Professor: Dr. John A. Maltese

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Office hours: By appointment.
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Purpose of the course: POLS 4700 is part of a sequence of courses dealing with the theory and practice of American constitutional law. This segment deals primarily with separation of powers within the national government (the specific powers of Congress, the Executive Branch, and the Judiciary) and with issues of federalism (the division of power between the national government and the states).

**Required text:**


Note: The print version of this text is now out of print, but you can rent or buy an eTextbook version (with the same page numbering) at Amazon.com:

[https://www.amazon.com/Constitutional-Interpretation-Powers-Government-1-ebook-dp-B00B6FBIUO/dp/B00B6FBIUO/ref=mt_kindle?_encoding=UTF8&me=&qid=1560186366](https://www.amazon.com/Constitutional-Interpretation-Powers-Government-1-ebook-dp-B00B6FBIUO/dp/B00B6FBIUO/ref=mt_kindle?_encoding=UTF8&me=&qid=1560186366)

In addition, the UGA bookstore has used copies for you to buy, and a copy is on Reserve at the Main Library. As appropriate, I will provide links to more recent cases

**Course requirements:**

There will be two essay exams and a five-page paper (that together will account for two-thirds of your grade) and two identify exams dealing primarily with the identification of cases and concepts (that together will account for one-third of your grade). The paper will count as half of your final exam grade (midterm = one-third of your grade and final + paper = one-third of your grade). You are expected to keep up with the reading and to attend class on a regular basis.

**STUDENTS ARE TO BE PRESENT ON ALL TESTING DAYS.** There will be no make-up exams without documented evidence of illness or family emergency.

The course syllabus is a general plan for the course; deviations announced to the class by the instructor may be necessary.
Academic Honesty:

ALL WORK ON ALL ASSIGNMENTS MUST BE YOUR OWN. All academic work must meet the standards contained in “A Culture of Honesty.” Students are responsible for informing themselves about those standards before performing any academic work. Ignorance of what constitutes plagiarism is no excuse, so familiarize yourself with what plagiarism is. I will refer cases of suspected academic dishonesty to the Office of Judicial Programs. The link to more detailed information about academic honesty can be found at: https://honesty.uga.edu/Academic-Honesty-Policy/

Course Outline

WEDNESDAY, AUGUST 14 through WEDNESDAY, AUGUST 21:

I. The Distribution of Powers within the National Government.
   
   A. Judicial Power.
      1. Judicial Review.
         Reading: Ducat, chapter 1, section a through page 23.
         Marbury v. Madison
         Judge Gibson’s dissent in Eakin v. Raub
         Martin v. Hunter’s Lessee

FRIDAY, AUGUST 23 through FRIDAY, AUGUST 30:

   2. Checking the Court.
      Reading: Ducat, chapter 1, pp. 23-26.
      Ex Parte McCordle

   3. The Structure of the Judicial System and the Supreme Court’s Place Within It.
      Reading: Ducat, chapter 1, pp. 26-39.

MONDAY, SEPTEMBER 2:

LABOR DAY HOLIDAY
WEDNESDAY, SEPTEMBER 4 and FRIDAY, SEPTEMBER 6:

   Reading: Ducat, chapter 1, pp. 40-76.
   Cases dealing with “case and controversy,” “ripeness,”
   “mootness,” and “political questions.”

MONDAY, SEPTEMBER 9 through FRIDAY, SEPTEMBER 13:

5. Modes of Constitutional Interpretation.
   Reading: Ducat, chapter 2.

MONDAY, SEPTEMBER 16 through FRIDAY, SEPTEMBER 20:

B. Legislative Power.
   1. The Source and Scope of Legislative Power:
      Enumerated and Implied Powers.
      Reading: Ducat, chapter 3, section a, pp. 107-115.
      McCulloch v. Maryland.
      Amendment-Enforcing Powers.
      Reading: Ducat, chapter 3, section a, pp. 116-124.
      South Carolina v. Katzenbach
      City of Boerne v. Flores

      Also read Employment Division, Dept. of Human Resources of
      Oregon v. Smith:
      https://www.law.cornell.edu/supremecourt/text/494/872

      The Treaty Power.
      Reading: Ducat, chapter 3, section a, pp. 128-131.
      Missouri v. Holland

MONDAY, SEPTEMBER 23 AND WEDNESDAY, SEPTEMBER 25:

2. Delegation of Legislative Power.
   Reading: Ducat, chapter 3, section b, pp. 132-148.
   J.W. Hampton, Jr. & Co. v. U.S.
   Panama Refining Co. v. Ryan
   Schechter Poultry Corp. v. U.S.
   INS v. Chadha
   Ducat, chapter 4, pp. 242-47.
   U.S. v. Curtiss-Wright Export
FRIDAY, SEPTEMBER 27:

FIRST IDENTIFY EXAM

MONDAY, SEPTEMBER 30 and WEDNESDAY, OCTOBER 2:

C. Executive Power.
   1. The Source and Scope of Presidential Power: Three Theories of Executive Power.
      Reading: Ducat, chapter 4, section b, pp. 190-93.

FRIDAY, OCTOBER 4 and MONDAY, OCTOBER 7:

   1. The Source and Scope of Executive Power (cont’d).
      Reading: Ducat, chapter 4, section b, pp. 206-214.
      *Youngstown Sheet & Tube Co. v. Sawyer*

WEDNESDAY, OCTOBER 9 and FRIDAY, OCTOBER 11:

   1. The Source and Scope of Executive Power (cont’d).
      Reading: Ducat, chapter 4, section b, pp. 198-end.
      *Korematsu v. U.S.*
      *Ex Parte Milligan*
      *U.S. v. Nixon*

   Also read: *Trump v. Hawaii* (including the dissents) at, for example:

MONDAY, OCTOBER 14 and WEDNESDAY, OCTOBER 16:

   2. The President’s Appointment and Removal Power
      Reading: Ducat, 176-189.
      *Myers v. U.S.*
      *Humphrey’s Executor v. U.S.*
      *Morrison v. Olson*

   Also read: *U.S. v. Woodley*, 751 F.2d 1008 (1985)
   [http://openjurist.org/751/f2d/1008/united-states-v-woodley](http://openjurist.org/751/f2d/1008/united-states-v-woodley)

FRIDAY, OCTOBER 18:

MIDTERM EXAM

MONDAY, OCTOBER 21 through FRIDAY, OCTOBER 25:

II. The Distribution of Powers between the National Government and the States.

A. The Commerce Clause: Early History and the Rise of “Dual Federalism.”
   Reading: Ducat, chapter 5, section a, pp. 283-301, and section b, pp. 312-318.
   Gibbons v. Ogden
   Stafford v. Wallace
   “The Shreveport Rate Case”
   Champion v. Ames
   Hammer v. Dagenhart

MONDAY, OCTOBER 28 and WEDNESDAY, OCTOBER 30:

B. “Liberty of Contract” in the Dual Federalist Era.
   Reading: Ducat, chapter 7, section b (pay special attention to pages 444-47 and to Lochner v. New York on p. 456).
   Also read: Buck v. Bell, 274 U.S. 200 (1927)

FRIDAY, NOVEMBER 1:

FALL BREAK.

MONDAY, NOVEMBER 4 through FRIDAY, NOVEMBER 8:

   Reading: Ducat, chapter 5, end of section b (pp. 319-336) and end of section a (pp. 304-311).
   Carter v. Carter Coal
   NLRB v. Jones & Laughlin Steel
   Wickard v. Filburn
   Heart of Atlanta Motel v. U.S.
   Katzenbach v. McClung
   Daniel v. Paul
MONDAY, NOVEMBER 11 and WEDNESDAY, NOVEMBER 13:

D. Dual Federalism Revived?
   Reading: Ducat, chapter 5, section c.
   U.S. v. Lopez
   U.S. v. Morrison
   Gonzales v. Raich

FRIDAY, NOVEMBER 15 through WEDNESDAY, NOVEMBER 20:

E. Taxing and Spending Powers as a Means of Government Regulation.
   Reading: Ducat, chapter 5, section d.
   McCray v. U.S.
   Bailey v. Drexel Furniture Co.
   U.S. v. Butler
   Steward Machine Co. v. Davis
   South Dakota v. Dole

   Also read: National Federation of Independent Business v. Sebelius,
   https://www.law.cornell.edu/supremecourt/text/11-393

FRIDAY, NOVEMBER 22:

SECOND IDENTIFY EXAM

MONDAY, NOVEMBER 25:

F. The State “Police Power”
   Reading: Ducat: chapter 6, pp. 380-382 and 495-408.
   Jacobson v. Massachusetts
   Edwards v. California

G. The Negative or Dormant Commerce Clause
   Reading: Ducat chapter 6, pp. 409-413.
   Cooley v. Board of Wardens of the Port of Philadelphia

   PAPER DUE

WEDNESDAY, NOVEMBER 27 through FRIDAY, NOVEMBER 29:

THANKSGIVING HOLIDAY
MONDAY, DECEMBER 2 and WEDNESDAY, DECEMBER 4:

G. The Negative or Dormant Commerce Clause (continued).
   Reading: Ducat, chapter 6, pp. 379-381 and 4413-end.
      Kassel v. Consolidated Freightways
      City of Philadelphia v. State of New Jersey

FINAL EXAM: WEDNESDAY, DECEMBER 11, 2019, 8:00-11:00 a.m. Please confirm this date and time at:

https://reg.uga.edu/general-information/calendars/final-exam-schedule/

You must take the final exam at the scheduled time.