

Political Science 520  
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## AMERICAN CONSTITUTIONAL LAW AND GOVERNMENTAL POWERS

This course is rooted in the notion that the Supreme Court is one of the chief actors in our system of national policy-making. As Justice Frankfurter once wrote, "the question is not whether judges make law, but when and how and how much." Judicial law-making is nothing unusual; it stems in the main from the Court's power to decide particular cases. For evidence of the profound impact of the Supreme Court and judicial law-making in action in our daily lives, we need go no further than the front pages of the *Columbus Dispatch*, *The New York Times*, or the evening news.

Constitutional law spans a wide variety of topics. Most of us think of the Court in terms of its actions in the areas of civil rights and liberties--often the most controversial and visible facets of its business. Yet, before one can understand conflicts between the individual and government, one needs to have a thorough knowledge of the powers of government and issues such as the separation of powers, division of powers, and federalism. Here we focus on the limits on and sources of governmental powers under the federal constitution. We consider judicial review, presidential powers, legislative authority, federalism, interstate commerce, and the police powers of the states. Throughout our discussion, we should keep in our sights: how has the Court shaped the nature, quality, and scope of governmental action in our society?

Lee Epstein and Thomas G. Walker's *Constitutional Law for a Changing America: Institutional Powers and Constraints*, CQ Press, 2004, Fifth edition, serves as the casebook. We have placed an exclusive order for this book at SBX. Since all of the reading for this course comes out of this book, you should purchase it as soon as possible. Since we often refer to the casebook in class, you will want to bring *Constitutional Law* with you every day. For class in the first week, you should begin reading right away.

You have several responsibilities. First, you should read and re-read the assignments on time and with care. Second, you should attend lectures. We will take attendance at various junctures and award points for your presence; and, of course, you are well-advised in any event to attend regularly. Third, you should participate in class, either voluntarily or when I call on you. Last, you must take all of the examinations.

There are easy courses on campus; this is not one of them. This is not

a course for those taking 20 hours or those who for whatever reason cannot attend consistently to the reading and come to class. We require a lot of challenging reading material and three difficult examinations.

Your grade for the course will be based on one mid-course examination and a final examination, and attendance and participation. We will administer the mid-term on February 6<sup>th</sup>, in class; the final examination, March 15<sup>th</sup>, at 9.30 a.m. You can earn a maximum of 100 points, distributed as follows:

Attendance	10
Mid-term Exam	40
Final Exam	50

You must complete all of the examinations. Failure to do so will result in a failure in the course.

This course, like all courses at Ohio State University, requires strict observance of the rules against plagiarism.

We strive to provide equal access to this course for all students. To that end, we will work with students who need to have information on various media--e.g., tape-recordings, braille, etc.--and who need to take examinations under somewhat different circumstances. Please let us know as soon as possible about your needs.

You will run into strange words from time to time in this course. Our casebook has a glossary of terms. For questions about legal vocabulary not in the glossary, consult a legal dictionary, of which *Black's Legal Dictionary* is the standard. With Google and other search programs these days, of course, all you need do is to enter a term and definition and you will see a definition. Edward S. Corwin's *The Constitution and What It Means Today* provides a detailed analysis of constitutional development; you may find it useful as you read the casebook

The readings are formidable, so you will need to apply all of your intellectual powers. Even if we dawdle on a set of cases or ideas, you should continue at the pace set out in the schedule. You should keep on top of the reading, because this is not the sort of thing you can read and digest the evening before an examination. Now, as you go through the cases, some of you will naturally underline or highlight the most important passages. But we also commend the practice of briefing each case. You will have an easier time in preparing for examinations if you have condensed the facts, issues, reasoning, and outcomes of the cases.

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