

**FAYETTEVILLE STATE UNIVERSITY  
FAYETTEVILLE, NORTH CAROLINA  
DEPARTMENT OF GOVERNMENT AND HISTORY**

**SYLLABUS**

SEMESTER: FALL, 2001

COURSE NUMBER AND NAME: HIPO 341-01 CONSTITUTIONAL LAW AND HISTORY

NUMBER OF SEMESTER HOURS OF CREDIT: 3

TIME CLASS MEETS: TR 9:30-10:50 AM

BUILDING AND ROOM NUMBER: JKSA 102

INSTRUCTOR'S NAME: DERICK K. SMITH

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**COURSE AND DESCRIPTION**

Constitutional Law and History is a study of the basic principles of the constitutional system, with particular emphasis upon the cases that deal with the framework of the American federal system. Particular emphasis will be paid to the development of the relative legal status of the branches of the federal government to deal with major domestic and foreign issues as well as the legal relationship between the national government and the states, and the development of legal guidelines and the principles as precedents for future courts.

**TEXTBOOK**

Mason, Alpheus T. and Donald G. Stephenson, Jr. American Constitutional Law: Introductory Essays and Selected Cases. 12<sup>th</sup> ed. Englewood Cliffs, NJ: Prentice-Hall, 1998.

**SPECIFIC COURSE OBJECTIVES**

Each student will be expected to:

- a) trace the historical development of modern constitutional governments.
- b) understand the modern liberal political philosophy and the liberal tradition and their connections to American Constitutionalism.

- c) assess the full strengths and limits of judicial power within and outside of the American Constitutional framework.
- d) accurately analyze the full impact of the U.S. Supreme Court on public policy.
- e) develop critical reading and analytical skills required in the study of constitutional law by briefing and analyzing Supreme Court decisions in the following manner:
  1. Name and case citation
  2. Succinct summary of the facts
  3. Statement of the constitutional question or questions before the Court
  4. The legal holding or holdings; i.e., how the Court answered the legal question or questions
  5. The rule of law announced in the majority opinion and which justice wrote it
  6. A short summary of the reasoning that led to the holding and rule
  7. A summary of the concurring and dissenting opinions, if any, and which justices wrote them
  8. A short evaluation of the opinion:

Does the opinion answer all the questions posed or does it leave some unanswered?

Is the reasoning persuasive?

Are there hidden assumptions in the opinion?

Does the opinion encourage more litigation on the subject?

What are the broader implications of the opinion in terms of political, social, or economic considerations?

## COURSE COMPETENCIES

Competencies of this course are in line with competencies required by SDPI and NCATE (6,8-9). Students will be able to understand, describe, and explain the foundations, structures, and functions of American Legal System.

### ***Competency Goal 6***

#### Frame of Government/Supreme Law of the Land/Individual Rights

The learner will explain the function and importance state and United States Constitutions.

6.1 Explain how constitutions define the framework of governments

6.2 Identify principles found in the United States Constitution that were stated in the Declaration of Independence and explored in the Federalist Papers.

- 6.3 Explain how constitutions grant and limit the authority of public officials and government agencies.
- 6.4 Describe how constitutions may be changed, and analyze the impact of specific changes.
- 6.5 Analyze cases that illustrate that the United States Constitution is the supreme law of the land.
- 6.6 Analyze cases that demonstrate how the United States Constitution and Bill of Rights protect the rights of individuals.
- 6.7 Identify modern controversies related to powers of the federal government that are similar to the debates between Federalists and Anti-Federalists over ratification of the United States Constitution.

***Competency Goal 8***

Law: Enactment and Enforcement

The learner will explain why laws are needed and how they are enacted, implemented, and enforced.

- 8.1 Illustrate the need for law in society.
- 8.2 Compare examples of criminal, civil, constitutional, and administrative law.
- 8.4 Analyze methods used to inform citizens of the purpose and meaning of laws.
- 8.5 Describe the role of the executive branch in the implementation of laws and policies.

***Competency Goal 9***

Balancing Interests and Resolving Conflicts

The learner will explain how the political and legal systems provide for balancing competing interests and resolving conflicts.

- 9.1 Evaluate the role of debate, consensus, compromise, and negotiation in resolving conflicts.
- 9.2 Describe the adversarial nature of judicial processes.
- 9.4 Identify the jurisdiction of state and federal courts.

EVALUTION AND GRADING

a) There will be four(4) essay exams. There are NO make-ups for any missed exams. You are allowed to miss one(1) exam or drop the lowest score. All students must take the final exam.

The students final grade will be determined in the following proportion.

Class participation.....	10% of the total grade
Exam I .....	20% of the total grade
Exam II.....	20% of the total grade
Exam III.....	20% of the total grade
Final Exam.....	30% of the total grade

b) If you miss two(2) exams you cannot pass the course.

c) The grading scale is as follows

92-100.....	A
83-91.....	B
73-82.....	C
64-72.....	D
below 63.....	F

d) Students enrolled in courses at the 300 and 400 levels, regardless of classification, are ineligible to receive WN grades. Students enrolled in the courses at the 300 and 400 levels are expected to attend all class meetings, but there is no university-wide attendance requirement for these students except as established by the instructors teaching these classes. However, in order to satisfy the objectives of the course, regular and prompt class attendance is required. Students with four (4) or more unexcused absences will not receive any of the 10 percentage points for class participation.

### MAJOR TOPIC COURSE OUTLINE

#### I. Topics for Exam I

##### WEEK 1

The History of the American constitutional experiment

- readings: pp.1-20
- class lecture and discussion

##### WEEK 2

The Liberal Tradition

- class lecture and discussion

##### WEEK 3

The Supreme Court and the limits of judicial power

- readings: pp.43-45
- jurisdiction
- justiciability
- class lecture and discussion: Frothingham v. Mellon 262 U.S. 447 (1923)

##### WEEK 4

Judicial Review

- readings pp.45-50
- class discussion
- pp. 62-65 Marbury v. Madison 5 U.S. (1 Cranch)137, L.Ed. 60 (1803)
- pp. 65-67 Eakin v. Raub 12 Sergeant and Rawle (Pennsylvania Supreme Court) 330 (1825)
- pp. 68-70 Dred Scott v. Sandford 60 U.S. (19 Howard) 393, 15 L.Ed. 691(1857)
- pp. 71-72 Ex Parte McCordle 74 U.S. (7Wall.), 19 L.Ed. 264 (1869)
- pp. 72-75 Baker v. Carr 369 U.S. 186, 82 S.Ct. 691, 7 L. Ed. 2d 663 (1963)
- pp. 76-80 Reynolds v. Sims 377 U.S. 533, 84 S. Ct. 1362, 12 L.Ed. 2d 506 (1964)
- pp. 89-91 Unstaged debate Jackson, Lincoln, and Cooper v. Aaron 358 U.S. 1 (1958)

Exam I

#### II. Topics for Exam II

## WEEK 5

### Congress, the Court, and the President

- readings pp. 95-104
- pp. 110-112 Watkins v. United States 354 U.S. 178, 77 S.Ct. 1173, 1 L.Ed. 2d 1273 (1957)
- pp. 112-114 Barenblatt v. United States 360 U.S. 109, 79 S. Ct. 1081, 3 L.Ed. 2d 1115 (1959)
- pp. 115-118 INS v. Chadha 462 U.S. 919, 103 S. Ct. 2764, 77 L.Ed. 2d 317 (1983)

## WEEK 6

- pp. 125-127 Ex Parte Milligan 71 U.S. (4 Wall.) 2, L.Ed. 281 (1866)
- pp. 129-131 United States v. Curtiss-Wright 299 U. S. 304, 57 S. Ct. 216, 81 L.Ed. 255 (1936)
- pp. 131-134 Korematsu v. United States 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194 (1944)

## WEEK 7

- pp. 135-140 Youngstown Sheet & Tube Co. v. Sawyer 343 U.S. 579
- pp. 140-143 U.S. v. U.S. District Court 407 U.S. 297, 92 S.Ct. 2125, 32 L.Ed. 2d 752 (1972)
- pp. 143-146 United States v. Nixon 418 U.S. 683, 94 S. Ct. 3090, 41 L.Ed. 2d 1039 (1974)

## WEEK 8

- pp. 153-155 War Powers Resolution 87 Stat. 55 (1973)
- pp. 155-159 Dellums v. Bush 752 F. Supp. 1141 (D.D.C. 1990)
- handout, class discussion Clinton v. Jones 1997

### Exam II

## III. Topics for Exam III (Mid-Term)

### WEEK 10

#### Federalism

- readings pp. 160-170
- pp. 174-177 Chisom v. Georgia 2 U.S. (2 Dall.) 419, 1 L.Ed. 440 (1793)
- pp. 177-182 McCulloch v. Maryland 17 U.S. (4 Wheat.) 316, 4 L.Ed. 579 (1819)

### WEEK 11

- pp. 187-189 Texas v. White 74 U.S. (7 Wall. ) 700, 19 L.Ed. 227 (1869)
- pp. 192-196 National League of Cities v. Usery 426 U.S. 833 (1976)
- pp. 199-203 Garcia v. San Antonio Metropolitan Transit Authority 469 U.S. 528 (1985)

### WEEK 12

- class lecture and discussion Barron v. Baltimore 7 Peters 243 (1883)
- class lecture and discussion Martin v. Hunter's Lessee 1 Wheaton 304 (1816)

### Exam III

## IV. Topics for Final Exam

### WEEK 13-15

#### Commerce Power, Commerce Clause and Congressional Power

- readings 206-216
- pp. 237-245

- pp. 218-223 Gibbons v. Ogden 22 U.S. (9 Wheat.) 1, 6 L.Ed. 23 (1824)
- WEEK 16
- pp. 223-225 Cooley v. Board of Wardens 53 U.S. (12 How.) 299 13 L.Ed. 996 (1851)
  - pp. 233-237 Reeves, Inc. v. Stake 447 U.S. 429 (1980)
- WEEK 17
- pp. 253-255 Hammer v. Dagenhart 247 U.S. 251, (1918)
  - pp. 261-263 NLRB v. Jones & Laughlin Steel Corporation 301 U.S 1 (1937)
  - pp. 268 269 Heart of Atlanta Motel v. United States 379 U.S. 241 (1964)
- Final Exam

### ADDITIONAL REFERENCES

Abraham, Henry J. and Barbara A. Perry, Freedom and the Court 6<sup>th</sup> Ed. New York: Oxford University Press. 1994.

Agresto, John, The Supreme Court and Constitutional Democracy Ithaca, New York: Cornell University Press, 1984.

Baum, Lawrence, The Supreme Court 6th Ed. Washington D.C.: Congressional Quarterly Press, 1998.

Foster, James C. and Susan M. Leeson, Constitutional Law: Cases in Context Upper Saddle River,  
New Jersey: Prentice-Hall, 1998.

Students are also encouraged to use U. S. Supreme Court Reports and Internet sources as additional references.