

Political Science 104A: **The Supreme Court and the Constitution:
Separation of Powers, Federalism,
Civil Liberties, and Law School Skills**

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Winter Session 2018
Tues, Thurs 3:30-4:50
SSB 104

Course Overview

This class has three points of focus. First, we will study both the constitutional provisions and the Supreme Court decisions that demarcate the basic powers of the three branches of the federal government, and between the federal and state governments. Second, we will undertake a necessarily partial and speedy survey of certain landmark decisions settling questions of individual rights and liberties. Third, we will begin to develop some basic skills that will prove very useful for students who decide to enroll in law school.

Course Assignments and Grades

- > 20% of your grade will be based on class attendance and participation.
- > 20% will be based on a case brief, an outline of the course, and a checklist of course materials.
- > 20% will be based on an in-class midterm exam.
- > 40% will be based on an in-class, 2-hour final exam.

Course Textbook

Lee Epstein & Thomas G. Walker, **Constitutional Law for a Changing America: A Short Course**, 7th ed.

Course Outline

Week One, Introduction to the Course and Fundamentals of the Federal Judicial Power

Class One, Tuesday, January 9

- Readings: Epstein & Walker, pp 564-570 (Obergfell v. Hodges)

Class Two, Thursday, January 11

- Readings: Epstein & Walker, pp 55-73 (structure of the federal courts; Marbury v. Madison)

Week Two: Judicial Supremacy and Modern Standing Doctrine

Class Three, Tuesday January 16

- Readings
 - Epstein & Walker, pp 7-10, 29-49 (underlying principles; theories of interpretation)
 - Lincoln, “Speech on the Dred Scott decision” (available online)

Class Four, Thursday, January 18

- Readings: Epstein & Walker pp. 73-84 (Ex Parte McArdle; modern standing doctrine)

Vote on week 9 topic

Week Three: Fundamentals of the Federal Executive Power

Class Five, Tuesday, January 23

- Readings; Epstein & Walker pp 129-156 (skim 129-33) (Clinton v. N.Y., U.S. v. Nixon, Clinton v. Jones)

Class Six, Thursday, January 25

- Readings: Epstein & Walker pp 156-183 (Presidential power during wartime, Korematsu v. U.S., Youngstown Sheet & Tube Co. v. Sawyer, Hamdi v. Rumsfeld)

Week Four: Fundamentals of the Federal Legislative Power

Class Seven, Tuesday, January 30

- Readings: Epstein & Walker pp 86-92, 98-115; 119-27 (Art. I overview, McCulloch v. Maryland; Mistretta v. U.S.; INS v. Chadha)
- CASE BRIEF DUE

Class Eight, Thursday, February 1

- Readings: Epstein & Walker pp: 217-23; 231-46; 257-68 (The commerce power; Gibbons v. Ogden; The New Deal; A.L.A. Schechter Poultry Corp. v. U.S.; the court-packing plan; NLRB v. Jones & Laughlin Steel Corp.; Lopez v U.S., Gonzales v Raich)

Week Five: Midterm Exam and Basic Principles of Federalism

Class Nine, Tuesday, February 6

- MIDTERM EXAM

Class Ten, Thursday, February 8

- Readings: Epstein & Walker pp 187-200, 203-216 (10th and 11th Amendments; McCulloch v Maryland, Garcia v. San Antonio Metropolitan Transit Authority, Printz v. U.S.)\

CASE BRIEF DUE

Week Six: Substantive Due Process

Class Eleven, Tuesday, February 13

- Readings: Epstein & Walker 528-554 (Griswold v. Connecticut, Roe v. Wade, Planned Parenthood v. Casey)

Class Twelve, Thursday, February 15

- Readings: Epstein & Walker 554-564; 571-77, (Lawrence v. Texas; Cruzan v. Missouri Dept. of Health)

- Review: Obergefell, pp. 564-70

Week Seven: Freedom of Religion

Class Thirteen, Tuesday, February 20

- Readings: Epstein & Walker 376-395; (Sherbert v. Verner; Employment Division v. Smith)

Class Fourteen, Thursday, February 22

- Readings: Epstein & Walker skim 395-408; 408-431 (Lemon v. Kurtzman; Zelman v. Simmons-Harris Van Orden v. Perry; Town of Greece v. Galloway)

Week Eight: Freedom of Speech and Assembly:

Class Fifteen, Tuesday, February 27

- Readings: Epstein & Walker 432-452 (Schenk v. U.S.; Dennis, v. U.S. (dissent); modern approaches; Texas v Johnson).

Class Sixteen, Thursday, March 1

- Readings: Epstein & Walker 452-477 (Chaplinsky v. New Hampshire; Morse v. Frederick; Snyder v. Phelps; West Virginia Board of Educ. v. Barnette; Boy Scouts of America v. Dale)

Week Nine: Students' Choice

Class Seventeen, Tuesday, March 6

- Readings:

Class Eighteen, Thursday, March 8

- Readings:

STUDENTS' CHOICE: ch. 15 (2nd Am), ch. 17(investigation and evidence), 18(arrests, trial, and punishment), OR 20 (Voting rights)

Week Ten: Law School Skills II and Review

Class Nineteen, Tuesday, March 13

- Readings: Getting to Maybe, pp. 3-26,117-147

Class Twenty, Thursday, March 15

- Readings: Selected Briefs and Oral Argument from Master Bakeshop case

[OUTLINE AND] CHECKLIST DUE
FINAL EXAM