

JACK MILLER CENTER

U.S. Constitutional and *Legal History*

Constitution and Legal History, University of Western Florida
U. S. Constitutional and Legal History (to 1877)

(AMH4551-1962)

Monday & Wednesday, 1:00-2:15

Building 52, Room 152A

Dr. Steve Belko

Building 50, Room 138

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COURSE DESCRIPTION

This course provides a comprehensive examination of the development of the U. S. constitutional and legal system from the colonial period through Reconstruction. Although the history of the U. S. Supreme Court plays an integral role in this course, constitutional and legal history transcends the mere study of great cases and judicial decisions; the preeminent role of the president, congress, and the states in the making and development of the constitutional and legal system during the antebellum period – and the larger political, social, and economic forces surrounding and influencing this development – are given greater weight.

STUDENT LEARNING OUTCOMES

- **Demonstrate a comprehensive understanding of the foundations, formation, and development of the U. S. constitutional and legal system during the antebellum period.**
- **Define the political, social, and economic forces that have shaped U. S. constitutional and legal history.**
- **Describe the role and development of the U. S. Supreme Court and the interaction between the federal court system and the state courts.**
- **Describe how the president, the congress, the states, and the people determined constitutional development from the early 1600s to the end of Reconstruction in 1877.**
- **Develop the skill to explicate the legal ruling in a case and place it in its proper historical and developmental context.**
- **Delineate the major issues, events, and personalities that have defined the nature and character of the U. S. Constitution.**

RECURRING THEMES

- **Power vs. Liberty**
- **Centralization vs. Decentralization**
- **States' Rights vs. Union**
- **Federalism**
- **Republic vs. Democracy**
- **Activism vs. Restraint**
- **Civic Humanism (Classical Republicanism) vs. Acquisitive Individualism (Liberal Capitalism)**
- **Executive vs. Legislative vs. Judicial Power and Authority**

READINGS

Books

Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1607-1788*

Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution*

Jackson Turner Main, *The Antifederalists: Critics of the Constitution, 1781-1788*

Richard Ellis, *The Jeffersonian Crisis: Courts and Politics in the Young Republic*

Richard Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis*

R. Kent Newmyer, *The Supreme Court under Marshall and Taney*

Primary Documents

Melvin Urofsky, ed., *Documents of American Constitutional & Legal History*

Articles (To be provided by the professor and accessible on reserve at Pace Library)

From Terence Ball and J. G. A. Pocock, eds., *Conceptual Change and the Constitution* (Lawrence: University Press of Kansas, 1988)

- **Peter S. Onuf, "State Sovereignty and the Making of the Constitution." (78-98)**
- **Terence Ball, "A Republic — If You Can Keep It." (137-164)**

From Leonard Levy and Dennis Mahoney, eds., *The Framing and Ratification of the Constitution* (New York: Macmillan Publishing Company, 1987)

- **John M. Murrin, "The British and Colonial Background to American Constitutionalism." (19-35)**
- **Jack P. Greene, "Origins of the American Revolution: A Constitutional Interpretation." (36-53)**
- **Donald S. Lutz, "The First American Constitutions." (69-81)**
- **Peter S. Onuf, "The First Federal Constitution: The Articles of Confederation." (82-97)**

- Michael P. Zuckert, “A System without Precedent: Federalism in the American Constitution.” (132-150)
- Murray P. Dry, “The Case Against Ratification: Anti-Federalist Constitutional Thought.” (271-291)
- Herman Belz, “Constitutionalism and the American Founding.” (333-354)

From Richard Beeman, Stephen Botein, and Edward C. Carter II, eds., *Beyond Confederation: Origins of the Constitution and American National Identity* (Chapel Hill: University of North Carolina Press, 1987)

- Gordon S. Wood, “Interests and Disinterestedness in the Making of the Constitution.” (69-112)
- Lance Banning, “The Practicable Sphere of a Republic: James Madison, the Constitutional Convention, and the Emergence of Revolutionary Federalism.” (162-187)
- Richard E. Ellis, “The Persistence of Antifederalism after 1789.” (295-314)

From Jack P. Greene, ed., *The Reinterpretation of the American Revolution, 1763-1789* (New York: Harper & Row, 1968)

- Edmund S. Morgan, “Colonial Ideas of Parliamentary Power, 1764-1766.” (151-180)
- David S. Lovejoy, “‘Rights Imply Equality’: The Case Against Admiralty Jurisdiction in America, 1764-1766.” (181-206)
- Forrest McDonald, “The Anti-Federalists, 1781-1789.” (365-377)
- Douglass Adair, “‘Experience Must Be Our Only Guide’: History, Democratic Theory, and the United States Constitution.” (397-415)
- Douglass Adair, “‘That Politics May be Reduced to a Science’: David Hume, James Madison, and the Tenth Federalist.” (487-503)
- Cecelia Kenyon, “Men of Little Faith: The Anti-Federalists on the Nature of Representative Government.” (526-567)

From Isaac Kramnick, *Republicanism and Bourgeois Radicalism: Political Ideology in Late Eighteenth-Century England and the United States* (Ithaca: Cornell University Press, 1990):

- “‘The Great National Discussion’: The Discourse of Politics in 1787.” (260-288)

Leonard Levy, “Liberty and the First Amendment, 1790-1800.” *American Historical Review* LXVIII (October 1962): 22-37.

From Kermit Hall and James Ely, eds., *An Uncertain Tradition: Constitutionalism and the History of the South* (Athens: University of Georgia Press, 1989)

- Donald Nieman, “Republicanism, the Confederate Constitution, and the American Constitutional Tradition.” (201-224)
- Michael Les Benedict, “The Problem of Constitutionalism and Constitutional Liberty in the Reconstruction South.” (225-250)

USEFUL RESOURCES

- Kermit L. Hall, ed. *The Oxford Companion to the Supreme Court of the United States*.
- *The Supreme Court Historical Society* <http://www.supremecourthistory.org/>
- *H-Law/American Society for Legal History* <http://www.h-net.msu.edu/~law/index.html>

ASSIGNMENTS

Exams

There will be six take-home exams covering the material provided in the lectures. The exams will consist entirely of essay questions. You will receive the essay questions one week prior to the due date. The essays must be typed, double-spaced, 12-point font, and must be handed in by the end of the class period in which they are due. An electronic version of the exam must also be submitted at that time (preferably as an e-mail attachment). Due dates are set in the class schedule and exams turned in late will not be accepted. Essay questions will be graded on organization, clarity, and accuracy of information. You should be comprehensive in covering all the major aspects and support these with specific examples. The first five assignments are worth 100 points each and the final (sixth) exam, a comprehensive assignment, is worth 200 points.

Readings Questions

The professor will provide you at the beginning of each series of lectures a series of short answer questions that will cover the assigned readings – books, articles, and primary documents – listed above. Answers should be between 100 and 250 words per question and must be typed out and handed in on the respective due date given in the class schedule. You must also submit an electronic version of the assignment (preferably as an e-mail attachment). Each readings assignment is worth 100 points.

ATTENDANCE

Attendance is expected and will be taken at every class period. For every class you miss, fifty points will be deducted from your total points at the end of the semester. If you have completed all the assignments and finish the semester with a borderline grade, then perfect attendance will raise your final grade one full average point to the next grade level.