

Political Science 2100

The American Constitution

Spring 2020

Xavier Hall Annex 203
MWF 11:00-11:50

Instructor Information

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North Campus:

- Office: McGannon Hall, Room 153
- Office Phone: 314.977.5169
- Office Hours: Wednesday, 1:30 to 3:00 or by appointment.

Law School:

- Office: Scott Hall, Room 830
- Office Hours: Tuesday, 9:00 to 10:30 and 2:30 to 4:00 or, by appointment.

Catalog Description

This course explores basic themes in the American Constitution - popular sovereignty, sep-

Additional Course Description

What is the proper role of government? How should government be limited, if at all? What are the roles of the branches and how should they interact? What is the role of the Constitution in defining institutions and their functions? How has our understanding of institutional powers and constraints developed and changed? In this class, we endeavor to answer these questions, among others. Our investigation will primarily focus on the role of the United States Supreme Court and its decisions in the development of these powers and constraints, and will include considering the role of precedent. Furthermore, our investigations will be carried out in a variety of contexts. This course meets the Social Science core curriculum requirement for the College of Arts & Sciences.

Course Objectives

This course is designed to help students broaden their knowledge, skills, and values so that they will be able to:

- understand the structure of the United States Constitution and its history as it pertains

F78 - Federalist No. 78

CL - Epstein, Lee and Thomas Walker. 2013 *Constitutional Law for a Changing America: Institutional Powers and Constraints* CQ Press.

RB - Marshall, Thurgood. 1987. "Reflections on the Bicentennial of the United States Constitution." *Harvard Law Review* 101:1.

SA - Stevens, John Paul. 2014 *Six Amendments: How and Why We Should Change the Constitution*. Ch. IV - "Sovereign Immunity."

Classroom discussion is an essential part of the learning process during which we deepen our understanding of the material, draw conceptual connections, and apply theoretical and legal frameworks to new scenarios. Students will be graded on their participation based on the quality of reasoning reflected in their answers, level of participation in discussions, thoughtfulness in comments, and active listening. Disagreement and debate is a part of healthy intellectual discourse and strongly encouraged. Students must, however, remain respectful to all members of the class at all times.

Exams

There will be two exams in this course: a mid-term and final. The purpose of the exams is to test your mastery of the material in terms of both factual knowledge and conceptual understanding. Thus, the exams will consist of multiple question types including multiple choice, short answer, and essay. Essay questions will take the form of hypothetical fact patterns that require students to analyze new situations and construct arguments based on the materials from the course.

Make-up exams will only be allowed for excused absences. In all other cases, the student will receive no points for missed exams.

Assignments

Briefs

As part of this course, you will be asked to brief five cases. These briefs will be short reports about the cases that will follow a standard legal briefing format, such as IRAC or CREAC (<http://en.wikipedia.org/wiki/IRAC>), of your choice. The purpose of these assignments is to help you learn to organize and clarify information regarding legal opinions. Further information regarding these assignments will be handed out in class.

Opinion Assignment

You will also be part of an opinion writing assignment. This will be a group project focused on issues surrounding institutional powers and constraints. It will also focus on the act of judicial decisionmaking on a collegiate court, including opinion assignment, bargaining, etc. Students will be grouped on "courts" and randomly assigned roles as justices. Collectively, the courts will produce written opinions regarding an actual case that could have been heard by the Supreme Court. Students will be asked to produce brief written assignments at beginning (Initial Impressions) and end (Final Impressions) of the assignment regarding their assessment of the political and legal issues. Further information and the case materials will be handed out in class.

Policies

All assignments are due in hard copy form in class.

Students will be penalized 10% per day on late assignments. For an example, a brief that would normally receive a 91% would be recorded as 71% if the student turned it in two days late.

Course Evaluations

Students are required to fill out a course evaluation at the end of the course.

Grading

Your grade for this course will consist of the following components and relative weights:

| Type | Item | Grade Value |
|------------------------|-------------------------------|------------------|
| <i>Verbal</i> | Class Participation | 10% |
| | On-Call Days | 10% |
| <i>Briefing</i> | Case Briefing Assignments (5) | 20% (4% each) |
| <i>Opinion Writing</i> | Initial Impressions | 5% |
| | Opinion (Group Project) | 10% |
| | Final Impressions | 5% |
| <i>Examination</i> | Midterm Exam | 15% |
| | Final Exam | 25% |

Grades will be assigned by the following scale:

| Percent of Pts | Letter Grade |
|----------------|--|
| ≥ 93 | A |
| ≥ 90 | A- |
| ≥ 87 | B+ |
| ≥ 83 | B |
| ≥ 80 | B- |
| ≥ 77 | C+ |
| ≥ 73 | C |
| ≥ 70 | C- |
| ≥ 61.9552 | Ta.9552 %5 11.9552 Tf -12.619 -14.446 Td [≤5 |

obtain a particular letter grade. If you are taking the course on a pass/fail basis, please see me to discuss the requirements for a passing grade. Students auditing the course are expected to attend class and participate in our discussions. Grades of "Incomplete" will only be given after extensive consultation with a student and only in the most exceptional of circumstances.

Important Matters

Academic Integrity and Honesty

Academic integrity is honest, truthful and responsible conduct in all academic endeavors. The mission of Saint Louis University is "the pursuit of truth for the greater glory of God and for the service of humanity." Accordingly, all acts of falsehood demean and compromise the corporate endeavors of teaching, research, health care, and community service via which SLU embodies its mission. The University strives to prepare students for lives of personal and professional integrity, and therefore regards all breaches of academic integrity as matters of serious concern.

The governing University-level Academic Integrity Policy was adopted in Spring 2015, and can be accessed on the Provost's Office website at: https://www.slu.edu/provost/policies/academic-and-course/policy_academic-integrity_6-26-2015.pdf.

Additionally, each SLU College, School, and Center has adopted its own academic integrity policies, available on their respective websites. All SLU students are expected to know and abide by these policies, which detail definitions of violations, processes for reporting violations, sanctions, and appeals. Please direct questions about any facet of academic integrity to your faculty, the chair of the department of your academic program, or the Dean/Director of the College, School or Center in which your program is housed.

Title IX

Saint Louis University and its faculty are committed to supporting our students and seeking an environment that is free of bias, discrimination, and harassment. If you have encountered any form of sexual misconduct (e.g. sexual assault, sexual harassment, stalking, domestic or dating violence), we encourage you to report this to the University. If you speak with a faculty member about an incident of misconduct, that faculty member must notify SLU's Title IX coordinator, Anna R. Kratky (DuBourg Hall, room 36; akratky@slu.edu; 314-977-3886) and share the basic facts of your experience with her. The Title IX coordinator will then be available to assist you in understanding all of your options and in connecting you with all possible resources on and off campus.

If you wish to speak with a confidential source, you may contact the counselors at the University Counseling Center at 314-977-TALK. To view SLU's sexual misconduct policy

and for resources, please visit the following web addresses: www.slu.edu/here4you and <https://www.slu.edu/general-counsel>.

Student Success Center

In recognition that people learn in a variety of ways and that learning is in

Basic Needs Security

Students in personal or academic distress and/or who may be specifically experiencing challenges such as securing food or difficulty navigating campus resources, and who believe this may affect their performance in the course, are encouraged to contact the Dean of Students Office (deanofstudents@slu.edu or 314-977-9378) for support. Furthermore, please notify the instructor if you are comfortable in doing so, as this will enable them to assist you with finding the resources you may need.

Course Schedule

What follows is a *tentative* outline of the topics to be covered and when we will cover them. I may modify this schedule as necessary based on the dynamics of this particular class. If the schedule is modified, I will provide you with appropriate notice.

| Week | Dates | Topic | Assignments |
|------|---------|---|--|
| 1 | | <i>Introduction & The U.S. Constitution</i> | |
| | Jan. 13 | Structure of the Class | Syllabus |
| | Jan. 15 | The U.S. Constitution | CL Appendix 1 |
| | Jan. 17 | The U.S. Constitution | AC & WP |
| 2 | | <i>The U.S. Constitution</i> | |
| | Jan. 20 | MLK Day | No School |
| | Jan. 22 | Understanding the U.S. Supreme Court | CL 1{22 RB; AV |
| | Jan. 24 | Understanding the U.S. Supreme Court | CL 22{45 WP2 |
| 3 | | <i>Institutional Authority</i> | |
| | Jan. 27 | Institutional Authority | CL 48{53 Briefing Handout |
| | Jan. 29 | The Judiciary | F23 & F78 B11 |
| | Jan. 31 | The Judiciary | CL 54{69 Brief: <i>Marbury v. Madison</i> |

| Week | Dates | Topic | Assignments |
|------|---------|---|---|
| 4 | | <i>Institutional Authority</i> | |
| | Feb. 3 | The Judiciary | CL 69{83 |
| | Feb. 5 | The Judiciary | CL 83{103 |
| | Feb. 7 | The Judiciary | CL 103{125 |
| 5 | | <i>Institutional Authority</i> | |
| | Feb. 10 | The Legislature | CL 125{144 |
| | Feb. 12 | The Legislature | CL 144{165 Brief: <i>McCulloch v. Maryland</i> |
| | Feb. 14 | The Legislature The Executive | CL 165{179 CL 181{184 |
| 6 | | <i>Institutional Authority</i> | |
| | Feb. 17 | The Executive | CL 184{208 |
| | Feb. 19 | The Executive | CL 208{227 |
| | Feb. 21 | The Executive | CL 227{249 |
| 7 | | <i>Institutional Authority</i> | |
| | Feb. 24 | The Executive Interbranch Interactions | CL 249{263 CL 265{270 |
| | Feb. 26 | Interbranch Interactions | CL 270{290 Brief: <i>INS v. Chadha</i> |
| | Feb. 28 | Interbranch Interactions | CL 290{313 |
| 8 | | <i>Mid-Term Exams</i> | |
| | Mar. 2 | Interbranch Interactions | CL 313{333 |
| | Mar. 4 | Review | Opinion Assignment Handout |
| | Mar. 6 | Midterm Exam | |

| Week | Dates | Topic | Assignments |
|------|---------------|-------------------------------|--|
| 9 | | <i>Spring Break</i> | |
| | Mar. 9 | Spring Break | No Class |
| | Mar. 11 | Spring Break | No Class |
| | Mar. 13 | Spring Break | No Class |
| 10 | | <i>Opinion Assignment</i> | |
| | Mar. 16 | Conference | <i>Initial Response Due</i> |
| | Mar. 18 | Conference | |
| | Mar. 20 | Conference | |
| 11 | | <i>Nation-State Relations</i> | |
| | Mar. 23 | Federalism | CL 336{355 <i>Opinions Due</i> |
| | Mar. 25 | Federalism | CL 355{380 |
| | Mar. 27 | Federalism | CL 380{404 SA <i>Final Impressions Due</i> |
| 12 | | <i>The Commerce Power</i> | |
| | Mar. 30 | The Commerce Power | CL 405{425 |
| | Apr. 1 | The Commerce Power | CL 425{443 |
| | Apr. 3 | The Commerce Power | CL 443{464 |
| 13 | | <i>Nation-State Relations</i> | |
| | Apr. 6 | The Commerce Power | CL 464{485 |
| | Apr. 7 | Research Symposium | |
| | Apr. 10 | Easter Break | No Class |

| Week | Dates | Topic | Assignments |
|------|---------|--|--|
| 14 | | <i>The Power to Tax and Spend</i> | |
| | Apr. 13 | Easter Break | No Class |
| | Apr. 15 | The Commerce Power The Power to Tax and Spend | CL 485-494 CL 515{525 Brief: <i>Pollock v. Farmers' Loan & Trust Co.</i> |
| | Apr. 17 | The Power to Tax and Spend (Online) | CL 525{548 |
| 15 | | <i>Economic Liberties</i> | |
| | Apr. 20 | The Power to Tax and Spend Economic Liberties | CL 548-564 CL 584-586 |
| | Apr. 22 | Economic Substantive Due Process | CL 617{634 |
| | Apr. 24 | Economic Substantive Due Process | CL 634{656 |
| 16 | | <i>Economic Liberties</i> | |
| | Apr. 27 | Economic Substantive Due Process | CL 656{675 |
| | Apr. 29 | The Takings Clause | CL 676{699 |
| | May 1 | The Takings Clause | CL 699{713 Brief: <i>Kelo v. City of New London</i> |
| 17 | | <i>Review</i> | |
| | May 4 | Review | |
| | | <i>Finals</i> | |
| 18 | May 11 | Final | 8:00 {9:50 - Final Exam |