

# Political Science 2100

## The American Constitution

Spring 2020

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

### Instructor Information

Morgan L.W. Hazelton, J.D., Ph.D.  
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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, separation of powers, and federalism - and the historical struggles between various government actors over the allocation of political power in the American constitutional system from the Constitutional Convention in 1789 to the recent conflict over terrorism and state power.

## 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 to institutional powers and constraints;
- understand the role of federal courts in interpretation of the Constitution;
- identify and critique various methods for interpreting constitutional provisions;
- understand and apply constitutional provisions and doctrines relating to:
  - the roles of the branches of government and their relationship to each other and the citizenry in the United States, and
  - the relationship among federal and state governments in the United States.
- use conceptual tools and methodologies to analyze and understand their social world in the context of the American Constitution.

## Course Materials

AC - Howard Gillman, Mark Graber, and Keith Whittington. 2013. *American Constitutionalism: Volume I, Structures of Government*. Oxford University Press. Ch. 1 - "Introduction to American Constitutionalism."

AV - Reynolds, William Bradford. 1987. "Another View: Our Magnificent Constitution." *Vanderbilt Law Review* 40: 1343.

B11 - Brutus No. 11

F23 - Federalist No. 23

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."

WP - Liptak, Adam. Feb. 6, 2012. "We the People' Loses Appeal With People Around the World." *The New York Times*.

WP2 - Ackerman, Bruce. 2000. *We the People: Volume 1: Foundations*. Ch. 2 - "The Bicentennial Myth." Belknap Press.

When appropriate, I will supplement the text with additional readings. These readings will be available via ERes.

## Requirements and Evaluation

### Attendance Policy and Class Participation

Class participation is an essential part of this class, and, thus, your attendance is very important. If you must miss class due to an emergency or serious situation, you should contact me as soon as possible (which means before the missed class whenever possible). A list of University-recognized absences and the required documentation can be found at: <https://catalog.slu.edu/academic-policies/academic-policies-procedures/attendance/>. In addition to the excuses recognized by the University, I will excuse absences due to serious illness or emergency with appropriate notice and documentation. If you have more than **three** unexcused absences, your class participation grade, which is worth 10% of your grade, will be lowered by 2% for each additional day. For example, if you have six total unexcused absences, your class participation grade will be no more than 2% (of the total 10%) and your overall grade in the class can be no more than 92%.

Students are expected to be prepared to discuss the assigned materials every class. In this class, we will investigate legal concepts using group activities and the Socratic Method (<http://lawschool.about.com/od/lawschoolculture/a/socraticmethod.htm>). Students will be graded on their participation based on well reasoned answers, taking part in conversations and activities, thoughtfulness in comments, and active listening. Students will also be assigned days where they will be asked about the legal decisions we have read and/or to lead group activities on the day's materials. The following schedule regarding the material may change. Thus, it is very important that you stay abreast of what material will be covered on your on-call days. When in doubt, ask.

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:

<b>Type</b>	<b>Item</b>	<b>Grade Value</b>
<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:

<b>Percent of Pts</b>	<b>Letter Grade</b>
≥ 93	A
≥ 90	A-
≥ 87	B+
≥ 83	B
≥ 80	B-
≥ 77	C+
≥ 73	C
≥ 70	C-
≥ 60	D
< 60	F

The above scale represents the highest requirements for a particular letter grade. That is, I may, at my discretion, alter the grading scale to require fewer percentage points to

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](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](mailto: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](http://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 influenced by multiple factors (e.g., prior experience, study skills, learning disability), resources to support student success are available on campus. The Student Success Center assists students with academic-related services and is located in the Busch Student Center (Suite, 331). Students can visit <https://www.slu.edu/life-at-slu/student-success-center/> to learn more about tutoring services, university writing services, disability services, and academic coaching.

## **Disability Services Academic Accommodations**

Students with a documented disability who wish to request academic accommodations must contact Disability Services to discuss accommodation requests and eligibility requirements. Once successfully registered, the student also must notify the course instructor that they wish to access accommodations in the course.

Please contact Disability Services, located within the Student Success Center, at [Disability\\_services@slu.edu](mailto:Disability_services@slu.edu) or 314.977.3484 to schedule an appointment. Confidentiality will be observed in all inquiries. Once approved, information about the student's eligibility for academic accommodations will be shared with course instructors via email from Disability Services and viewed within Banner via the instructor's course roster.

Note: Students who do not have a documented disability but who think they may have one are encouraged to contact to Disability Services.

## **University Writing Services**

Students are encouraged to take advantage of University Writing Services in the Student Success Center; getting feedback benefits writers at all skill levels. Trained writing consultants can help with writing projects, multimedia projects, and oral presentations. University Writing Services offers one-on-one consultations that address everything from brainstorming and developing ideas to crafting strong sentences and documenting sources. For more information, visit <https://www.slu.edu/life-at-slu/student-success-center/> or call the Student Success Center at 314-977-3484.

## 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 &amp; 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	CL 165–179
		The Executive	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	CL 249–263
		Interbranch Interactions	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
	<b>Apr. 7</b>	<b>Research Symposium</b>	
	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	CL 485-494
		The Power to Tax and Spend	CL 515-525
			Brief: <i>Pollock v. Farmers' Loan &amp; 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	CL 548-564
		Economic Liberties	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