

# Pol Sci 3325

## Topics in Politics: Constitutional Politics in the United States

Fall 2011

TTh 1:00p.m.–2:30p.m., Seigle Hall 304

### *Instructor*

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### *Office Hours*

TWTh 10:00a.m.–11:30a.m.  
and by appointment

## Course Description

This course introduces students to the basic concepts in American constitutional law and the techniques of constitutional interpretation. The goal is to familiarize students with the basic themes in the American Constitution in areas related to government institutional powers and structure.

## Course Objectives

After completing the course, students should:

- Possess an ability to read and understand Supreme Court decisions.
- Understand the role of the Constitution and the Supreme Court
- Have a understanding of the core principles and key precedents in constitutional law (excluding the Bill of Rights).
- Be able to critically think about legal issues related to the constitutional allocation of power amongst the branches of government.
- Be able to assess current constitutional questions in view of the development of constitutional law

## Required Texts

Epstein, Lee and Thomas G. Walker. 2011. *Constitutional Law for a Changing America: Institutional Powers and Constraints* (7th ed.). Washington: CQ Press. ISBN-13: 978-1-60426-516-3

## Helpful Links

<http://www.oyez.org>  
<http://www.findlaw.com/casecode/index.html>  
<http://www.law.cornell.edu/>

## Special Needs

Any student with special needs should inform the professor as soon as possible, so that appropriate accommodations can be made.

## Course Requirements

1. **Grading** Final grades for this course will be comprised of four components:

Participation	10%
Exam 1	25%
Exam 2	25%
Moot Court	40%

2. **Participation** Regular attendance is essential for successful completion of the course. This will not be a lecture course, but follow a "soft" socratic method, in which students are called on to answer questions, unless there are volunteers.

I take attendance and will deduct a half letter grade of each student that misses more than three classes. In other words, you are free to miss three classes—whether due to an illness, your grandfather's birthday, or because you just did not feel like coming in. Remember, though: you are responsible for the material covered in all classes, regardless of whether you attended them or not.

A good participation grade requires you to actively participate in the discussions. I expect students to come to class each day having read the assigned material and being prepared to discuss it. In order to prepare for discussion, Students are highly encouraged to prepare a "brief" for each of the cases we will discuss in class. I will not collect these briefs, and preparing them is not required. Preparing case briefs will help you in preparing for the exams. More importantly, it will help you develop skills necessary in law school (should you plan on getting a law degree). We will devote some time at the beginning of the semester to the writing of briefs.

3. **Examinations** There will be two examinations in this course. While the second exam is cumulative, it will focus on the material covered in the second half of the semester. The exam will consist of a hypothetical case or an essay question that will require you to apply and/or explain and interpret the learned legal principles. Before the first exam, I will provide you with a set of example questions. You are responsible for all material from assigned readings, lectures, and other material presented in class (e.g., videos, discussions) on exams.

Unexcused missed exams receive a failing grade. If you are unable to take the exam at the scheduled time, your absence must be excused far enough in advance to enable you to take the make-up before the regularly scheduled exam. If you miss an exam due to a for sudden, unforeseen medical emergency, you must contact me as soon as it is practical to do so—do not wait until you return to class. If you are absent on an exam day for any other reason or you fail to make timely arrangements for your make-up exam, you should expect to receive a zero on the exam.

4. **Moot Court** Forty percent of your grade will depend on your performance in the Moot Court simulation, held on November 8 and 10. On those two days we will transform the classroom into the Supreme Court of the United States. A few students will be asked to volunteer to play the role of petitioning and respondent lawyers. The rest of the class will be assigned the role of a former or current justice on the Supreme Court.

- (a) Those volunteering to take on the role of petitioning and respondent lawyers are required to fulfill the following tasks:
  - Write a brief to the Court, arguing your side of the case (due at beginning of class on November 3rd, approximately 10 pages). The brief will be distributed to the Court.
  - Present oral arguments to the assembled Court on November 8 or 10
- (b) The remaining students will play the role of an assigned former or current justice on the Supreme Court. They are required to fulfill the following tasks:

- Write a analytical paper on the assigned Justice, addressing biographical facts, but concentrating on their ideological preferences and historic impact. You should address the confirmation hearing, how newspapers judged the justice before confirmation, and their behavior on the bench in contrast to the confirmation hearing and newspaper predictions (due at beginning of class on October 25th, approximately 5 pages)
  - Sit *en banc* with your fellow justices to hear oral arguments on November 8 or 10
  - Write the opinion of the Court—following the process on the Supreme Court (with slight modifications):
    - Record your preliminary vote in conference and assign parts of the majority opinion and dissent to all justices
    - Circulate the opinions until every justice has signed at least one majority, concurring, or dissenting opinion (due at beginning of class on December 8)
- (c) Assignment of justice roles and lawyer roles, as well as the distribution of the hypothetical cases will take place on September 27. Please let me know by email or in person by **Thursday, September 22nd, noon** if you are interested in taking on a lawyer role. The luck of the draw will determine lawyer roles if more students are interested in a lawyer role than roles are available. One of the cases will center on executive and the other on commerce powers.
- (d) All written assignments are due at the beginning of the class period on the assigned due date. Formatting requirements are:
- 1” margins
  - size 11 or 12 font in standard font styles (i.e. Ariel or Times New Roman)
  - doublespaced
  - follow APSA citation style (see <http://www.ipsonet.org/data/files/APSASStyleManual2006.pdf> or <http://writing.wisc.edu/Handbook/DocAPSA.html>)
- (e) All assignments must be handed in as hard copies. *No assignments will be accepted via email.* A letter grade will be deducted for each beginning day an assignment is late. You will receive a failing grade if your paper is more than two days late.
- (f) Wikipedia, Yahoo! Answers, [infoplease.com](http://infoplease.com), etc. are *NOT* a valid source of information for any academic assignment. If you are unsure about valid sources, please come and see me during office hours.

## Academic Integrity & Plagiarism

Cheating, plagiarism and academic misconduct will not be tolerated. If you are unfamiliar with standards regarding plagiarism, learn them. A good place to start is: <http://www.wustl.edu/policies/undergraduate-academic-integrity.html> & <http://www.plagiarism.org/>. I reserve the right to use anti-plagiarism software to test turned in assignments.

## Expectations for Classroom Behavior

We will discuss controversial issues and positions in this class. I expect all students to be respectful towards the views of their classmates. I furthermore will not tolerate disruptive behavior in class. That includes the use of cell phones (all cell phones are to be turned off or silenced during class). Students are also asked to refrain from behavior that might be distracting to those around them, such as surfing the web, sending text messages or IMs, or reading the newspaper.

## Course Schedule

The course syllabus provides a general plan for the course; I may deviate from the schedule, and will announce changes in class or by email.

## Course Outline

1. Week of Aug. 30 & Sep. 1: Overview &
  - **Sept. 1 no class: APSA Conference**
2. Week of Sep. 6 & 8: 'How to Brief a Case' & Power of the Judiciary
  - Reading: Epstein and Walker, Chapters 1 & 2, 675-686, 693-695, 711-712
  - Focus Cases:
    - *Marbury v. Madison* (1803)
    - *Martin v. Hunter's Lessee* (1816)
    - *Ex Parte McCardle* (1869)
    - *Nixon v. U.S.* (1993)
3. Week of Sept. 13 & 15: Power of the Judiciary (continued) & The Legislature
  - Reading: Epstein and Walker, Chapter 2 & 3
  - Focus Cases:
    - *Powell v. McCormack* (1969)
    - *U.S. Term Limits, Inc. v. Thornton* (1995)
    - *McCulloch v. Maryland* (1819)
    - *Barenblatt v. United States* (1959)
    - *United States v. Curtiss-Wright Export Corp.* (1936)
4. Week of Sept. 20 & 22: The Legislature (continued), The Executive
  - **Tuesday, September 22, noon: Deadline Applying for Lawyer Role**
  - Reading: Epstein and Walker, Chapter 3 & 4
  - Focus Cases:
    - *Bush v. Gore* (2000)
    - *Clinton v. City of New York* (1998)
    - *Morrison v. Olson* (1988)
    - *Myers v. United States* (1926)
    - *Humphrey's Executor v. United States* (1935)
5. Week of Sept. 27 & 29: The Executive
  - Reading: Epstein and Walker, Chapter 4
  - Focus Cases:
    - *United States v. Nixon* (1974)
    - *Nixon v. Fitzgerald* (1982)
    - *Clinton v. Jones* (1997)
    - *United States v. Curtiss-Wright Export Corp.* (1936)
6. Week of Oct. 4 & 6: Separation of Powers
  - Reading: Epstein and Walker, Chapter 5
  - Focus Cases:
    - *Immigration and Naturalization Service v. Chadha* (1983)
    - *Korematsu v. United States* (1944)
    - *Youngstown Sheet & Tube Co. v. Sawyer* (1952)
7. Week of Oct. 11 & 13: Separation of Powers (continued) & Exam Review
  - Reading: Epstein and Walker, Chapter 5
  - Focus Cases:
    - *Hamdan v. Rumsfeld* (2006)
    - *Hamdi v. Rumsfeld (online)* (2004)

8. Week of Oct. 18 & 20: The Commerce Power
  - **Tuesday, Oct. 18: Exam #1**
  - Reading: Epstein and Walker 400-432
  - Focus Cases:
    - *Gibbons v. Ogden* (1824)
    - *A.L.A. Schechter Poultry Corp. v. United States* (1935)
9. Week of Oct. 25 & 27: The Commerce Power, continued
  - **Tuesday, October 25: Paper on Justices Due at Beginning of Class**
  - Reading: Epstein and Walker 400-464
  - Focus Cases:
    - *National Labor Relations Board v. Jones & Laughlin* (1937)
    - *United States v. Darby* (1941)
10. Week of Nov. 1 & 3: The Commerce Power, continued & Moot Court Review
  - **Thursday, November 3rd: Petitioner & Respondent Briefs Due at Beginning of Class**
  - Reading: Epstein and Walker 400-464
  - Focus Cases:
    - *United States v. Lopez* (1995)
    - *Gonzales v. Raich* (2005)
    - *Heart of Atlanta Motel, Inc. v. United States* (1964)
11. Week of Nov. 8 & 10: **Moot Court Oral Arguments**
12. Week of Nov. 15 & 17: Federalism
  - **Tuesday, Nov. 15: Moot Court Conference**
  - Reading: Epstein and Walker, Chapter 6
  - Focus Cases:
    - *McCulloch v. Maryland* (1819)
    - *Hammer v. Dagenhart* (1918)
13. Week of Nov. 22 & 24: Federalism, continued
  - **Nov. 24 no class: Thanksgiving Break**
  - Reading: Epstein and Walker, Chapter 6
  - Focus Cases:
    - *Garcia v. San Antonio Metropolitan Transit Authority* (1985)
    - *New York v. United States* (1992)
    - *Printz v. United States* (1997)
14. Week of Nov. 29 & Dec. 1: The Contract Clause
  - Reading: Epstein and Walker 547-584
  - Focus Cases:
    - *Fletcher v. Peck* (1810)
    - *Allied Structural Steel Co. v. Spannaus* (1978)
15. Week of Dec. 6 & 8: Economic Substantive Due Process & The Takings Clause
  - **Moot Court Opinions Due at Beginning of Class on Thursday, Dec. 8**
  - Reading: Epstein and Walker, Chapters 10 & 11
  - Focus Cases:
    - *Lochner v. New York* (1905)
    - *BMW of North America v. Gore* (1996)
    - *Penn Central Transportation Company v. City of New York* (1978)

- *Lucas v. South Carolina Coastal Council* (1992)
- *Kelo v. City of New London* (2005)

16. **Tuesday, Dec. 20 1:00–3:00p.m.: Final Exam**