

PLS 392: Constitutional Law: Institutional Powers

114 Berkey Hall
10:20 am - 11:40 am
Tuesday & Thursday

Contact Information

Miles T. Armaly
PhD Candidate
Department of Political Science
Email: milestarmaly@gmail.com

Course Description

This course familiarizes students with the powers the U.S. Constitution affords the branches of government and how the decisions of the U.S. Supreme Court have defined and shaped these powers. Specifically, we will examine how the decisions of the Court have impacted, among other things, the separation of powers, federalism, and interstate commerce. This also includes the exploration of the legal and political contexts under which the Court reached these decisions. We will trace particular legal doctrines, such as those that examine the interplay between the Congressional power to regulate interstate commerce and individual rights and liberties, those that offer the President war and emergency powers, and those that establish judicial power.

Upon completion of this course, I expect students to demonstrate:

1. A firm grasp of the derivation, scope, and limits of the powers that the U.S. Constitution grants our political institutions.
2. Knowledge of the relationship between constitutional interpretation and institutional power.
3. An ability to assess legal reasoning, analyze the legal arguments within, and understand how precedent shapes legal doctrine.
4. Recognition of extralegal influences that impact the Supreme Court and its decisions (e.g., public opinion, other institutional actors, etc.).
5. An ability to trace noteworthy constitutional arguments and the cases that shaped them.

Course Materials

This text is available at any reputable bookstore. I strongly recommend obtaining the book used from an online retailer (e.g., <https://goo.gl/WWkNCI>) as this is likely to save you substantial costs. Additional course materials (such as Supreme Court decisions) are readily available online or will be disseminated electronically via the course's Desire2Learn (D2L) page.

- Epstein, Lee and Thomas G. Walker. 2016. *Constitutional Law for a Changing America: Institutional Powers and Constraints*, 9th edition. CQ Press.

Note that this is the ninth edition of the text. You must purchase this edition and not a previous one.

Course Requirements

EXAMS

There will be a midterm and a final exam in this course. Both will be comprised of multiple choice and short answer questions. The final exam will only include materials covered after the midterm. The midterm will be held during a regularly scheduled class meeting. The final exam will take place Thursday, May 4 from 7:45 am - 9:45 am in 114 Berkey Hall (our regular classroom).

LEGAL BRIEFS

You will be responsible for producing five (5) legal briefs throughout the semester. We will discuss how to write these briefs early in the course, but “in brief,” these documents will (1) highlight the major details of a Supreme Court case, (2) identify the majority opinion writer and any concurring or dissenting opinions, (3) outline the interpretation and application of the Constitution in both the majority opinion and any concurrences or dissents, and (4) briefly discuss the social, legal, and political implications of the ruling. You are free to choose *any* case covered in this course, either in class or the materials covered by the assigned pages in Epstein & Walker. The only formatting guidelines are (a normal) 12 point font and one inch margins. Using bullet points is acceptable. You may submit briefs (electronically via D2L) at *any* time throughout the semester, but all five must be submitted the week before the final exam. Late submissions will lose a full grade point (e.g., a 3.5 will become a 2.5).

QUIZZES

There will be ten (10) short, in-class quizzes. These will be “pop” quizzes in the sense that they are not scheduled or announced beforehand. They will be used to assess comprehension of course materials.

PARTICIPATION

Participation is key in this course. Supreme Court rulings and the legal and political implications thereof are occasionally dense and difficult to understand. If you have a particular question, it is likely that another student does too. Each session will comprise of some lecturing, but will be mostly discussion-based. Students must come prepared and be ready to discuss all relevant materials. Although I will not take attendance in this course, it is expected that you attend each session and voluntarily contribute. Participation will be based on both the quality and quantity of your contributions.

Grades

Your class performance will be evaluated upon the following criteria:

Exams (2 @ 25% each)	50%
Legal Briefs (5 @ 5% each)	25%
Quizzes (10 @ 1.5% each)	15%
Class Participation	10%

The grading scale is as follows:

4.0	90-100%	3.5	87-89%
3.0	80-86%	2.5	77-79%
2.0	70-76%	1.5	67-69%
1.0	60-66%	0.0	0-59%

Course Policies

GENERAL STATEMENT

You are responsible for informing yourself of all departmental, college, and university policies governing your conduct in this course. This includes, but is not limited to, policies relating to plagiarism/academic integrity and the accommodation of students with documented disabilities.

COURSE COMMUNICATIONS

Updates and additional materials will be sent out via our course's D2L page. Please alter your D2L settings such that you are notified when announcements are posted.

INSTRUCTOR AVAILABILITY

If you have any questions, quips, queries, qualms, comments, or concerns, please contact me via email. Be certain to include "PLS 392" in the subject line along with a substantive topic. You must also include an appropriate salutation (e.g., please do not begin an email with "hey") and an email signature that includes your first and last name. I will endeavor

to respond to all email messages within 12 hours on weekdays and 24 hours on weekends. If you have not received a response within 24 hours, please resend your message. For time sensitive matters, resend your message after 12 hours.

All office hours are by appointment. If you would like to meet, please send a message with 2 or 3 suggested meeting times and I can confirm which works best for me.

GRADE APPEALS

All grading concerns should be submitted via email with a concise statement expressing why you believe your grade should be altered. All concerns – arithmetic or otherwise – must be raised within *one week* of when the grade was posted. No grade challenges will be entertained after one week. I reserve the right to *reduce points* on any grade appeal.

ACADEMIC HONESTY

Part 2.III.B.2 of the document “Student Rights and Responsibilities” reads: “The student shares with the faculty the responsibility for maintaining the integrity of scholarship, grades, and professional standards.” In addition, the Political Science Department adheres to the policies on academic honesty specified in General Student Regulation 1.0, Protection of Scholarship and Grades; the all-University Policy on Integrity of Scholarship and Grades; and Ordinance 17.00, Examinations.

This course has a zero tolerance policy in regards to academic dishonesty. Academic dishonesty is defined as conduct that violates any of the following principles: (a) supplying or using work or answers that are not one’s own (this includes mis-citing a source); (b) providing or accepting assistance with completing assignments or examinations beyond collaborative learning; or (c) interfering through any means with another’s academic work. Collaborative learning (i.e., working or studying with your peers) in this course is encouraged, but if you study together, you must produce your own work. This includes not submitting verbatim or near-verbatim answers to assignments. To do so violates both the spirit and the letter of academic integrity. The penalties for dishonesty will vary from getting 0 points on an individual assignment up to getting a 0.0 grade for the entire semester. Consistent with MSU’s policy regarding penalty grades, all instances of academic dishonesty will be reported to the Office of the Registrar and your college.

If you are not sure a certain action will be considered academically dishonest, it is in your best interest to assume it is until told otherwise. Please feel free to ask if any action will be considered academic dishonesty in this course.

Course Schedule

Table 1: Course Schedule

Date	Topic & Required Readings
10 January	Course Introduction
12 January	NO CLASS
17 January	The U.S. Constitution
	Epstein & Walker (henceforth EW) p. 3-11, 49-54, 722-732
	Federalist Papers #78
19 January	The U.S. Supreme Court
	EW p. 11-23, 56-60
24 January	How judges decide
	EW p. 23-42
	The Judiciary
26 January	Judicial review of institutional actions, critiques thereof
	EW 61-86
	Marbury v. Madison
	Martin v. Hunter's Lessee
31 January	Judicial review of institutional actions, critiques thereof (cont.)
2 February	Jurisdiction and justiciability
	EW 86-101
7 February	Jurisdiction and justiciability
	EW 102-120
	The Legislature
9 February	Legislative independence
	EW 121-144
	US. v. Rayburn House Office Building
14 February	Derivation and scope of power
	EW 144-161
16 February	Derivation and scope of power; Exam review
	EW 161-180
21 February	MIDTERM EXAM
	The Executive
23 February	Executive Power
	EW 183-206
28 February	Veto, appointment, and removal
	EW 206- 238
2 March	Executive privilege
	EW 238-268 (two class meetings)
7 March	SPRING BREAK
9 March	SPRING BREAK
14 March	Executive immunity
	EW 206-238
16 March	Foreign policy and affairs

	EW 263-267
	Separation of Powers and Security
21 March	Delegatory and usurpation powers of legislature EW 268-289
23 March	War and emergency powers EW 290-336 Boumediene v. Bush
28 March	Presidential signing statements TBD
30 March	“9/11” powers; Executive interpretation of powers TBD
	The Commerce Clause
4 April	What is commerce? EW 415-438
6 April	NO CLASS
11 April	Legislative use and judicial approval of commerce legislation EW 438-469 Hammer v. Dagenhart Katzenbach v. McClung
13 April	Limitations EW 472-500
	Federalism
18 April	Early federalism EW 343-363
20 April	Modern era federalism EW 363-393
25 April	Recent federalism EW 393-414
27 April	Student’s Choice; Exam Review
	ALL LEGAL BRIEFS DUE
4 May	FINAL EXAM