Over Judicial Review: CG (95-104); *Brutus #15, Federalist 78*

2/3: The Exercise of Judicial Review: *Marbury v. Madison*, Jefferson, “Against Judicial Review”

2/6: The Presidency: CG (108-116); Article II

2/8: The Debate Over a Strong Executive: *Cato 4-5, Federalist 70-73*

2/10: The Powers of the President: CG (117-138); *Myers v. US, US v. Nixon*

2/13: Congress and the Legislative Power: Article I; Hamilton and Madison, “On Congress”

2/15: Federalism and Divided Sovereignty: CG (165-178); *Federalist 39*

2/17: Federalism and the Construction of Congress’ Powers: Jefferson, “Opinion on the Constitutionality of the Bank”; *McCulloch v. Maryland*

2/20: Exam 1

Contemporary Challenges to Constitutional Government

2/22: The Administrative State: *Schechter Poultry v. US, INS v. Chadha*

2/24: Federal Commercial Regulatory Power: CG (Brief 8.9; pp. 194-206), *US v. EC Knight, Wickard v. Filburn US v. Lopez*

2/27: The Spending and Taxing Powers of Congress: CG (pp. 206-208); *South Dakota v. Dole; NFIB v. Sebelius*

“Fundamental” Constitutional Rights and Liberties

3/1: The Bill of Rights and the Reconstruction Amendments: CG (280-295); Amendments 1-10, 13-15

3/3: Economic Due Process: CG (188-194); *Lochner v. New York, West Coast Hotel v. Parrish, Carolene Products* (Footnote Four)

3/13: Property Rights and Governmental Takings: CG (Brief 8.1); *Kelo v. New London*

3/15: Substantive Due Process and the Right to Privacy: CG (300-302, 311-312); *Pierce v. Society of Sisters, Griswold v. Connecticut; Reflection Paper Due*

3/15: Abortion Rights: CG (302-309); *Roe v. Wade, Planned Parenthood v. Casey*

3/17: Exam 2

3/20 Sexual Freedom: CG (309-311, 266-269): *Lawrence v. Texas*, *Obergefell v. Hodges*

Discrimination and Equality

3/22: The Constitution and Racial Slavery: CG (216-219); Notes from the Constitutional Convention; Frederick Douglass, “The Constitution of the United States: Is it Pro-Slavery or Anti-Slavery?”

3/24: Regulation of Private Discrimination and Racial Classifications: CG (211-243); *The Civil Rights Cases*; *Plessy v. Ferguson*; *Brown v. Board of Education*

3/27: Racial Preferences and “Suspect Classifications”: CG (247-255); *Richmond v. Croson*; *Grutter v. Bollinger*;

3/29: Non-Racial Discrimination: CG (255-275); *San Antonio v. Rodriguez*; *US v. Virginia*

Religious Liberty

3/31: Religious Establishments: CG (464-488), *Everson v. Board of Education*, *Lemon v. Kurtzman*, *Zelman v. Simmons-Harris*

4/3: Free Exercise of Religion and the Rule of Law: CG (Brief 16.3, 455-464);
Sherbert v. Verner, *Oregon v. Smith*

4/5: Free Exercise of Religion and Religious Discrimination: *Locke v. Davey*, *Trinity Lutheran Church v. Pauley*

The Freedom of Speech

4/7: Freedom of Speech and Public Order: CG (374-3389); *Schenck v. US*,
Brandenburg v. Ohio, *Texas v. Johnson*

Crime and Punishment

4/10: Crime, Policing, and Punishment: CG (Brief 13.2); *Mapp v. Ohio*, *Miranda v. Arizona*

4/12: The Fourth Amendment (What is a Search?): CG (Brief 12.10; 315-322);
Olmstead v. United States, *Katz v. United States*

4/19 The Fourth Amendment (Warrants Exceptions): CG (Brief 12.11; 322-334);
Pottawatomie v. Earls, *Arizona v. Gant*

4/21: Cruel and Unusual Punishments: CG (358-366); *Roper v. Simmons*, *Kennedy v. Louisiana*, *Miller v. Alabama*

4/24: The Right to Bear Arms: *Heller v. DC*, *McDonald v. Chicago*

4/26-4/28: TBA

5/1: Review and Conclusion