Foundations of American Constitutionalism
POLS 3320
Fall 2020
Old Main 225
MWF 9:30 am-10:20 pm

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Office Hours: Monday and Wednesday 10:30 am-11:20 am or by appointment

“A party of order or stability, and a party of progress or reform, are both necessary elements of a healthy state of political life.”

“The progressive principle is antagonistic to the sway of custom. The contest between these two principles, custom and progress, constitutes the chief interest of the history of mankind.”

John Stuart Mill

Course Synopsis

This course will explore the philosophic, political, and constitutional history leading up to the framing and ratification of the Constitution of the United States. We will also address the intersection between theory and politics as political actors interpreted the Constitution using competing conceptions of principles such as freedom, democracy, community, and citizenship to define and redefine American constitutionalism. Competing principles also creates a perennial political problem, as division challenges efforts at political unity. As such, the course will be divided into two sections. The first section will focus one of the most prominent extra-constitutional features of American politics, political parties. While the Constitution is silent on parties, a party system quickly emerged due to conflict over competing constitutional principles to fundamentally structure the political process, thereby raising important political, legal, and constitutional questions that must be addressed. The second section will focus on the philosophic foundations of the American founding, with attention given to solving the problem of political unity amidst division. We will conclude by addressing the different ways in which the founding can be interpreted in contemporary politics, thereby requiring us to navigate competing conceptions of American constitutionalism.

Given the unprecedented situation with COVID-19, the course will be adapted to any subsequent changes to university policy and/or scheduling.

Course Goals

• Gain factual knowledge
  o Much of the course will focus on historical information that will be vital in understanding the development of the ideas, practices, and institutions that shaped the meaning of the Constitution. While I do not require extensive memorization of historical facts, I will expect you to learn important factual information (such as key arguments in Supreme Court cases and political speeches). The midterm exam and presentation will be the primary means of assessing this goal.
• Learn fundamental principles, generalizations, and theories
  ○ This course will offer competing theories of constitutionalism. It will be essential that you understand how these various theories produce different, often times competing, generalizations about the nature of the Constitution and politics. The final writing assignment will be the primary means of assessing this goal

• Learn to analyze and critically evaluate ideas, arguments, and points of view
  ○ Guaranteed, you will disagree (sometimes deeply) with some of the political views of individuals in the text and your fellow classmates. Rather than simply dismissing their positions as irrelevant or misguided (putting it nicely), we will endeavor to engage with them, and each other, in a charitable and meaningful way. The writing assignments will be the primary means of assessing this goal.

Required Texts


All other readings will be available on Canvas or online

Assignments and Grading

Presentation (20 points)
There will be a group presentation, with each group presenting and leading the discussion of one Supreme Court case. One of the primary points we will investigate is how the justices understand the nature and role of parties within the constitutional system. The presentation will need to include the context and content of the Supreme Court decision as well as the political ramifications of the decision on the party system and/or political parties (is this a pro-party decision?). This latter point may not be immediately clear so you will need to think through the political, legal, and constitutional implications of the case.

Exam (50 points)
There will be one midterm exam consisting of both multiple choice and short answer-identifications of key concepts or arguments. Please note the midterm will be administered during class. No make-up exams will be allowed unless prior arrangements are made.

“Two Minute” Papers (20 points total)
You will be assigned in-class writing assignments throughout the semester consisting of a single question related to the reading and material for that day (note: this does not mean they will always be assigned at the beginning of class). Each paper will be worth 4 points. There will be more than 5 papers assigned throughout the semester, and I will take your top 5 scores at the end of the semester to determine your total points. This means that you will have an opportunity to improve on low scores, including zeros.

Writing Assignments (140 points total)
There will be three total writing assignments throughout the semester. For the first two assignments (20 points each), you will submit shorter papers (3-4 pages, double-spaced) based on readings and a prompt. The first assignment will be due at the beginning of class on November 4th and the second
is due at the beginning of class on November 16th. In the event the course transitions to on-line, these assignments will be submitted on Canvas.

The final writing assignment will be the final for the course. For the paper, you will choose two chapters on an interpretive approach to the Founding in Gibson's book (chapters 2-8) and compare and contrast their approaches. Based on your readings this semester, what are the strengths and weaknesses of each approach? Finally, which approach do you find more convincing for understanding the founding and why? The final paper must be 7-8 pages, double-spaced. The final paper is due Wednesday, December 16th by 4:00 pm on Canvas. I will accept early submissions. On all writing assignments, there is a 5-point deduction for each day it is submitted late including the due date (i.e., submitting the paper after the submission time).

Grading Scale

A  100-94
A-  93-90
B+  89-87
B   86-84
B-  83-80
C+  79-77
C   76-74
C-  73-70
D+  69-67
D   66-64
D-  63-60
F   59-0

Tentative Reading Schedule

Week 1:

08/31: Introduction to course
09/02: “Think the Constitution Will Save Us? Think Again” (Canvas)
09/04: The Constitution (Canvas)

Week 2:

09/07: LABOR DAY
09/11: James Madison, Vices of the Political System in the United States (Canvas)

Week 3:

09/14: James Madison, Federalist No. 10 (Canvas)
09/16: Alexander Hamilton to Edward Carrington, 1792 (Canvas)
09/18: George Washington to Thomas Jefferson, 1792; Jefferson’s Response to Washington (Canvas)
Week 4:

09/21: John Beckley’s Letters to William Irvine, 1796 (Canvas)
09/23: George Washington’s Farewell Address, 1796 (Canvas)
09/25: Thomas Jefferson’s First Inaugural Address, 1801 (Canvas)

Week 5:

09/30: Colegrove v. Green (1946)
10/02: Reynolds v. Sims (1964)

Week 6:


Week 7:


Week 8: Ancient Constitutions

10/19: EXAM 1 IN CLASS
10/21: Aristotle, Politics, Book III.7-Book IV.12 (Canvas)
10/23: Aristotle, Politics, Book V.8-VI.4 (Canvas)

Week 9: Republic Size

10/26: Montesquieu, The Spirit of the Laws, 1748 (Canvas)
10/28: Montesquieu, The Spirit of the Laws, 1748 (Canvas)
10/30: David Hume, Essays Moral, Political, and Literary, 1758 (Canvas)

Week 10: Republic Size

11/02: James Madison, Federalist No. 10; Brutus Essay No. 1 (Canvas)
11/04: Alexis de Tocqueville, Democracy in America vol. I, part I, ch. VIII (Canvas)

SHORT PAPER 1 DUE
Prompt: Montesquieu, Hume, Madison, and Tocqueville all make normative arguments about the appropriate size of a republic. Briefly summarize these arguments and discuss which argument you find most compelling and why.

11/06: James Madison, Federalist No. 51 (Canvas)
**Week 11: Liberal Constitutionalism**

11/11: John Locke, *Second Treatise of Government*, cpt. 5 (Canvas)
11/13: John Locke, *Second Treatise of Government*, cpt. 9-14 (Canvas)

**Week 12: Liberal Constitutionalism**

11/16: Thomas Jefferson, *Declaration of Independence* (Canvas)

**SHORT PAPER 2 DUE**

Prompt: One of the major interpretive claims about the American Founding is Locke’s influence on the founders, especially Jefferson and the Declaration of Independence. Having read both Lock and the Declaration, in what ways is the Declaration a Lockean document? In what ways does the Declaration deviate from Locke? Do you agree with the conclusion that the Declaration is a Lockean document?

11/18: Thomas Paine, *Common Sense, 1776* (Canvas)

**Week 13: Analyzing the Founding**

COURSE MOVED TO REMOTE DELIVERY VIA ZOOM

11/23: *Interpreting the Founding*: Chapter 1 and 2
11/25: THANKSGIVING HOLIDAY
11/27: THANKSGIVING HOLIDAY

**Week 14: Analyzing the Founding**

11/30: *Interpreting the Founding*: Chapter 3
12/02: *Interpreting the Founding*: Chapter 4
    SPECIAL ZOOM CLASS COMBINED WITH POLS 4890
12/04: *Interpreting the Founding*: Chapter 5

**Week 15: Analyzing the Founding**

12/07: *Interpreting the Founding*: Chapter 6
12/09: *Interpreting the Founding*: Chapter 7 and 8 (Last day of class)
12/11: NO CLASS

**FINAL DEADLINE:**

Final Paper: Wednesday, December 16th by 4:00 pm on Canvas

**NO EMAIL SUBMISSIONS WILL BE ALLOWED, PLEASE UPLOAD YOUR PAPER TO CANVAS**