

Political Science 2100

The American Constitution

Fall 2017

McGannon Hall, Room 121
Tu Th 9:30-10:45

Instructor Information

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Office Hours: Monday, 9:30 to 11:30 and 1:00 to 2:00; or, by appointment.

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:

- use conceptual tools and methodologies to analyze and understand their social world in the context of the American Constitution.
- think and write critically about human behavior and community in the context of the American Constitution.
- understand various methodological approaches used by social scientists to study the American Constitution and its impact.
- act in their world more effectively and become forces for positive change.
- understand human diversity and how it influenced the American Constitution.
- understand the factual and historical background relating to the development of institutional powers and constraints in the United States.
- understand the structure of the United States Constitution and its history as it pertains to institutional powers and constraints.
- master major concepts and approaches in considering:
 - the relationship between the government and individuals as mediated by the Constitution.
 - the roles of the branches of government and their relationship to each other and the citizenry.
 - the use of decisions and precedent by the Supreme Court in development of constitutional law.
- critique and assess scholarly theories and evidence.
- comprehend and analyze court opinions.
- discuss and defend ideas orally, as part of the discussion and negotiations.
- engage in meaningful and productive dialogue with others.
- work independently and as part of group to analyze and present arguments.
- construct and present arguments and evidence clearly in written work, including essay exam answers and legal opinions.
- discern the ethical consequences of the granting or denial of various institutional powers and constraints.

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, Class Participation, and Civility

Class participation is an essential part of this class, and, thus, your attendance is very important. If you must miss class for a legitimate reason, such as illness, family emergency, or University-sponsored activity, you should contact me as soon as possible (which means before the missed class whenever possible). If you have more than **two** 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%.

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. In this class, we will also investigate legal concepts using group activities and the Socratic Method (<http://lawschool.about.com/od/lawschoolculture/a/socraticmethod.htm>). Students will 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. Students will be graded on their participation based on well reasoned answers, taking part in conversations and activities, thoughtfulness in comments, and active listening. Disagreement and debate is a part of healthy intellectual discourse, and is strongly encouraged. Students must, however, remain civil with and 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. The final will be **cumulative** for the entire 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. Students will receive 1% of extra credit for filling out course evaluations 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-
≥ 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: http://www.slu.edu/Documents/provost/academic_affairs/University-wide%20Academic%20Integrity%20Policy%20FINAL%20206-26-15.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 fact 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 address: <http://www.slu.edu/general-counsel-home/office-of-institutional-equity-and-diversity/sexual-misconduct-policywww.slu.edu/here4you>.

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, a one-stop shop, which assists students with academic and career related services, is located in the Busch Student Center (Suite, 331) and the School of Nursing (Suite, 114). Students who think they might benefit from these resources can find out more about:

- Course-level support (e.g., faculty member, departmental resources, etc.) by asking your course instructor.
- University-level support (e.g., tutoring services, university writing services, disability services, academic coaching, career services, and/or facets of curriculum planning) by visiting the Student Success Center or by going to www.slu.edu/success.

Disability Services Academic Accommodations

Students with a documented disability who wish to request academic accommodations are encouraged to contact Disability Services to discuss accommodation requests and eligibility requirements. Please contact Disability Services, located within the Student Success Center, at Disability_services@slu.edu or 977-3484 to schedule an appointment. Confidentiality will

be observed in all inquiries. Once approved, information about academic accommodations will be shared with course instructors via email from Disability Services and viewed within Banner via the instructor's course roster.

Writing Center

I encourage you to take advantage of the writing services in the Student Success Center; getting feedback benefits writers at all skill levels. Trained writing consultants can help with any kind of writing project, multimedia project, and/or oral presentation. They offer one-on-one consultations that address everything from brainstorming and developing ideas to crafting strong sentences and documenting sources. For more information, call 977-3484 or visit <http://www.slu.edu/writingservices.xml>.

Course Schedule

What follows is a *tentative* outline of the topics to 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>	
	Aug. 29	Structure of the Class	Syllabus
	Aug. 31	The U.S. Constitution	CL Appendix A AC WP
2		<i>The U.S. Constitution</i>	
	Sept. 5	Understanding the U.S. Supreme Court	CL 1-23 RB; AV
	Sept. 7	Understanding the U.S. Supreme Court	CL 23-45 WP2

Week	Dates	Topic	Assignments
3		<i>Institutional Authority</i>	
	Sept. 12	Institutional Authority The Judiciary	CL 47–54 F23 & F78 B11
	Sept. 14	The Judiciary	CL 55–86 Brief: <i>Marbury v. Madison</i>
4		<i>Institutional Authority</i>	
	Sept. 19	The Judiciary	CL 86–120
	Sept. 21	The Legislature	CL 121–143
5		<i>Institutional Authority</i>	
	Sept. 26	The Legislature	CL 143–180 Brief: <i>McCulloch v. Maryland</i>
	Sept. 28	The Executive	CL 283–213
6		<i>Institutional Authority</i>	
	Oct. 3	The Executive	CL 214–244
	Oct. 5	The Executive	CL 244–266
7		<i>Institutional Authority</i>	
	Oct. 10	Separation of Powers	CL 269–302
	Oct. 12	Separation of Powers	CL 303–339

Week	Dates	Topic	Assignments
8		<i>Mid-Term Exams</i>	
	Oct. 17	Review	Opinion Assignment Handout
	Oct. 19	Midterm Exam	
9		<i>Opinion Assignment</i>	
	Oct. 24	Fall Break	No Class
	Oct. 26	Conference	<i>Initial Response Due</i>
10		<i>Opinion & Federalism</i>	
	Oct. 31	Conference	CL 349–373 <i>Opinions Due</i>
	Nov. 2	Federalism	
11		<i>Nation-State Relations</i>	
	Nov. 7	Federalism	CL 373-393 <i>Final Impressions Due</i>
	Nov. 9	Federalism	CL 373–393 SA Brief: <i>Michigan v. Long</i>
12		<i>Nation-State Relations</i>	
	Nov. 14	The Commerce Power	CL 415–439
	Nov. 16	The Commerce Power	CL 439–471

Week	Dates	Topic	Assignments
13		<i>Nation-State Relations</i>	
	Nov. 21	The Commerce Power	CL 471–500
	Nov. 23	Thanksgiving	No Class
14		<i>Nation-State Relations</i>	
	Nov. 28	The Power to Tax and Spend	CL 548–567
		Economic Substantive Due Process	CL 625–639
	Nov. 30	Economic Substantive Due Process	CL 640–668 <i>skim CL 669-680</i>
15		<i>Economic Liberties</i>	
	Dec. 5	The Takings Clause	CL 683–718 Brief: <i>Kelo v. City of New London</i>
	Dec. 7	Review	
17		<i>Finals</i>	
	Dec 19	Final	8:00 –9:50 - Final Exam