

Government 408: Theories of Constitutional Interpretation

Georgetown University and The Fund for American Studies
Capital Semester, Spring 2010

Location: Car Barn (CBN), Room 204
Georgetown University

Instructor: John Samples

Class Schedule: Mondays and Wednesday from 4:15-5:30PM

Course Description

The American political theorist and constitutional architect James Madison once wrote, "In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself." The U.S. Constitution sought to set up a government powerful enough to attain public ends and constrained enough to protect individual rights and liberty. It achieves this constraint by imposing the rule of law on the government and by dividing power among various offices and institutions. Yet this constitution - and any constitution - must be interpreted to be enforced. This course will look closely at the text of the U.S. Constitution, at what it meant for those who wrote it on behalf of their generation and those who came after.

Standards of Evaluation

This course seeks to help students learn as much as possible about constitutional interpretation through a careful study of the meaning of the U.S. Constitution. The means to this end are lectures and assigned readings. Students are thus expected to come to class and to do the readings assigned by the relevant date. Overall, a mid-term and a final examination will evaluate how much students have learned during the course. Students must also attend one out of class event. The overall grade will be determined by mid-term exam (30%); final exam (40%) and class participation and attendance (30%).

Assigned Books

The Declaration of Independence and The United States Constitution, Washington, DC: Cato Institute.

The American Constitution: Its Origins and Development (Seventh Edition) (Vol. 1) (Paperback) by Herman Belz, Winfred Harbison , and Alfred H. Kelly (New York: Norton, 1991), ISBN 0393960560.

The American Constitution: Its Origins and Development (Seventh Edition) (Vol. 2) (Paperback) by Herman Belz, Winfred Harbison , and Alfred H. Kelly (New York: Norton, 1991), ISBN 0393961192.

Course Schedule and Readings

All readings are to the assigned books above.

Date	Lecture Topic	Reading
01/25/09	Constitutional Interpretation and Construction	chapters 1 to 3
01/27/09	The British Background 1	chapters 1 to 3
02/01/09	The British Background 2	chapters 4 to 6
02/03/09	The Declaration of Independence and the Articles	chapters 4 to 6
02/08/09	Federalists and Anti-Federalists 1	chapters 7 to 9
02/10/09	Federalists and Anti-Federalists 2	chapters 7 to 9
02/17/09	The Legislative Power	chapters 10 to 12
02/22/09	The Executive Power	chapters 10 to 12
02/24/09	The Judicial Power and Judicial Review	chapters 13 to 15
03/01/09	The Bill of Rights	chapters 13 to 15
03/03/09	Mid-term exam	chapter 16
03/15/09	Federalism 1789 to the Civil War	chapter 16
03/17/09	Reconstruction 1	chapter 17 to 19
03/22/09	Reconstruction 2	chapter 17 to 19
03/24/09	The Old Court and Classical Liberalism	chapters 20 to 22
03/29/09	Progressivism	chapters 20 to 22
03/31/09	The Road to Carolene Products Footnote 4	chapters 23 to 25
04/05/09	The Administrative State	chapters 23 to 25
04/07/09	The Warren Court and the Idea of Progress	chapters 26 to 28
04/12/09	Constitutional Construction: the Post-Watergate Case	chapters 26 to 28
04/14/09	A Conservative Turn?	chapters 29 to 32
04/19/09	The Constitution after 9/11	chapters 29 to 32
04/21/09	Final Exam	chapters 33 to 36

Out of Class Activity

As a part of your participation grade, students must attend one out of class activity. These include a Trip to Mount Vernon arranged by Lily Pascucci, a trip to the Supreme Court or other activities announced throughout the semester that can count toward this requirement.