



**POLS 4130: American Constitutional Law**  
**Georgia State University**

**Summer Semester 2017 CRN 52690**

**Instructor: B. Fairbanks**

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**Office Location: Langdale 1029**

**Office Hours: MW 11:00-12:45PM and by appointment**

**Class Time: MW 8:00-10:20AM**

**Class Location: Aderhold Learning Center 214**

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**“In framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce.”**

**~James Madison – U.S. Constitutional Convention, June 26, 1787~**

**Course Description:**

This course provides a broad overview of the development of constitutional law in areas related to the powers granted to and the constraints placed on each branch of government by the Constitution, the division of power between the federal and state governments, limitations on the regulation of economic activity, and other major topics. To achieve this, the course will focus on an examination of legal principles in these areas and the key U.S. Supreme Court decisions from which these principles are derived.

**Course Objectives:**

After completing this course, students should:

- Possess an ability to read and understand Supreme Court decisions
- Have an understanding of the core principles and key precedents in Constitutional law apart from those relating to the Bill of Rights and Civil Liberties.
- Be able to critically think about legal issues related to individual and group rights under the Constitution
- Be able to develop sophisticated arguments in response to questions on legal principles
- Understand the constitutional division of power among the branches of government and between the federal and state governments.

### Required Texts:

Epstein, Lee and Thomas G. Walker. 2016. *Constitutional Law for a Changing America: Institutional Powers and Constraints*, 9<sup>th</sup> Edition. Washington, D.C.: CQ Press (Red/Orange Book)

\*\* While I know it is easy and cheaper to buy a used copy, I highly recommend buying from the publisher or the book store so that you can access the resources in the online supplement including case supplements, notecards, and practice test questions. The supplement and text is available to purchase here (<https://us.sagepub.com/en-us/nam/constitutional-law-for-a-changing-america/book244032#resources> )

### Recommended Texts:

Van Geel, T.R. 2007. *Understanding Supreme Court Opinions*, 6<sup>th</sup> Edition. New York, Longman.

### Course Requirements:

Participation: 20%

Exam 2: 20%

Written Case Briefs: 20%

Exam 3: 20%

Exam 1: 20%

### Final Grades will be calculated using the following scale:

A+ - 97.5%-100%

B – 82.5%-87.49%

D -59.5%-69.49%

A – 92.5%-97.49%

B- 79.5%-82.49%

F- 0-59.49%

A- - 89.5%-92.49%

C+ -77.5%-79.49%

B+ -87.5 -89.49%

C – 69.9.5%-72.49%

### Grade Components:

1. Participation (20%) - I do not take daily attendance in class; however, regular attendance is essential for successful completion of the course. This class does not consist of lecture, but rather a modified version of the Socratic Method. Since a large portion of you plan on attending law school, this will become a structure that you should become very familiar with in order to be successful. Class will consist of a series of questions which students will be expected to answer. The participation component of our grade will be based on your response to these questions. I will expect students to come to class having read the assigned materials, briefed the assigned cases, and be prepared to discuss the material. To receive full credit for this component of the course, students will need to discuss four (4) cases in full over the course of the semester (i.e. completely responding to ALL questions related to those cases). Students can accumulate partial points for discussing parts of multiple cases so that the fractions sum to four (4) cases.

For students that feel uncomfortable speaking in class, you can choose to submit four (4) additional written case briefs for supplemental cases mentioned in class to fulfill the participation component of the course grade. A list of these cases will be supplied to

all students interested in this option upon request. However, students will be evaluated on one of the options, not a combination of the two. Those students that choose this form of participation will need to notify me prior to the end of the first week of class. They will be required to turn in two (2) briefs prior to the second exam and the two (2) additional prior to the final exam.

**\*\*Note: Completing all four (4) of these briefs does not guarantee full credit for the participation component of the grade. Each of the briefs will be graded for quality and assessed on a ten (10) point scale. The total participation grade will be a sum of the four (4) individual brief grades.\*\***

2. Case Briefs (20%) – Students are highly encouraged to prepare notes for each case they are assigned in the form of a “brief”. A case brief is essentially a manner of breaking down the case into major components that one needs to understand in order to apply a case to other questions or problems. Students will be required to submit two (2) written briefs at the end of each week of class, totaling to twelve (12) written case briefs for the semester. Case briefs will not be due the first week of class.

Students will submit an electronic copy of their case briefs through iCollege’s Dropbox interface. This program automatically runs the documents through software checking for plagiarism violations. Any violations of this will be prosecuted to the fullest extent. I **WILL NOT** accept emailed copies of your case briefs. Late assignments **WILL NOT** be accepted.

3. Examinations (20% each for 60% of final grade) – There will be three (3) examinations in this course. Each exam will cover material from that portion only. On the exam, students are responsible for all material from lecture as well as assigned readings. Specific exam format will be given prior to the first exam. **No make-up exams will be given without formal documentation of a valid University approved absence, and then only in the most extreme of circumstances.** Further, the instructor reserves the right to alter both individual questions and the format of any make-up exam, and in the rare case that a make-up is given, it must be taken within one week of the original exam date.

#### **Extra Credit:**

Students must remember that this is a college level course, and that the students in this class are all adults and responsible for their own grade performance. As such, the burden for this class (learning and engaging in the material as well as performing and keeping up with assignments), lies with the student. Students that choose not to engage (intellectually and physically) cannot expect extra assistance.

From time to time, extra credit assignments will be offered to the class as both in and out of class actions. As such, these assignments will be extended in class with the guidelines announced and discussed. Students who choose not to be in class will not be allowed to participate in these additional assignments.

These assignments will not be offered at the end of the semester to individual students seeking to “bring up” or “raise” their grades, and such requests are unacceptable. My policies are very open as am I, to working with students throughout the entire semester when they are struggling, but end of the semester “epiphanies” about grades are not an excuse for needing extra credit assignments. This policy is fair to both myself and the other conscientious students in class.

### **Grade Appeals:**

Mistakes happen when scoring and entering grades for the class. Thus, I utilize a standard grade appeals procedure. All appeal must be submitted typed in standard fonts, no more than one week after the grade is returned. The appeal must be submitted with the original graded work attached. Successful appeals will include the mistakes being appealed clearly highlighted/marked for review.

### **Academic Honesty:**

Once again, this is a college level course and as such the expectations of academic honesty are numerous. As a result in this class, the Georgia State University’s policy as available here (<http://www.gsu.edu/~wwwfwb/sec409.html>) will strictly be adhered to. Any observed violations of such standards will be grounds for failing the course and be reported to both college and departmental authorities for review in accordance with University policy. Such a report can lead to additional disciplinary policies.

All written submissions for this class are required under new department policy to be submitted through the iCollege Dropbox interface. This program automatically runs the documents through software checking for plagiarism violations. Any violations of this will be prosecuted to the fullest extent. **Note:** Submission to the Dropbox does not count as “turning in” the assignment to the instructor, a physical copy must be submitted to the instructor as outlined above.

### **Electronic Devices:**

Laptop computers and other technology are not allowed in this classroom. Cellphones, tablets, and other electronic devices including MP3 players and iPods should be stored away from sight. Cell phones should be placed on silent (Not vibrate) and only emergency calls should be answered. Text-Messaging is also a serious violation. Students that are caught using any of these devices during class will be asked to leave the class for the remaining time period. Students will also lose any participation credit they have accrued for that days’ lecture.

### **Office Hours:**

I encourage you all to attend my office hours as they are a useful forum for additional interaction with the material as well as the instructor. While not required, it is recommended for students that are struggling or successfully engaging with the material. For those that are lacking in full comprehension of the materials, I am here for you to engage and bring better understanding. For those that have a mastery of the subject matter, I am also here for you to discuss the deeper issues and implications of the material covered in the course. If these hours are inconvenient, do not hesitate to contact me and make an appointment.

### **Announcement and Email Correspondence:**

Students are required to activate their GSU email addresses and regularly check it for any official correspondence for this course. This is a University sanctioned requirement that under the law all official method of contact must occur on this forum. Students are also asked to contact the instructor through the Outlook mail interface rather than iCollege to increase efficiency in response and likelihood of receipt by the instructor.

### **Written Submission Guidelines:**

All written assignments are due at the beginning of class period on Wednesday. Students will also submit a digital copy in the iCollege Dropbox for Academic Honesty evaluations. All assignments must be typed or printed according to the following guidelines. If these are not followed, points will be deducted:

- Name and title of paper should be printed at the top of the first sheet of paper.
- Standard letter (8 1/2 x 11") paper
- Use with 1" margins
- Use size 11 or 12 point font
- Use only Times New Roman, Calibri, or Arial fonts
- Double-sided printing is allowed, but paper should be neat, stain-free, and without hole-punches or tears
- Black ink only
- Double spacing only
- Work must be stapled in the upper-left corner of the page. Your assignment will not be accepted without it being stapled
- Pages should be numbered and fastened in the appropriate order
- Do not, for any reason, write on your typed work with a pen or pencil prior to turning in
- No late or emailed assignments will be accepted
- Wikipedia is NOT a valid source of information for any academic assignment

### **Students with Disabilities:**

Students with disabilities requiring any accommodations must be registered with the Office of Disability Services before an instructor can modify instructions or expectations. The Office of Disability Services may be contacted at 404-413-1560 or in the Student Center East Suite 205. Any student with a disability who may require special accommodations is requested to make an appointment with the instructor at the beginning of the semester. Students must self-identify so that arrangements can be made according to University policy.

### **Withdrawal and Hardship Policies:**

The last day to withdraw from a course and receive a "W" is **June 30<sup>th</sup>, 2017**. All students who withdraw on or before this date will receive a "W"; students that withdraw after this date will receive a "WF" (Withdraw Fail). Exceptions to this policy are listed on the Registrar's website (<http://registrar.gsu.edu/registration/withdrawals/>). Students can receive a maximum of 6 "W"

in their academic career at Georgia State; after receiving 6 they will automatically receive a “WF”.

### Classroom Behavior:

It is the expectation of the instructor that students will behave in a professional and polite manner in this class. Many of the issues that are discussed are ones that individuals often have strong personal and emotional feelings about. Yet, it should be understood that we are in a classroom and the function is to discuss the Constitution and its issues not our own personal views or biases. More importantly, when personal views are discussed in topics relevant to the course, it is expected that all students will be respectful of each other’s views.

### Miscellaneous Notes and Policies:

- Students will be allowed to eat during the class period, but please be conscious of your food choices since smells and sounds may distract your fellow students.
- It is university policy to be in accordance with FERPA which states that, “Final grades on an assignment will not be given out over the phone or via email at any time by the instructor”.
- To improve the classroom environment students may periodically be asked to give feedback concerning the lecture, the instructor, or the course in general. Your constructive assessment of this course, on these and end of semester evaluations, plan an indispensable role in shaping education at Georgia State University. Upon completing this course, please take time to fill out the online course evaluation.

**\*\* This Syllabus lays out a general plan for the course. It is not by any means final, and deviations might be necessary!\*\***

### Course Schedule with Readings:

#### Unit I

June 5<sup>th</sup>

**Part I:** Introduction and Syllabus, Judicial Review

**Reading:** None

**Part II:** “How to Brief a Case”

**Cases:**

*Marbury v. Madison (1803)*

June 7<sup>th</sup>

**Part I:** Introduction to the Courts

**Reading:** E and W pg. 3-54

**Part II:** Jurisdiction, Justiciability, and Standing

June 12<sup>th</sup>

**Part I:** The Judiciary

**Reading:** E and W pg. 55-120 and 121-144

**Part II:** The Legislature (Pt.1)

**Cases:**

*Martin v. Hunter’s Lessee (1816)*

*Flast v. Cohen (1968)*

*Luther v. Borden (1849)*

*Hollingsworth v. Perry (2013)*

*Ex Parte McCordle (1869)*

*Powell v. McCormack (1969)*

*Baker v. Carr (1962)*

*U.S. Term Limits v. Thornton (1995)*

*Nixon v. United States (1993)*

*Gravel v. United States (1972)*

### June 14<sup>th</sup>

**Part I:** The Legislature (Pt. 2)

**Part II:** Executive (Pt. 1)

**Cases:**

*McCulloch v. Maryland* (1819)

*Watkins v. United States* (1957)

*Barenblatt v. United States* (1959)

*South Carolina v. Katzenbach* (1966)

*Bush v. Gore* (2000)

*In re Neagle* (1890)

*Clinton v. City of New York* (1998)

**Reading:** E and W pg. 144-181 and 183-224

*Morrison v. Olson* (1988)

*National Labor Relations Board (NLRB) v.*

*Canning* (2014)

*Myers v. United States* (1926)

*Humphrey's Executor v. United States* (1935)

### June 19<sup>th</sup>

**Part I:** Executive (Pt. 2)

**Part II:** Separation of Powers (Pt. 1)

**Cases:**

*United States v. Nixon* (1974)

*Mississippi v. Johnson* (1867)

*Nixon v. Fitzgerald* (1982)

*Clinton v. Jones* (1997)

*United States v. Curtiss-Wright Export Company*  
(1936)

**Reading:** E and W pg. 269-340

*Mistretta v. United States* (1989)

*INS v. Chadha* (1983)

*Bowsher v. Synar* (1986)

*The Prize Cases* (1863)

*Ex Parte Milligan* (1866)

### June 21<sup>st</sup>

**Part I:** SOP (Pt. 2)

**Part II:** Exam Review

**Cases:**

*Korematsu v. United States* (1944)

*Youngstown Sheet & Tube Co. v. Sawyer* (1952)

*Dames & Moore v. Reagan* (1981)

**Reading:** E and W pg. 269-340

*Zivotofsky v. Kerry, Secretary of State* (2015)

*Hamdi v. Rumsfeld* (2004)

*Hamdan v. Rumsfeld* (2006)

### June 26<sup>th</sup>

**Part I:** Exam I

**Part II:** Economic Substantive Due Process

**Cases:**

*The Slaughterhouse Cases* (1873)

*Munn v. Illinois* (1877)

*Allegeyer v. Louisiana* (1897)

*Lochner v. New York* (1905)

**Reading:** E and W pg. 625-653

*Muller v. Oregon* (1908)

*Adkins v. Children's Hospital* (1923)

*West Coast Hotel v. Parrish* (1937)

*Williamson v. Lee Optical Company* (1955)

### June 28<sup>th</sup>

**Part I:** Federalism

**Part II:** Federalism

**Cases:**

*McCulloch v. Maryland* (1819)

*Scott v. Sanford* (1857)

**Reading:** E and W pg. 387-414

*Garcia v. SAMTA* (1985)

*New York v. United States* (1992)

*Printz v. United States (1997)*  
*Seminole Tribe of FL v. Florida (1996)*  
*Alden v. Maine (1999)*

*Michigan v. Long (1983)*  
*Crosby v. National Foreign Trade Council (2000)*  
*Arizona v. United States (2012)*

July 3<sup>rd</sup>

**CLASS CANCELLED!**

July 5<sup>th</sup>

**Part I:** Commerce Clause

**Part II:** Commerce Clause

**Cases:**

*Gibbons v. Ogden (1824)*  
*United States v. E.C. Knight Co. (1895)*  
*Swift and Co. v. United States (1905)*  
*Champion v. Ames (1903)*  
*Hammer v. Dagenhart (1918)*  
*A.L.A. Schechter Poultry Corp. v. United States (1935)*

**Reading:** E and W pg. 415-471

*NLRB v. Jones & Laughlin Steep Corp. (1937)*  
*United States v. Darby (1941)*  
*Wickard v. Filburn (1942)*  
*Heart of Atlanta Hotel Inc. v. United States (1964)*

July 10<sup>th</sup>

**Part I:** Commerce Clause

**Part II:** Commerce Clause and Exam Review

**Cases:**

*United States v. Lopez (1995)*  
*United States v. Morrison (2000)*  
*Gonzales v. Raich (2005)*  
*National Federation of Independent Business v. Sebelius (2012)*

**Reading:** E and W pg. 472-520

*Cooley v. Board of Wardens (1852)*  
*Southern Pacific Company v. Arizona (1945)*  
*Hunt v. Washington State Apple Advertising Commission (1977)*  
*Maine v. Taylor (1986)*

July 12<sup>th</sup>

**Part I:** Exam II

**Part II:** Tax and Spend (Pt. 1)

**Cases:**

*Pollock v. Farmer's Loan & Trust Co. (1895)*  
*United States v. United States Shoe Corp. (1998)*

**Reading:** E and W pg. 521-539

*South Carolina v. Baker (1988)*  
*Davis v. Michigan Dept. of Treasury (1989)*

July 17<sup>th</sup>

**Part I:** Tax and Spend

**Part II:** Tax and Spend

**Cases:**

*McCray v. United States (1904)*  
*Bailey v. Drexel Furniture Co. (1922)*  
*United States v. Butler (1936)*  
*Steward Machine Co. v. Davis (1937)*  
*South Dakota v. Dole (1987)*

**Reading:** E and W pg. 540-583

*Michelin Tire Corp. v. Wages (1976)*  
*Complete Auto Transit v. Brady (1977)*  
*Quill Corp. v. North Dakota (1992)*  
*Oregon Waste Systems Inc. v. Department of Environmental Quality of Oregon (1994)*

July 19<sup>th</sup>

**Part I:** Contract Clause

**Part II:** Contract Clause

**Reading:** E and W pg. 591-623

**Cases:**

*Fletcher v. Peck (1810)*

*Trustees of Dartmouth College v. Woodward (1819)*

*Proprietors of the Charles River Bridge v.*

*Proprietors of Warren Bridge (1837)*

*Home Building & Loan Assn v. Blaisdell (1934)*

*United States Trust Co. v. New Jersey (1977)*

*Allied Structured Steel Co. v. Spannus (1978)*

**July 24<sup>th</sup>**

**Part I:** Takings Clause

**Part II:** Exam III Review

**Cases:**

*United States v. Causby (1946)*

*Penn Central Transportation Company v. City of New York (1978)*

*Lucas v. South Carolina Coastal Council (1992)*

**Reading:** E and W pg. 705-719

*Horne v. Department of Agriculture (1992)*

*Hawaii Housing Authority v. Midkiff (1984)*

*Kelo v. City of New London (2005)*

**Final Exam: Wednesday, July 26<sup>th</sup>, 2017 from 8-10:30AM**