

POLI 230
Spring 2020

Professor William Blake

Office Hours: Fridays 10:00 AM – 12:00 PM
or by appointment

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CONSTITUTIONAL LAW

This provision is made in a constitution, intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.

- Chief Justice John Marshall, *McCulloch v. Maryland* (1819)

Course Description

This course provides an introduction to some of the most important cases in the history of the Supreme Court on the issues of federalism and the separation of powers. More broadly, however, this course is designed to provide you a framework through which you can evaluate democracy. Politics is often defined as “the authoritative allocation of values.” The Constitution is the ultimate source of American political authority; it gives preference to certain values, and it allocates them, in part, through institutional arrangements. The American political order is a product of a complex set of interactions between separated legislative, executive, and judicial institutions at the federal level, and a delegation of some basic governing functions to state governments. While this is a political science course, constitutional law is unique in that it stands at the corner of several disciplines. The Constitution is a document of both law and politics, and interpreting it requires an understanding of sociology, history, philosophy, and economics. Therefore, understanding the Constitution requires engaging with all of these intellectual fields.

This class will confront some of the most difficult social and economic problems in American political history. While few of these cases will have a single correct answer to a legal case, there are always better and worse answers. That is, successful constitutional reasoning does not depend on one’s underlying political worldview, but the degree to which one can justify an argument. Constitutional reasoning lends itself naturally to dialog. For much of the course, I will be employing a version of the Socratic Method of teaching, which means much of the learning will occur with students teaching other students. My role in the Socratic Method is to facilitate this learning by asking questions of each of you. Engaging in constitutional reasoning can assist in developing analytical and persuasive skills. While this is not a speech or communications class, moving toward such mastery is a vital part of all forms of education.

Learning Objectives

My goal for this semester is to help you to learn what the Supreme Court has said about certain aspects of the Constitution and to examine the implications of the rulings for American politics. This objective requires three skills. First, students will learn to explain concepts related to economic regulation, federalism, and separation of powers. Second, students will learn to

analyze how the historical and political context shaped the Court's thinking and how judicial rulings subsequently influenced political events. Finally, students will evaluate the persuasiveness of the Court's reasoning.

Course Materials

Epstein, Lee J., and Thomas G. Walker. 2019. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. 10th edition. Washington, DC: CQ Press.

Selected readings on Blackboard.

Assessment

70% - 3 Quizzes (worth 23.3% each) 20% - Essay
10% - Attendance and class participation

Grading Scale

| | | | |
|-------------|---|-------------|---|
| 90.0-100% | A | 60.0-69.99% | D |
| 80.0-89.99% | B | < 60.0% | F |
| 70.0-79.99% | C | | |

Quizzes

Each quiz will utilize the same format: ten matching questions worth 2 points each, ten multiple choice questions worth 4 points each, and five short answer questions worth 8 points each. For the matching questions, you will be asked to place the correct key term from a word bank into a sentence that best utilizes it. None of the quizzes is cumulative. I may establish a grading curve at my discretion.

Essay

Explain which of the three opinions in *Lochner v. New York* you would have signed onto if you were a Supreme Court justice. You should argue in favor of the opinion you chose and also tell me why the other two opinions were less persuasive. You should also anticipate how those who disagree with the opinion you chose would react and respond to those arguments. The criteria for a successful paper are demonstrating an understanding of the readings, utilizing critical thinking skills, organizing your paper into a coherent thought, and employing proper grammar and a fluid writing style. I strongly recommend that you consult the Writing Center before turning in any assignment. I am also happy to provide feedback on a draft of the paper, but I do not require you to turn in a draft.

I am not specifying a page count because, inevitably, a few brave students will attempt to pad their work by manipulating font size, margins, or line spacing (I was once a student too). Instead, the essay should be approximately 1,300 words. Papers that are slightly shorter in length are eligible to receive full credit, and papers that go a bit over the word limit will not be

penalized. Please be sure to include the word count of your paper at the top of the first page. Failure to do so will lower your grade by 5 points. You will be graded on a rubric, which you may see in advance. Late work will not be accepted, except for a documented medical or family emergency.

Attendance Policy

You are expected to attend every class, having done the reading assignment for the day, and stay for the full class. You must also bring a copy of the readings with you to class. If you have not completed the reading, or you do not have a copy of the reading with you, please write your name on a small piece of paper and place it on my lectern. It is perfectly fine if you had trouble understanding the readings; the notes are intended to document only students who have not done them. If I discover that you have not done the readings and failed to notify me, 10 points will be deducted from your attendance and participation grade.

Your attendance and participation grade will be out of 100 points, and every student begins the semester with full credit. Your first unexcused absence and your first two “reading notes” will not count against your grade. Each subsequent unexcused absence will lower your attendance and participation grade by 10 points, and each subsequent “reading note” will lower your attendance and participation grade by 5 points.

Technology Policies

In general, I do not allow any electronic devices to be used in class for any purpose. However, I recognize that there may be good reasons why a student might benefit from the use of a laptop or tablet. If you would like to use an electronic device, please to office hours to seek approval.

If you are approved to use a computer or other electronic device, you may only use it to take notes or reference official class materials. Using a computer or other electronic device for any other purpose, including checking email or social media, will result in 10 points being deducted from your attendance grade. Studies have demonstrated that the use of social media in class not only distracts the student engaging in that behavior, but students sitting nearby at a significantly higher level. Should you find yourself distracted by the discourteous behavior of a neighboring student, please notify me, and I will handle the matter confidentially.

The use of cellular phones during class, for any reason, is prohibited. Any use of a cellular phone in class will result in 10 points being deducted from your attendance and participation grade.

Academic Integrity

By enrolling in this course, each student assumes the responsibilities of an active participant in UMBC's scholarly community in which everyone's academic work and behavior are held to the highest standards of honesty. Cheating, fabrication, plagiarism, and helping others to commit these acts are all forms of academic dishonesty, and they are wrong. Academic

misconduct could result in disciplinary action that may include, but is not limited to, suspension or dismissal. To read the full Student Academic Conduct Policy, consult [UMBC policies](#), or the [Faculty Handbook](#) (Section 14.3). For graduate courses, see the [Graduate School](#) website."

Every instance of plagiarism will be penalized. Papers that contain substantially plagiarized sections will receive no credit. Further disciplinary options include: failing the course and being reported to the Dean's office.

Accommodations for Students with Special Needs

UMBC is committed to eliminating discriminatory obstacles that may disadvantage students based on disability. Services for students with disabilities are provided for all students qualified under the Americans with Disabilities Act of 1990, the ADAA of 2009, and Section 504 of the Rehabilitation Act who request and are eligible for accommodations. The Office of Student Disability Services (SDS) is the UMBC department designated to coordinate accommodations that would allow for students to have equal access and inclusion in their courses.

If you have a documented disability and need to request academic accommodations, please refer to the SDS website at sds.umbc.edu for registration information or visit the SDS office in the Math/Psychology Building, Room 212. For questions or concerns, you may contact us at disAbility@umbc.edu or (410) 455-2459. If you require accommodations for this class, make an appointment to meet with me to discuss your SDS-approved accommodations.

Writing Center

The Writing Center is a service available to all UMBC students to go for help with writing assignments, as well as resumes, cover letters, and personal statements. The Writing Center offers students the opportunity to work one-on-one with an experienced tutor. For more information, please visit the Writing Center in the A.O.K. Library on the first floor, or online at http://www.umbc.edu/lrc/writing_center.html.

Student Veteran Services

The UMBC Veterans Services office is a centralized office designed to provide comprehensive resources to veterans and Veterans Affairs benefit recipients to aid in their overall success as students. The Veterans Services office provides advice, guidance, advocacy, and outreach services for the student veteran population. For more information, please visit them in The Commons, Room 1A02 or online at <http://veterans.umbc.edu>.

Counseling Services (Including Study Skills Training)

Students who wish to seek counseling or other psychological services should contact the Counseling Center by phone at (410) 455-2472. The Counseling Center also holds a series of workshops entitled "Skills 4 Success," which provide tips on stress management, time

management, reducing test anxiety, and avoiding procrastination. For more information, visit their website at <http://counseling.umbc.edu>.

Class Schedule

While I reserve the right to change the reading assignments at any time, if a change occurs, I will provide reasonable notice, and I will not increase your overall reading load.

1/29 Supreme Court Decisionmaking, pp. 22-33

2/3 Article I
US Term Limits v. Thornton, pp. 129-135
Trump v. Hawaii (Blackboard)

2/5 **Class cancelled**

2/10 Article II
Trump v. Hawaii (cont.)

2/12 Article III
“The Unconstitutionality of Hugo Black” (Blackboard)

Article IV (reading assigned at end of semester)

Article V – Take POLI 220 with Prof. Blake (previous reading cut)

2/17 Article VI
Marbury v. Madison, pp. 54-70

2/19 *Marbury v. Madison* (cont.)

Article VII
“The Shape of the Constitutional Past” (Blackboard)

2/24 Early 19th Century Economic Controversies
McCulloch v. Maryland, pp. 141-152, 343-347

2/26 Early 19th Century Economic Controversies
McCulloch v. Maryland (cont.)

3/2 Early 19th Century Economic Controversies (cont.)
Gibbons v. Ogden, pp. 405-12

3/4 The *Lochner* Era: Police Powers
Lochner v. New York, pp. 634-640 and on Blackboard

3/9 **Quiz # 1**

3/11 The *Lochner* Era: Police Powers (cont.)
Lochner v. New York, cont.

3/16 **Class cancelled for spring break**
3/18 **(...and there was much rejoicing)**

3/23 The *Lochner* Era: Police Powers (cont.)
Muller v. Oregon, pp. 641-647
Mugler v. Kansas (Blackboard)

3/25 Federal Power During the *Lochner* Era
Hammer v. Dagenhart, pp. 425-428 and on Blackboard
United States v. Butler pp. 543-548

3/30 The Switch in Time That Saved Nine
West Coast Hotel v. Parrish, pp. 656-660

4/1 The Switch in Time That Saved Nine (cont.)
United States v. Steward Machine Co., pp. 548-552
Essay due on Blackboard before start of class

4/6 The *Ne Plus Ultra* of the Commerce Clause
Wickard v. Filburn, pp. 454-458

4/8 A Brief Examination of the Civil Rights Era
Heart of Atlanta Motel v. United States, pp. 457-463

4/13 **Quiz #2**

4/15 Modern Commerce Clause Controversies
United States v. Lopez, pp. 463-471

4/20 Modern Commerce Clause Controversies (cont.)
Gonzalez v. Raich, pp. 475-485

4/22 Modern Federalism Controversies
South Dakota v. Dole, pp. 552-556
Printz v. United States, pp. 373-380

4/29 Commerce, Taxing, and Spending
NFIB v. Sibelius, pp. 483-494 & 556-564

5/4 Eminent Domain
Kelo v. New London, pp. 705-713

5/6 Election Law
Bush v. Gore, pp. 181-192

5/11 Election Law (cont.)
Shelby County v. Holder (Blackboard)

5/15 **Quiz #3 during Final Exam Period 1:00-3:00 PM**

Agreement

Please detach this page, print your name, sign and date it, and return it to me by February 3, 2020. I will then sign and date it, copy the form, and return the original to you.

As your student, I will, to the best of my ability, respect the UMBC Code of Student Conduct and uphold the expectations of this class contract.

Student Name (printed) Signature Date

As your instructor, I will, to the best of my ability, respect the UMBC Handbook on Faculty Rights and Responsibilities and uphold the expectations of this class contract.

Signature Date