

**POLS 4700 – Constitutional Law: Powers**  
**Spring 2021**  
**8:00 am - Tuesday and Thursday – Brooks Hall 145**  
**Instructional Format: Face-to-Face**

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**Instructor:** Adam G. Rutkowski

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**Office:** Baldwin Hall 413

**Office Hours:** In person – by appointment

Open office hours via Zoom – M/W 2:00-3:00 pm

**Course Description**

This course covers the development of constitutional law as it relates to the structure of American government. Topics covered will include judicial review, executive powers, legislative powers, federalism, and many others. In addition to reading numerous Supreme Court cases related to these topics, we will explore the historical context surrounding the cases. This approach provides a more complete understanding of how the cases relate to each other and how they fit into the broader picture of American constitutional law.

**Required Text**

Most required readings and cases will come from the following text:

Rossum, Ralph A., and G. Alan Tarr. 2013. *American Constitutional Law, Volume 1: The Structure of Government*, 9<sup>th</sup> ed. Boulder, CO: Westview Press.

\*We will be following the 9<sup>th</sup> edition this semester. The book is currently in its 11<sup>th</sup> edition, but the 9<sup>th</sup> is considerably cheaper. I recommend purchasing it from a seller such as Amazon or Chegg. Also, **the e-book version of the book is available for free through the UGA library.** You can use another edition but be forewarned that page numbers and topics may not match.

**Class Format**

Since our classroom seats 50 people, I am able to offer this course in a full face-to-face format. In other words, **this is a regular in-person class.** The only difference is that we will be socially distanced, wearing masks, and taking other COVID-related precautions. The course will continue to be conducted face-to-face in all aspects unless the university directs otherwise, or conditions change. There is no zoom or online option for this course. With that being said, all excused absences (including those COVID-related) will be treated fairly and with the appropriate attention. If you signed up for this course and did not expect to attend class physically, I would recommend that you drop the class and allow someone from the waitlist to take your spot.

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## Grading

Exam 1: 17.5%  
Exam 2: 17.5%  
Exam 3: 20%  
Participation/Attendance: 20%  
Case Briefs: 10%  
Final Paper: 15%

A	93-100	C	73-76
A-	90-92	C-	70-72
B+	87-89	D	60-69
B	83-86	F	<60
B-	80-82		
C+	77-79		

*Exams.* There will be three non-cumulative exams this semester. Exams 1 and 2 will be weighted 17.5%, while Exam 3 will be weighted 20%. These weights correspond to the amount of material covered on each exam. They will be administered in-person during our regular class time. More details on exam format will be given as the first exam approaches. Makeup exams are only administered when there is a valid documented excuse. Makeup exams should be taken within a week of the original testing date. If you know you will be absent on an exam date, please let me know as soon as possible so we can make arrangements. It is possible that you will receive a different version of the exam when you make it up. Exams will cover all cases listed on the syllabus, background readings from the textbook, and lecture materials.

*Participation/Attendance.* I cannot stress enough how important participation and attendance are for this class. Constitutional law is a complex topic with many nuances, and it will be nearly impossible to succeed in this course without both attending and actively participating. With that being said, my goal is to make these difficult topics as engaging, fun, and easy to understand as possible. I will regularly call on students to share information about the cases with the class. Don't be shy – we are all in this together! Attendance will be taken at the end of each class via sign-in sheets. There is no zoom or online participation/attendance option for this course. With that being said, all excused absences (including those COVID-related) will be treated fairly with the appropriate attention. If you signed up for this course and did not expect to physically attend class, I would recommend that you drop the class and allow someone from the waitlist to take your spot.

*Case Briefs.* Students will turn-in a total of 5 case briefs (2% each) over the course of the semester. This will be easy since you are already briefing each case in preparation for class! Students may choose any five cases to brief. The only rule is that you cannot submit more than one brief per week. Briefs will be graded for their conciseness, accuracy, and precision. You will learn how to brief cases properly early in the semester. Submission folders and further instructions are available on eLC for these 5 assignments. All case briefs must be submitted by April 29<sup>th</sup>.

*Final Paper.* The final paper (worth 15% and due May 4<sup>th</sup>) asks students to analyze a set of related Supreme Court cases. It will assess students' abilities to interpret and critique Supreme Court opinions, while considering the surrounding legal, political, and historical contexts. More details on the final paper will be given early in the semester.

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## **COVID-19 Information for Students**

**Face Coverings:** Effective July 15, 2020, the University of Georgia—along with all University System of Georgia (USG) institutions—requires all faculty, staff, students and visitors to wear an appropriate face covering while inside campus facilities/buildings where six feet social distancing may not always be possible. Face covering use is in addition to and is not a substitute for social distancing. Anyone not using a face covering when required will be asked to wear one or must leave the area. Reasonable accommodations may be made for those who are unable to wear a face covering for documented health reasons. Students seeking an accommodation related to face coverings should contact Disability Services at <https://drc.uga.edu/>.

**DawgCheck:** Please perform a quick symptom check each weekday on DawgCheck—on the UGA app or website—whether you feel sick or not. It will help health providers monitor the health situation on campus: <https://dawgcheck.uga.edu/>

### **What do I do if I have symptoms?**

Students showing symptoms should self-isolate and schedule an appointment with the University Health Center by calling 706-542-1162 (Monday-Friday, 8 a.m.-5 p.m.). Please DO NOT walk-in. For emergencies and after-hours care, see <https://www.uhs.uga.edu/info/emergencies>.

### **What do I do if I am notified that I have been exposed?**

Students who learn they have been directly exposed to COVID-19 but are not showing symptoms should self-quarantine for 14 days consistent with Department of Public Health (DPH) and Centers for Disease Control and Prevention (CDC) guidelines. Please correspond with your instructor via email, with a cc: to Student Care & Outreach at [sco@uga.edu](mailto:sco@uga.edu), to coordinate continuing your coursework while self-quarantined. If you develop symptoms, you should contact the University Health Center to make an appointment to be tested. You should continue to monitor your symptoms daily on DawgCheck.

### **How do I get a test?**

Students who are demonstrating symptoms of COVID-19 should call the University Health Center. UHC is offering testing by appointment for students; appointments may be booked by calling 706-542-1162.

### **What do I do if I test positive?**

Any student with a positive COVID-19 test is **required** to report the test in DawgCheck and should self-isolate immediately. Students should not attend classes in-person until the isolation period is completed. Once you report the positive test through DawgCheck, UGA Student Care and Outreach will follow up with you.

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### **Students with Disabilities**

Students with disabilities that have been certified by the UGA Disabilities Services office will be accommodated according to university policy. If you have documentation for accommodations from Disabilities Services, please present it to me as soon as possible so arrangements can be

made. All documentation is considered confidential. For more information, contact Disabilities Services at 706-542-8719.

### **Academic Integrity**

Please see UGA's extensive policies on academic honesty (<http://honesty.uga.edu>). Be advised that cheating, plagiarism, or other forms of academic dishonesty are strictly prohibited in this class.

### **Class Conduct**

People hold strong opinions about constitutional issues. This course is designed to incorporate multiple viewpoints about the Constitution and its development overtime. When expressing their own views, students should demonstrate respect, decency, and patience. The instructor reserves the right to penalize students for failing to meet this important responsibility.

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### **Course Schedule**

\*The instructor reserves the right to alter this schedule. Any changes will be announced at least a week in advance. Readings and case briefings must be completed prior to the date listed.

### **Unit 0: Introduction (R&T, Chapters 1 and 2)**

#### **January 14**

- Introduction to the course
  - Read the syllabus!

#### **January 19**

- Judicial Process/Supreme Court Politics
  - Chapter 2 of R&T through page 40

#### **January 21**

- Constitutional Interpretation/How to Read and Brief cases
  - The Constitution (R&T, pp. 645-655)
  - Chapter 1 of R&T
  - Case briefing handout on eLC

### **Unit 1: Judicial Review (R&T, Chapter 3)**

#### **January 26**

- Intro to Judicial Review
  - *Marbury v. Madison*
  - *Eakin v. Raub*

## January 28

- Judicial Review continued...
  - *Cooper v. Aaron*
  - *Plaut v. Spendthrift Farm, Inc.*
  - *Martin v. Hunter's Lessee*

## February 2

- External Restraints on Judicial Review
  - *Ex Parte McCardle*
  - *United States v. Klein*
- Court Imposed Restraints on Judicial Review
  - Standing
    - *Lujan v. Defenders of Wildlife*
    - *Hein v. Freedom from Religion Foundation*

## February 4

- Court Imposed Restraints on Judicial Review
  - Standing continued...
    - *Trump v. New York* (available on eLC)
  - Mootness
    - *Defunis v. Odegaard*
  - Ripeness
    - *Los Angeles v. Lyons*

## February 9

- Court Imposed Restraints on Judicial Review
  - Political question
    - *Baker v. Carr*
    - *Nixon v. United States*
- Exam 1 Review

## February 11

- **\*\*\*Exam 1\*\*\***
  - Exam 1 covers Units 0 and 1

## February 16

- **No Class (UGA holiday February 17<sup>th</sup>)**

## **Unit 2: The Legislative Branch (R&T, Chapter 4)**

## February 18

- Legislative Branch
  - Doctrine of Implied Powers
    - *McCulloch v. Maryland*
  - Power over Membership

- *Powell v. McCormack*
- *U.S. Term Limits, Inc. v. Thornton*

### February 23

- Legislative Branch continued...
  - Speech and Debate Clause
    - *Gravel v. United States*
  - Congressional Investigations
    - *McGrain v. Daugherty*
    - *Watkins v. United States*

### February 25

- Legislative Branch continued...
  - Delegation of Power
    - *Schechter Poultry Corporation v. United States*
    - *Mistretta v. United States*
  - Legislative Veto
    - *Immigration and Naturalization Services v. Chadha*

## **Unit 3: The Executive Branch/Foreign Affairs (R&T, Chapters 5 and 6)**

### March 2

- Executive Branch
  - Grants of Power/Line Item Veto
    - *Clinton v. City of New York*
  - Appointment/Removal Powers
    - *Myers v. United States*
    - *Morrison v. Olson*

### March 4

- Executive Branch continued...
  - Executive Privileges
    - *United States v. Nixon*
  - Executive Branch Immunities:
    - *Clinton v. Jones*
  - Prerogative Powers
    - *In re Neagle*
    - *Youngstown Sheet & Tube Company v. Sawyer*

### March 9

- Foreign Affairs
  - *Prize Cases*
  - *United States v. Curtiss-Wright Export Corporation*
  - *Medellin v. Texas*
  - *Ex Parte Milligan*

### **March 11 (UGA Holiday March 12)**

- Foreign Affairs Continued
  - *Korematsu v. United States*
  - *Hamdi v. Rumsfeld*

### **March 16**

- **Catch-up Day and Exam 2 Review**
  - Optional attendance

### **March 18**

- **\*\*\*Exam 2\*\*\***
  - Exam 2 covers Units 2 and 3

### **Unit 4: Federalism (R&T, Chapter 7)**

### **March 23 (UGA withdrawal deadline)**

- Federalism
  - *Cohen's v. Virginia*
  - *Baldwin v. Montana Fish and Game Commission*
  - *Dredd Scott v. Sandford*

### **March 25**

- Federalism continued...
  - *New York v. United States*
  - *Printz v. United States*
  - *Tennessee v. Lane*
  - *Jones v. Alfred H. Mayer Company*

### **Unit 5: National and State Power (R&T, Chapters 8 and 9)**

### **March 30**

- Commerce Clause
  - Constitutional Foundations of the Commerce Power
    - *Gibbons v. Ogden*
  - Defining Interstate Commerce
    - *United States v. E.C Knight Company*
    - *Hammer v. Dagenhart*

### **April 1**

- Commerce Clause continued...
  - The New Deal Revolution
    - *NLRB v. Jones & Laughlin Steel Corporation*

- *Wickard v. Filburn*
- The Commerce Clause as an Instrument of Social Reform
  - *Katzenbach v. McClung*
  - *Heart of Atlanta Motel v. United States*
  - *Garcia v. San Antonio Metropolitan Transit Authority (SAMTA)*

#### **April 6**

- Commerce Clause continued...
  - *United States v. Lopez*
  - *Gonzales v. Raich*
  - *United States v. Kahringer*
  - *South Dakota v. Dole*
  - *National Federation of Independent Businesses v. Sebelius*

#### **April 8**

- **NO CLASS – UGA HOLIDAY**

#### **April 13**

- State Power/Preemption
  - *Arizona v. United States*
- Negative Implications of the Commerce Clause
  - *Cooley v. Board of Wardens*
  - *Southern Pacific Company v. Arizona*
  - *Camps Newfound/Owatonna v. Town of Harrison*
  - *Granholm v. Heald*

### **Unit 6: Economic Due Process/Takings Clause (R&T, Chapter 12)**

#### **April 15**

- Economic Due Process/The Privileges and Immunities Clause
  - *The Slaughterhouse Cases*
  - *Saenz v. Roe*
- Rise of Economic Substantive Due Process
  - *Munn v. Illinois*
  - *Lochner v. New York*
- The Demise of Economic Substantive Due Process
  - *West Coast Hotel v. Parrish*
  - *William v. Lee Optical Company*

#### **April 20**

- Substantive Due Process
  - *State Farm Mutual Auto Insurance v. Campbell*
  - *Caperton v. A.T. Massey Coal Company*
  - *U.S. v. Carolene Products Company*



## **April 22**

- Takings Clause
  - *Kelo v. City of New London*
  - *Lucas v. South Carolina Coastal Council*
  - *Dolan v. City of Tigard*

## **Unit 7: The Modern Court and Separation of Powers**

## **April 27**

- The Obama Years
  - Cases TBD

## **April 29**

- The Trump Years
  - Cases TBD
- Exam 3 Review

## **May 4**

- Reading Day, No class meeting
- **\*\*\*Final Paper Due\*\*\***

## **May 6**

- **\*\*\*Exam 3 (“Final”)\*\*\* 8:00-11:00 a.m.**
  - Exam 3 covers Units 4, 5, 6, and 7