

HIST 4381—Special Topics: U.S. Constitutional History
Angelo State University, Spring 2009

Section 010, 9:30 a.m. – 10:45 a.m., TR, A 225

Dr. David P. Dewar

Office: A 110G (in the Modern Languages office suite)

Office Hours: MW 9 – 10 a.m., 1 – 3:30 p.m.; TR 2:30 – 4 p.m.

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Course Description

This course focuses on the development of the U.S. Constitution. It being a living document, its history stretches back before its promulgation and extends to the future. Changing political winds and the U.S. court system change what it means through argumentation and interpretation, so we will investigate some of the critical ideologies and court decisions that shape the Constitution's meaning up to our own time. In the process, you will hone your skills at historical thinking, analysis, and writing, all of which will serve you well no matter what your career decisions.

Expected Learning Outcomes

- You will know the Constitution, its articles and its amendments, and its role in creating and sustaining the American republic.
- You will be able to recognize historical circumstances important to the interpretation of the Constitution and, thus, understand how Supreme Court Justices came to their conclusions.
- You will be able to compare and contrast court cases in different eras to chart the evolution of the interpretation of the Constitution.
- You will be able to marshal evidence in defense of a thesis about vexing questions in the history of the constitution's development.

Course Construction

Borrowing from my Constitutional History professor, Phillip Shaw Paludan, the success of the course depends on your reading and preparation for the classroom meetings. Fully half of the meetings are scheduled as discussions and discussion can break out at any time in the other meetings, as well. I will sometimes break from my lectures with a question directed at an individual ("Ms. Smedley, is Calhoun right?") or the class as a whole ("Can anyone explain what nullification means?") If you have not done the reading assigned for that day you will earn: the anger of the professor, the disrespect of the class, and the anguish of a conscience that knows that other people who relied on you have been let down. Therefore, you will need to *be present* and *be prepared*. You might even want to bring your own "brief" of the material as a reference for your participation.

The readings in this class can be challenging. But that's what discussion is for. I will help guide you through them, but you should be prepared to engage the political, social, and cultural arguments, as well as the historical circumstances, that shape the Constitution's evolution. You must be able to take a stand and defend it, according to the evidence at hand. That's what historians do.

Each Tuesday I will lecture on the week's topic, placing the constitutional issues before us in their historical context. Each Thursday we will discuss the documents and essays assigned from *Major Problems*.

You will write a mid-term exam take-home essay and a final exam in-class essay. The in-class final will be an open-book exam.

You will write two papers, each 2-4 pages long. The questions for these papers can be found in the calendar below, the first dealing with material covered to September 10 and the second dealing with material covered to November 24. Each asks you to use the documents and essays in the handouts as well as *Major Problems* to provide evidence for your thesis that is the answer to the question.

Required Texts

- Hall, Kermit L., and Timothy S Huebner, eds. *Major Problems in American Constitutional History*. Boston: Wadsworth, 2010.

Handouts

- James Madison, “Federalist 10” and “Federalist 51,” in *The Federalist: Alexander Hamilton, James Madison, and John Jay, The Essential Essays*, Jack N. Rakove, ed. (Boston: Bedford/St. Martin’s, 2003), 51-59 and 136-141.
- Ellen Alderman and Caroline Kennedy, “Rights Retained by the People: Privacy,” in *In Our Defense: The Bill of Rights in Action* (New York: HarperCollins Publishers, 2002), 315-323. **You can buy this book on Half.com for under \$1. I recommend everyone buys it. It will be a useful reference throughout the semester.**

Grading

Paper 1	10 points	A = 91 – 100 points
Paper 2	10 points	B = 81 – 90 points
Mid-Term Exam	20 points	C = 71 – 80 points
Final Exam	30 points	D = 61 – 70 points
Participation	30 points	F = 60 points and below

(or 20 if quizzes become necessary with the quizzes comprising the remaining 10 percent.)

Important Details

- ✓ Attendance is important to your grade because you must be in class to participate.
- ✓ All assignments will be completed and submitted on schedule. Makeup work, except in the most extreme circumstances, is not acceptable. If such a circumstance can be anticipated, you **must** see me ahead of time. If it cannot, documentation will be required.
- ✓ The Writing Center can help you with construction of your essays. In addition, I will be happy to read drafts. The Writing Center (942-2093) is in the library (305C).
- ✓ **Plagiarism is the worst of academic crimes and will not be tolerated.** Plagiarism is representing someone else’s work as your own. If you plagiarize you will have earned an “F” on the first offense. If you do not know what plagiarism is, please see me. ASU has an honor code that binds students and faculty to academic integrity. Please read it in the Student Handbook, <http://www.angelo.edu/forms/pdf/honorcode5.pdf>, pp 30-34.
- ✓ If you have a documented disability or disorder that requires special consideration for you to complete the class successfully, please see me in my office at your earliest opportunity so we can arrange accommodations.
- ✓ Turn off your cell phones before class starts unless you’re waiting for an organ transplant or word about a close relative’s death. Inform me before class in either case.
- ✓ **DO NOT** check your cell phone for text messages or any other reason during class. I will deduct 10 points from your grade each time I catch you doing so.
- ✓ You may not take notes on electronic devices—computers, iPhones, cell phones, or otherwise.
- ✓ I will provide you with Blue Books for the final exam.

Course Calendar

Week 1—The U.S. Constitution and Its History

Reading: *Major Problems: Documents, 557-573, The U.S. Constitution*

8/25 Tues. Lecture: How the Constitution Came to Be

8/27 Thurs. Discussion: What Does the Constitution Seem to Do?

Week 2—Creating the American Republic

Reading: Major Problems: *Documents*, 30-56; *Analytical Essays*, 57-75;
Madison's Federalist 10

9/1 Tues. Lecture: Philadelphia, Federalists, and Anti-Federalists

9/3 Thurs. Discussion: Turning Ideas into Government

Week 3—Rights in the New Republic

Reading: Major Problems: *Documents*, 76-93; *Analytical Essays*, 94-109

9/8 Tues. Lecture: The Dawn of Human Rights

9/10 Thurs. Discussion: Early Constitutional Problems and Possibilities

Paper #1 Question: If Madison, in Federalist 10 (1787) and 51 (1788), advocated—as matters of liberty—wide civic participation and independent branches of government respectively, what were John Adams' reasons for invoking apparently disproportionate Presidential powers as early as 1798 that seemed to suppress civic participation? Was he justified?

Week 4—The Departmental Theory and the Establishment of Judicial Review

Reading: Major Problems: *Documents*, 110-137; *Analytical Essays*, 136-156

9/15 Tues. Lecture: What Marbury v. Madison did

9/17 Thurs. Discussion: The Constitution and the sovereignty question

Paper #1 essay due

Week 5—Andrew Jackson, Nullification, and Indian Removal

Reading: Major Problems: *Documents*, 157-177; *Analytical Essays*, 177-191

9/22 Tues. Lecture: Get Andrew Jackson off the twenty dollar bill! Here's why.

9/24 Thurs. Discussion: Was John Calhoun right?

Week 6—Abraham Lincoln, Slavery, and the Civil War

Reading: Major Problems: *Documents*, 192-215; *Analytical Essays*, 215-228

9/29 Tues. Lecture: Was the Constitution Pro-Slavery or Anti-Slavery

10/1 Thurs. Discussion: Race and The Court in the 19th Century

Week 7—Reconstruction and the Fourteenth Amendment

Reading: Major Problems: *Documents*, 229-255; *Analytical Essays*, 255-273

10/6 Tues. Lecture: The Redefinition of Freedom

Distribution of Take-Home Mid-Term Exam Questions

10/8 Thurs. Discussion: Why Is The Fourteenth Amendment so important?

Week 8—Protective Legislation and the Liberty to Contract

Reading: Major Problems: *Documents*, 274-296; *Analytical Essays*, 297-310

10/13 Tues. Lecture: The Industrial Revolution's Demands on the Constitution

10/15 Thurs. Discussion: Was The Constitution up to the task of industrial regulation?

Take-Home Mid-Term Exam Due

Week 9—Total War and the Emergence of Modern Civil Liberties

Reading: Major Problems: Documents, 311-331; Analytical Essays, 331-345

10/20 Tues. Lecture: Modern War's effects on civil liberties

10/22 Thurs. Discussion: How does fear change Constitutional interpretation?

Week 10—Franklin Roosevelt, the Depression, and the New Deal

Reading: Major Problems: Documents, 346-370; Analytical Essays, 370-382

10/27 Tues. Lecture: The Constitution in a changing economic order

10/29 Thurs. Discussion: The Court and Liberal Politics

Week 11—Race and Civil Rights in the Cold War Era

Reading: Major Problems: Documents, 383-401; Analytical Essays, 402-415

11/3 Tues. Lecture: The New Deal, Japanese Internment, and "Separate but Equal"

11/5 Thurs. Discussion: *Brown v. Topeka Board of Education* and its consequences

Week 12—Abortion Rights

Reading: Major Problems: Documents, 417-433; Analytical Essays, 437-450

Alderman and Kennedy, Right to Privacy handout

11/10 Tues. Lecture: Womens' Rights and a Woman's "Right to Choose"

11/12 Thurs. Discussion: Where is "the right to choose" in the Constitution?

Paper #2 Question: The right to privacy is nowhere specifically guaranteed in the Constitution. How did Supreme Court Justices William O. Douglas and Arthur J. Goldberg apply the Ninth Amendment to create a right to privacy in *Griswold vs. Connecticut* and how did that lead, in turn, to the Supreme Court's decision in *Roe v. Wade* that permits abortions in the first trimester of pregnancy?

Week 13—Freedom of and Freedom from Religion

Reading: Major Problems: Documents, 451-468; Analytical Essays, 469-483

11/17 Tues. Lecture: The Effects of the Constitution's Establishment Clause

11/19 Thurs. Discussion: The argument over prayer in schools.

Week 14—Federalism and Judicial Review

Reading: Major Problems: Documents, 484-504; Analytical Essays, 504-517

11/24 Tues. Lecture and Discussion: What Rights do States Have?

11/26 NO CLASS—THANKSGIVING HOLIDAY

Week 15—Presidential Power from the Cold War to the War on Terror

Reading: Major Problems: Documents, 518-544; Analytical Essays, 544-555

12/1 Tues. Lecture: The Constitution and constraints on Presidential power

12/3 Thur. Discussion: So why do Presidents get to act unilaterally?

Paper #2 essay due

Final Exam, Thursday, December 10, 8 a.m. – 10 a.m., A 225