Course Description

The United States Constitution is the foundation upon which all American government is built. The document is now more than 225-years old; it is the oldest, written, nation-state constitution in the world. And it is also amazingly concise: the Constitution contains a preamble, seven articles, twenty-seven amendments, and just over 7,000 words.

This course will examine how the Constitution has been implemented and interpreted over the past two centuries, with particular focus on the relationship among the three branches of government (the legislative, executive, and judicial), and on the relationship between the federal government and the states.

Required Texts


Any supplemental readings will be handed out in class or will be available on Westernonline. If you have any problems accessing Westernonline, please contact University Technology Support Center at (309) 298-2704.
Course Schedule and Readings

You should have completed all readings and be prepared to discuss them on the date the materials are identified on the syllabus. Any adjustments to the schedule, as appropriate, will be announced in class. The instructor reserves the right to modify course requirements and to alter and/or add readings wherever appropriate.

Introduction and Foundations of the United States Constitution

Thursday, August 27: Course Overview and Syllabus/ Legal Research and Case Briefs/ Historical Overview of the Constitution

Introductory Readings: Richard J. Hardy, “Founding of the American Political System,” The 21st Century Political Science Handbook, Volume 2, No. 80, by John Ishiyama and Marijke Breuninger, eds. Sage, 2011, pp. 685-698. ISBN 9781412969017. (This article will be handed out in class.)


The Powers and Limitations of the Judicial Branch

Thursday, September 3: The Constitutional Basis for Judicial Review

Institutions, Politics, and Process, A Special Note on Briefing Cases and Preparing for Classes, p. 18; The Declaration of Independence, pp. 731-734 (Appendix A); The Federalist Papers, pp. 735-747 (Appendix B); The Constitution of the United States and Amendments, pp. xxiii-xxviii; Chapter 1, pp. 1-5.

Institutions, Politics, and Process, pp. 6-33, including:

- Ex Parte M'arcrdle, 7 WALLACE 506, 19 L. ED. 264 (1869), pp. 29-30.

Thursday, September 10: Federal Court Jurisdiction: Where does it come from and what are its limits?

- Drafts of Constitution Day poster presentations due in class.
Standing

Institutions, Politics, and Process, pp. 34-46 and pp. 50-53, including:


The Political Question Doctrine

Institutions, Politics, and Process, pp. 54-64, including:

Luther v. Borden, 7 HOW. 1; 12 L.Ed. 581 (1849), pp. 54-56.

Wednesday, September 16: CONSTITUTION DAY POSTER PRESENTATIONS in the Malpass Library from 11:00 a.m.—1:00 p.m.

The Powers and Limitations of the Legislative Branch

Thursday, September 17: Delegation of Legislative Power

Institutions, Politics, and Process, pp. 245-250 and pp. 259-264, including:


Legislative Investigations and Contempt

Institutions, Politics, and Process, pp. 274-285, including:


Congressional Immunity and Internal Affairs

Institutions, Politics, and Process, pp. 64-69; pp. 122-125; and pp. 286-289, including:


**The Powers and Limitations of the Executive Branch**

**Thursday, October 1:** The Appointment and Removal Power

*Institutions, Politics, and Process*, pp. 263-277, including:


**The Veto Power**

*Institutions, Politics, and Process*, pp. 255-259 and pp. 305-310, including:


**The Power to Pardon**

*Institutions, Politics, and Process*, pp. 310-315, including:


**Thursday, October 8:** Executive Privilege and Immunity


*Institutions, Politics, and Process*, pp. 290-305, including:

*In re Grand Jury Subpoena Duces Tecum*, 112 F.3d 910 (8th Cir. 1997), pp. 302-305.

**Thursday, October 15:** In-Class Midterm (possible date change)

**Thursday, October 22:** Mock Presidential Election in WIU’s Grand Ballroom
Tuesday, October 27: Mock Presidential Election in WIU’s Grand Ballroom (extra credit)

Thursday, October 29: Executive Power in Wartime

Institutions, Politics, and Process, pp. 503-507; pp. 516-535, and pp. 551-602, including:

The Prize Cases, 67 U.S. 635 (1863), pp. 520-521.
Ex parte Endo, 323 U.S. 283 (1944), pp. 557-561.

The Federal Government and the States

Thursday, November 5: Division of Power between the Federal Government and the States

Institutions, Politics, and Process, pp. 79-92; pp. 137-142, and pp. 148-152, including:

McCulloch v. Maryland, 4 L.Ed. 579 (1819), pp. 89-92.

National Supremacy and the Pre-Emption of State Laws

Reread Article VI, clause 2 of the Constitution.

Institutions, Politics, and Process, pp. 442-450; pp. 465-467; and p. 485, including:


Thursday, November 12: Full Faith and Credit

Reread Article IV, section 1 of the Constitution.

Institutions, Politics, and Process, pp. 166-172, including:

Privileges and Immunities

Reread Article IV, section 2, clause 1 of the Constitution.

Institutions, Politics, and Process, pp. 345-354, including:

- Slaughterhouse Cases, 21 L.ED. 394 (1873), pp. 351-353.

The Regulation of Commerce

Thursday, November 19: The Commerce Clause

Reread Article 1, Section 8, Clause 3 of the Constitution.

Institutions, Politics, and Process, pp. 175-222 and pp. 113-121, including:

- Gibbons v. Ogden, 6 L.ED. 23 (1824), pp. 186-188.

Thursday, November 26: Thanksgiving Break—NO CLASS.

The Power to Tax and Spend

Thursday, December 3: Taxing and Spending as Instruments of Regulation

Reread Article 1, Section 8, Clause 1 of the Constitution.

Institutions, Politics, and Process, pp. 227-244, including:


**Taking of Property**

**Thursday, December 3: The Takings Clause**

Reread the 5th Amendment.

*Institutions, Politics, and Process,* pp. 393-412 and pp. 416-440, including:


**Amending the Constitution**

*Institutions, Politics, and Process,* pp. 57-60, including:


- Graduate student papers due.

**Thursday, December 17: Final Exam at 6:00 p.m.**

**Course Structure**

As in law school, we will employ the case method of study, reading excerpts from Supreme Court cases and analyzing them in class using the Socratic Method—a back-and-forth discussion between the instructor and the students designed to illuminate the key issues of law in each case, their broader significance, and their possible application. Toward that end, students are expected to brief each of the assigned cases in advance of class (noting the litigants, the factual background, the legal issues raised, and the ruling by the court) and be prepared to answer questions about the cases in class.
Assessment

Class Assignments, Attendance, and Participation—15%

Class attendance and participation are very important. You are expected to attend each session and to come to class prepared to discuss the assigned readings. The instructor will additionally give assignments throughout the semester.

Constitution Day Poster Presentation—5%

Federal law requires that any educational institution that receives federal funds must observe Constitution Day—a day commemorating the signing of the Constitution and celebrating United States citizenship. This year, WIU will celebrate Constitution Day on Wednesday, September 16, in the Malpass Library. The theme for this year’s celebration will be “Privacy.”

In connection with the Constitution Day celebration, the students in POLS 410G have been invited to make poster presentations on leading Supreme Court cases pertaining to the theme. Each student will research an assigned Supreme Court case, then create a posterboard display identifying the case name and citation, a description of the litigants, a brief summary of the case, some historical background (i.e., the events leading up to the case or the historical setting in which the case occurred), the constitutional issue raised, the ruling of the court, and the significance of the decision. The posters will be available for public display from 11:00 a.m.-1:00 p.m.

Students are asked to be available from 11:00 a.m.-12:00 p.m. on the day of the event to answer questions about their poster presentations. You will also have an opportunity to earn extra credit by attending a panel discussion by WIU professors from 12:00-1:00 p.m.

Oral Argument—15%

Each student will be expected to participate as either an attorney or a Supreme Court Justice in an oral argument for a case previously decided by the Supreme Court. Students will prepare in-class presentations by reading the appellate decision issued in the case as well as the briefs (petitioner, respondent, and amicus) filed with the Supreme Court. Students not assigned a role in a particular case will be asked to draft a bench memo in the case.

Midterm Examination—25%

The midterm will be an in-class exam that covers materials from the first part of the course. We will discuss the format of the midterm and have an opportunity for review in advance of the exam.

Final Exam—40%

The final will be an in-class exam that is comprehensive in nature, covering material from the entire semester. We will discuss the format of the final and have an opportunity for review in advance of the exam.
**Graduate Student Credit**

Graduate students are expected to complete all of the requirements of this course, as well as to write a 15- to 20-page judicial opinion in a case to be selected by the student in consultation with the instructor. The final paper will be due in class on Thursday, December 3.

**Academic Honesty and Student Rights**

Academic honesty is expected of all WIU students; cheating and plagiarism will not be tolerated. All violations of the academic integrity policy will be reported to the Council on Admission, Graduation, and Academic Standards or to the Graduate Council. The University’s academic integrity policy is set forth at [http://www.wiu.edu/policies/acintegrity.php](http://www.wiu.edu/policies/acintegrity.php) and a more complete statement of student rights and responsibilities can be found at [http://www.wiu.edu/provost/students.php](http://www.wiu.edu/provost/students.php).

**Campus Resources for Student Support**

In accordance with University values and disability law, students with disabilities may request academic accommodations where there are aspects of a course that result in barriers to inclusion or accurate assessment of achievement. To file an official request for disability-related accommodations, please contact the Disability Resource Center at (309) 298-2512, disability@wiu.edu, or 143 Memorial Hall. Please notify the instructor as soon as possible to ensure that this course is accessible to you in a timely manner.