

**Princeton University
Department of Politics**

**POL 314 – American Constitutional Development
Spring 2022**

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MW, 10:00-10:50 am

office hours: by appointment via online scheduler
(<https://wase.princeton.edu/>)

This course will examine the development of American constitutional law, conceptions, and practices over the course of American history, with particular focus on the period predating World War II (that is, prior to most of the constitutional law that you typically see in other classes), and on governments structures and powers. We will examine how the Supreme Court has interpreted the Constitution over time, but we will also be interested in how constitutions are written and amended and how political practices that give shape to our constitutional system evolve. We will explore the continuing tension between the Constitution as an empowering device and the Constitution as a limiting rule. We will be interested in how the Constitution serves as an instrument of popular power and a symbol of political ideals, as well as how it serves as a fundamental law constraining government action. We will be interested in how our constitutional values and practices have changed over time, and how we can reconcile those changes with the idea of a written constitution and a consistent constitutional tradition extending from the founding to the present. We will see how different political actors with different sets of political ideals and commitments struggle to meet the governing objectives of the moment while remaining faithful to larger constitutional objectives.

The class will be particularly concerned with thinking about American constitutionalism from a political perspective. Rather than abstracting constitutional law into ahistorical doctrines, we will situate constitutional developments within the political, social and intellectual environments within which they occur. We will be interested not only in the major decisions of the Supreme Court, but also the debates and decisions that occur within the Court, Congress, the executive branch, the states, and the larger public sphere. In keeping with that goal, the material is arranged chronologically, rather than thematically. Hopefully as a result, we will see familiar issues in a new light, encounter unfamiliar issues that have often been pushed into the background, and attend to the processes by which constitutional claims are asserted, contested, and settled.

This course complements rather than repeats or directly relies upon what you would study elsewhere (e.g., POL 315 and POL 316). The logic of separating constitutional “structures and powers” from “civil rights and civil liberties” will be one issue that we will take up as the semester progresses, but we will give particular attention to matters of government structure and power. Likewise, theories of constitutional interpretation will be somewhat in the background, but certainly not irrelevant to our discussions.

This semester will give particular attention to question of presidential power, the centralization of government power, and the scope of the power of judicial review.

Schedule:

Introduction

Week 1: Constitutionalism and constitutional change

Read: *American Constitutionalism*, preface, appendix and ch. 1
Precepts will not meet this week

Colonies to Constitution

Week 2: Centralization of Power and Constitutional Ratification

Read: *American Constitutionalism*, ch. 3, pp. 49-92

Federalists and Jeffersonians

Week 3: Centralization, Separation of Powers, and Judicial Review

Read: *American Constitutionalism*, ch. 4, pp. 93-149, 158-171

Week 4: Limiting the states

Read: *American Constitutionalism*, ch. 4, 149-158
Read: *American Constitutionalism*, ch. 5, pp. 173-189, 208-215
Read: materials on Canvas (Fletcher, Foy, Barron, Charles River Bridge)

SHORT PAPER DUE Monday, Feb. 14th, 5:00 pm

Jacksonian Era

Week 5: Jacksonian era debates (centralization, slavery, presidential power)

Read: *American Constitutionalism*, ch. 5, pp. 189-208, 215-229
Read: *American Constitutionalism*, ch. 6, pp. 242-256, 275-296

Civil War and Reconstruction

Week 6: War and its Aftermath

Read: *American Constitutionalism*, ch. 6, pp. 256-275
Read: *American Constitutionalism*, ch. 7, pp. 306-318, 321-329

SPRING BREAK

Gilded Age to New Deal

Week 7: National power and Federalism

Read: *American Constitutionalism*, ch. 7, pp. 298-306, 329-371

MIDTERM EXAM DUE Monday, March 21st, 5:00 pm

Week 8: Judicial review and the New Deal state

Read: *American Constitutionalism*, ch. 7, pp. 318-320, 371-385
Read: *American Constitutionalism*, ch. 8, pp. 387-466, 468-475

Some Contemporary Developments

Week 9: Federalism and national power

Read: *American Constitutionalism*, ch. 10, pp. 521-539
Read: *American Constitutionalism*, ch. 11, pp. 564-616
Read: *American Constitutionalism*, ch. 12, pp. 649-683
Read: Materials on Canvas (Raich)

Week 10: Constitutional Structures

Read: *American Constitutionalism*, ch. 9, pp. 497-505
Read: *American Constitutionalism*, ch. 10, pp. 540-562, 585-599
Read: *American Constitutionalism*, ch. 11, pp. 616-623
Read: *American Constitutionalism*, ch. 12, pp. 693-717, 748-753

Week 11: War powers

Read: *American Constitutionalism*, ch. 8, pp. 466-468
Read: *American Constitutionalism*, ch. 9, pp. 505-511
Read: *American Constitutionalism*, ch. 11, pp. 623-640
Read: *American Constitutionalism*, ch. 12, pp. 683-693
Read: Materials on Canvas (Korea, Harmon, Dellinger on Bosnia, Drone Strikes)

Week 12: Separation of powers

Read: *American Constitutionalism*, ch. 8, pp. 475-482
Read: *American Constitutionalism*, ch. 9, pp. 511-516
Read: *American Constitutionalism*, ch. 11, pp. 640-648
Read: *American Constitutionalism*, ch. 12, pp. 717-748
Read: Materials on Canvas (Dixon, Nixon Impeachment, Moss, Clinton Impeachment, Second Trump Impeachment)

Precepts:

Precepts are a required component of the course, and you must sign up for and regularly attend a precept. Regularly attending the precept is a necessary but not a sufficient condition for a passing grade in participation. Participation in the precept constitutes 15% of your grade in the class.

You will be expected to have at least skimmed that week's reading by the time of the first class meeting of the week. You will be expected to have thoroughly, carefully and thoughtfully read that week's materials by the time of your precept. You should arrive at precept not only with your own questions about that week's lectures and materials, but also with your own thoughts about both the substantive issues involved in those materials and the more general issue of how they shed light on the workings of American constitutionalism.

Unless otherwise announced, the first meeting of the precepts will be in week 2.

Materials:

There is only one required book for the course:

Howard Gillman, Mark Graber and Keith Whittington, *American Constitutionalism*, 3rd ed., vol. 1

Some additional materials will be posted on the course Canvas website.

Requirements:

The requirements of the course include both written and oral components. To obtain a passing grade for the course, a student must fulfill **all** course requirements. Thorough preparation for, and faithful attendance at, lectures and precepts is among these requirements. In particular, you will be expected to arrive at precepts fully familiar with the assigned material and prepared to discuss the issues and concepts covered that week. Participation in precept will constitute 15% of your final grade.

You will be required to complete three written assignments, consisting of one short paper, one midterm take-home exam, and one final exam. The assignment for the short paper will be posted on the course website at the end of week 3. A short paper (3-5 pages) will be due by email to your preceptor on **Monday, February 14th**.

The take-home midterm will be made available on the course website on Thursday, **March 17th** and will be due by email by 5:00pm on Monday, **March 21st**. The midterm will cover all materials through week seven of the class. The final exam will be at the time and place designated by the Registrar's Office and will cover all the materials in the class. The quality of your writing will be a factor in determining your grade on written assignments.

The short paper and take-home exam will be penalized one full letter grade if emailed to me after 5:00 pm but before midnight on the due date. The assignments will not be accepted after midnight on the due date.

The lectures are designed to supplement and complement, but not simply to repeat, the readings and the discussion in precept. Likewise, the precepts will complement, and not simply repeat, the subjects covered in lecture. Everything covered in the readings, the lectures, and the precept discussions is eligible for inclusion in the exams.

Your grade for the course will be calculated using the following formula:

Short paper 10%

Midterm 35%

Final Exam 40%

Participation 15%

You may appeal any written grade within two weeks of receiving it. In order to appeal a grade, submit a copy of the paper and a short (500 words) written statement as to what error you think was made in your initial grade. Your paper will then be graded your paper from scratch (by a different preceptor, if possible). The new grade may be **either higher or lower** than the original, and will be final.

The grading is standardized across precepts. Your final grade will not be affected by which precept you attend, though your preceptor has first responsibility for grading your work.