

BAYLOR UNIVERSITY
DEPARTMENT OF POLITICAL SCIENCE

PSC 2302
American Constitutional Development
TR, MMSCI 10, 11:00-12:15
Office Hours: TR, 1:15-2:30; by appointment other days.

Fall 2013
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Course Description: This course provides an introduction to American Constitutional Government. As such, we will come to know the United States Constitution quite well and study how its meaning is constructed by political actors and interpreted by the Supreme Court. We will focus on three topics. Our initial aim is to learn WHAT is (and isn't) in the U.S. Constitution. Understanding some historical context goes into this. Our second goal is to understand WHO gives the constitution its meaning. As part of this we will read from a book that demonstrates that constitutional meaning is often "constructed" by political actors. This challenges the notion (perpetuated by the Supreme Court) that only courts can say what the Constitution means. Our third aim is, however, to learn HOW courts also interpret the Constitution through a process known as judicial review. As part of this, we will study about and read multiple court cases concerning: federalism and civil rights / liberties. Additionally, attention will also be given to current political events as they pertain to the course.

Course Objectives: The fundamental objective of this course is to provide students with the knowledge and analytical skills necessary for the practice of informed citizenship. This is to say that you should leave this course being able to think critically about the U.S. Constitution, its meaning, and American government in general. Students will need to demonstrate an understanding of: 1) the content of the constitutional document, as well as the history surrounding its drafting; 2) the five levels of constitutional dialogue; 3) select cases where political actors have constructed the meaning of the constitution; 4) the origins and nature of judicial review; 5) multiple cases where the Supreme Court has interpreted the constitution.

Class Requirements:

Examinations: There will be **Three major exams** in this course—two "midterm" exams and a comprehensive final exam. Exams combine multiple choice with short answers questions. Questions will predominately be drawn from lecture, but you will be responsible for the information in the assigned pages of reading. STUDY HINT: Past students have told me that my multiple choice questions can be difficult because of the detailed level of knowledge I often test at. You will probably need to study at a level allowing you to "recall" specific answers rather than just "recognize" them. To help you focus your studies, I've already listed the key tables and court cases you must really, really, know (see Course Outline).

Make-ups: Not recommended but... those with university excused absences that can reasonably be expected to know they will miss an exam (for example: to play in a university athletic event) must schedule to take their make up by Sept 10th 2013. (The actual make-up date can come before or after the exam date based on how our schedules mesh). Those with university excused absences that cannot reasonably be expected to know they will miss an exam (for example: due to documented sickness) will be allowed to take a comprehensive make up exam, covering all of the course, *at the end of the course* IFF (if and only if) they provide a documented excuse and schedule a make-up within 48 hours of missing an exam. (The actual make-up date will be based on my schedule). If there is, for **any reason**, any danger that you will miss more than one exam you should not take this course, as *there is a limit of taking only one make-up exam* (of any kind).

Quizzes: There will be multiple quizzes in this course -- **FIVE BIG QUIZZES** are scheduled (15-30 points), while there will be many other small quizzes (2 to 6 points) of the 'pop' variety. The format

will vary and you can be tested over: previous lecture material, assigned readings/tables, attendance, or current events. At the end of the semester, *I will drop everyone's two lowest small quiz scores.*

Make-ups: Small quizzes **cannot** be taken early or made-up (however: see drop policy above). Only one Big quiz can be made up IFF (if and only if) you provide a documented excuse and schedule a make up within 48 hours of missing it. (The actual make-up date will be based on my schedule).

Participation: Attendance is necessary to participate but not sufficient to ensure maximum credit in this realm. To fully participate you will need to come to class and demonstrate you have read, understood, and thought critically about the day's readings as well as the week's topic of discussion. You will also need to stay up on current events for this course by reading from among various news sources. The following is a non-exclusive "starter list" of online options. Just make sure you're aware of each source's political leanings and read from both sides.

Center – Left

www.cnn.com
www.nytimes.com
www.politicsone.com
www.huffingtonpost.com

Center - Right

www.foxnews.com
www.wallstreetjournal.com
www.realclearpolitics.com
www.nationalreview.com

Other Online News Resources and helpful sites:

drudgereport.com
oyez.org ←this will become a good friend
washingtonpost.com (keyword supreme court)
supremecourt.gov
abanet.org
justia.com

Grades: Your grade in this course will be determined by the following...

Midterm exams	100-150 points (each x 2)
Final exam	100-150 points (x 1)
Big Quizzes (5 total)	15 - 30 points (each)
Small Quizzes (undetermined)	2 – 10 points (each)
Participation	10 points

In order to receive an A, you will need 90.0% of the total points possible, a B+ 88.5%, a B 80.0%, a C+ 78.5%, a C 70.0%, and a D 60.0%. Standard rounding procedures will be followed, ie: 89.95 = A; 89.94 = B+. Note: the number of total points possible in this course is undetermined at this time and left intentionally vague so as to create some uncertainty, hinder gaming of the system, and encourage maximum effort and attendance from students. This 'scheme' also better approximates conditions in real life, so it is good practice.

Policies:

Attendance Policy: I expect that every student will come to every class on time, stay the entire period, actively participate in course discussions, and demonstrate that he/she has completed and reflected upon the assigned readings. According to Baylor University policy, a student who misses more than 25% of the classes in a

course must receive an F. Additionally, to counteract the perverse incentives this policy creates -- to miss the most classes possible without failing -- every absence after your third can, at my discretion, result in a deduction of one and a half (1.50) percentage points from your final grade. Finally, tardiness is rude. Repeat offenders may be counted absent.

Honor Code: Students in this course will abide by the Baylor Honor Code. This includes, but is not limited to, the requirement for academic integrity. Plagiarism, cheating, and any other form of academic dishonesty are serious offenses and, at a minimum, constitute grounds for failure of the course.

Cell Phones and Laptops: Please turn off your cell phone and other gadgetry before the class begins. Please do not bring your laptop to class unless you have a documented need for it (see me about this). Studies show that taking notes by hand vastly improves your ability to retain information.

Email: e-mail is a courtesy and not a substitute for attending the course or for a discussion during office hours. If you have questions or issues you need to discuss, please come to my office hours or schedule an appointment.

Reading Materials: Required books should be available at the bookstore and at your favorite online source. Additional readings will be posted on Blackboard (a.k.a. BB).

Suggested Books:

- 1) Curry, James A. and Richard M. Battistoni. 2013. *Constitutional Government: The American Experience*. Dubuque, IA: Kendall/Hunt Publishing Company. Ninth ed. (a.k.a. CB)

(note: While I recommend the excellent supplementary study material available via purchase of the online access code associated with this book, use of these online features will not be required in this course. You may use an older addition of the book if you like but you are still responsible for the information from the pages I assign in the ninth edition.)

- 2) A “pocket-sized” constitution. Only the Cato Institute or Heritage Foundation versions will be allowed. (All exams and quizzes are open pocket Constitution. You may underline / highlight in them but you absolutely **CANNOT** write in your Constitution. See: Honor Code) (a.k.a. PC.)

FYI -- do not purchase -- the case book we will draw from heavily on blackboard is ...

Constitutional Law. 2005. 5th edition. eds. Geoffrey Stone et al. New York: Aspen Publishers.

Schedule and Assignments: (draft)

Aug 27~ **Introduction to course** and discussion of constitutionalism and constitutional meaning.
Levels of Constitutional Deliberation -- Levels of Deliberation ~ **Memorize Table 1.1 (BB)**
Print out and bring syllabus, read CB pp xx-xx and study Table 1.1 found on blackboard.
Bring pocket constitution for extra credit.

Aug 29 ~ Day of deep contemplation. No class. I will be at a conference. Read *CB*: 3-53.

Sept 3 ~ Your Constitution: Historical context, the Declaration of Independence.
Read CB: 3-53; and Declaration of Independence in PC.
Expect a quiz on Table 1.1 (be able to recreate it from memory).

- Sept 5 ~ The Articles of Confederation and Constitutional Convention.
Read CB: 3-53. Read entire Constitution in PC or CB: 479-485
- Sept 10 ~ The basic structure of the U.S. Constitution: Preamble, Separation of Powers, and Federalism.
Read CB: 3-53.
- Sept 12 ~ **BIG QUIZ #1**
Constitution: start Article I. *Read CB: 140-161.*
- Sept 17 ~ Constitution Day! ~ Attend mandatory Constitution Day lecture TBD. No class at 11:00am.
- Sept 19 ~ Constitution: finish Article I.
Read the above part of the U.S. Constitution in detail and CB: 140-161.
- Sept 24 ~ Article II and III.
Read the above parts of the U.S. Constitution in detail and CB: 106-125 and 58-74.
- Sept 26 ~ Article III, IV, V, VI, VII.
Read the above parts of the U.S. Constitution in detail and CB: 58-74.
- Oct 1 ~ The Bill of Rights.
Read the above parts of the U.S. Constitution in detail and CB: 16-17 and 486-490.
- Oct 3 ~ **BIG QUIZ #2**
Catch up, mustard, and review.
- Oct 8 ~ **Midterm #1**
- Oct 10 ~ Federalism: Origins and Practice of Judicial Review – start *Marbury v Madison*.
Read CB: 85-104 and other (see Table of Cases), BB, and online sources.
- Oct 15 ~ Origins and Practice cases: finish *Marbury*; *Calder v Bull*.
Read CB: 85-104 and other (see Table of Cases), BB, and online sources.
Homework: Outline Marbury v Madison.
- Oct 17 ~ *Martin v Hunter's Lessee*; *McCulloch v Maryland*; *Cooper v Aaron*.
Read CB, BB, and online sources.
Homework: Outline McCulloch v MD.
- Oct 22 ~ **BIG QUIZ #3**
Commerce cases: *Gibbons v Ogden*; *U.S. v E.C. Knight*; *Houston East/West Railway v US*.
Read CB, BB, and online sources.
- Oct 24 ~ Commerce cases: *Schechter Poultry v U.S.*; *Carter v Carter Coal*;+ *The Switch in Time that Saved 9*.
Read CB, BB, and online sources.
- Oct 29 ~ Commerce Cases: *NLRB v Jones and Laughlin Steel Co.*; *Wickard v Filburn*.
Read CB, BB, and online sources.
- Oct 31 ~ Modern commerce cases: *U.S. v Lopez*; *U.S. v Morrison*; *Gonzales v Raich*.
Read CB, BB, and online sources.
Hawaiian-Shirt Halloween ~ extra credit.

Nov 5 ~ 10th Amendment and Anti-commandeering principle: *U.S. v Darby*; *New York v U.S.*; *Printz v U.S.*
Read CB, BB, and online sources.

Nov 7~ Affordable Health Care Act: The Commerce Clause and anti-commandeering principle applied:
NFIB v Sebelius and Dept. of HHS v Florida et. al.
Read CB, BB, and online sources.

Nov 12 ~ **BIG QUIZ #4**
Catch up, mustard, and review.

Nov 14 ~ **Midterm #2.**

Nov 19 ~ **Civil Rights and Civil Liberties.** -- Equal Protection ~ Racial Equality: *Dred Scott v Sandford*;
14th Amendment; *Plessy v Ferguson*; *Brown v Board of Education.* *Read 14th Amend.,*
Read PC, CB, BB, and online sources.

Nov 21 ~ Modern Equal Protection: *Skinner v Oklahoma*; *Korematsu v U.S.*; *Craig v Boren*;
Read CB, BB, and online sources.

Nov 26 ~ Modern Equal Protection: *Regents v Bakke*; *Gratz v. Bollinger*; *Bollinger v Gratz.*
Read CB, BB, and online sources.

Nov 28 ~ Thanksgiving. No class.

Dec 3 ~ Due Process and Incorporation of the Bill of Rights: *Barron v Baltimore*; *Palko v Connecticut*;
McDonald v Chicago.
Read CB, BB, and online sources.
Take home: BIG QUIZ #5 (due Dec 5th)

Dec 5~ Substantive Due Process: *Lockner v New York*; *Griswold v CT*; *Roe v Wade.*
Read CB, BB, and online sources.

TBD ~ Study day review (if earned and desired).

Dex 1? ~ **Final**