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 any newspaper 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, 2011, Eighth edition, is the casebook. I have placed an exclusive order for this book at OSU/Barnes & Noble. Since all of the reading comes out of this book, you should purchase it as soon as possible. We will not use materials from the book’s website, so you can purchase a used version of the 8th edition if you wish. Since we often refer to the casebook in class, you will want to bring *Constitutional Law* with you every day. For class 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.

**Learning goals in this course:** understanding the historical context of constitutional cases and development, the political roles of the Supreme Court, approaches to constitutional interpretation and their application in cases, the development and change in constitutional doctrine, and the relationship of the Court to the political branches.

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 two difficult examinations.

Your grade for the course will be based on one mid-course examination and a final examination, and attendance and participation. You can earn a maximum of 100 points, distributed as follows:

<table>
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<tr>
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<th>Points</th>
</tr>
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<tbody>
<tr>
<td>Attendance</td>
<td>10</td>
</tr>
<tr>
<td>First Mid-Term</td>
<td>20</td>
</tr>
<tr>
<td>Second Mid-Term</td>
<td>30</td>
</tr>
<tr>
<td>Final Exam</td>
<td>40</td>
</tr>
</tbody>
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**Details of testing:** The examinations will consist of multiple-choice items and possibly but not likely short-answers. I will give you a clearer idea of the nature of the questions before the First Mid-term. During the examination, you will be permitted to have three (3) 8 x 11 pages of notes in front of you, “cheat sheets,” as it were. The number of the “cheat sheets” permitted on the final will depend on the number of cases we cover after the mid-terms.

**Dates of Examinations:** The mid-terms are scheduled for October 3rd and November 7th, at the regular time and place. We will administer the final examination on Monday, December 9th, 2:00-3:45 p.m. Please note these dates on your calendars and plan to be there.

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.

**Academic Misconduct:** It is the responsibility of the Committee on Academic Misconduct to investigate or establish procedures for the investigation of all reported cases of student academic misconduct. The term “academic misconduct” includes all forms of student academic misconduct wherever committed; illustrated by, but not limited to, cases of plagiarism and dishonest practices in connection with examinations. Instructors shall report all instances of alleged academic misconduct to the committee (Faculty Rule 3335-5-487). See also Code of Student Conduct on Student Affairs’ website.

**Disabilities:** Students with disabilities that have been certified by the Office for Disability Services will be appropriately accommodated, and should inform the instructor as soon as possible of their needs. The Office for Disability Services is located in 150 Pomerene Hall, 1760 Neil Avenue; telephone 292-3307, TDD 292-0901; [http://www.ods.ohio-state.edu/](http://www.ods.ohio-state.edu/).

You will run into strange words from time to time in this course. Our casebook has a glossary of terms. 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. If you are old-fashioned, you may want to consult a legal dictionary, of which *Black's Legal Dictionary* is the standard. 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 I 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.

SECTION I: THE U. S. CONSTITUTION (one session)
An Introduction to the U.S. Constitution, 3
The Road to the U.S. Constitution, 3
Underlying Principles of the Constitution, 7

1. UNDERSTANDING THE U.S. SUPREME COURT
Processing Supreme Court Cases, 11
Supreme Court Decision Making: The Role of Law, 23
Supreme Court Decision Making: The Role of Politics, 34
Conducting Research on the Supreme Court, 44

SECTION II. INSTITUTIONAL AUTHORITY (one session)

Structuring the Federal System, 51
The Origins of the Separation of Powers/Checks and Balances System, 51
Separation of Powers and the Constitution, 52
Contemporary Thinking on the Constitutional Scheme: Separation of Powers Games, 54

2. THE JUDICIARY, 58 (three sessions)

Establishment of the Federal Judiciary, 58
Judicial Review, 63
Marbury v. Madison (1803), 63
Martin v. Hunter’s Lessee (1816), 74
Eakin v. Raub (1825), 84
Constraints on Judicial Power: Article III, 89
Ex parte McCardle (1869), 90
Baker v. Carr (1962), 98
Nixon v. United States (1993), 104
Flast v. Cohen (1968), 111
Constraints on Judicial Power: The Separation of Powers/Checks and Balances System, 116

3. THE LEGISLATURE, 119 (three sessions)

Article I: Historical Overview, 121
Congressional Authority over Internal Affairs: Institutional Inde-
4. The Executive (three sessions)

Article II: Basic Considerations, 183
The Faithful Execution of the Laws: Defining the Contours of Presidential Power, 198
In re Neagle (1890), 198
Domestic Powers of the President, 205
Clinton v. City of New York (1998), 206
Morrison v. Olson (1988), 212
Myers v. United States (1926), 219
Humphrey's Executor v. United States (1935), 224
Mississippi v. Johnson (1867), 234
Nixon v. Fitzgerald (1982), 237
Clinton v. Jones (1997), 241
Ex parte Grossman (1925), 248
The President and Foreign Policy, 252
United States v. Curtiss-Wright Export Corp. (1936), 253, review

Possible breaking point for the First Mid-Term

5. Separation of Powers, 257 (three sessions)

Domestic Powers, 258
Mistretta v. United States (1989), 262
Immigration and Naturalization Service v. Chadha (1983), 267
Bowsher v. Synar (1986), 273
Presidential Power during War and National Emergencies, 277
The Prize Cases (1863), 279
Ex parte Milligan (1866), 283
Ex parte Quirin (1942), 290
Korematsu v. United States (1944), 294
Youngstown Sheet & Tube Company v. Sawyer (1952), 302
Dames & Moore v. Regan (1981), 308
Hamdan v. Rumsfeld (2006), 314

SECTION III: NATION-STATE RELATIONS

Allocating Government Power, 325 (three sessions)
The Framers and Federalism, 326
The Tenth and Eleventh Amendments, 327

6. FEDERALISM, 330

Nation-State Relations: The Doctrinal Cycle, 331
McCulloch v. Maryland (1819), 334, review
Dred Scott v. Sandford (1857), 339
New York v. United States (1992), 350
Printz v. United States (1997), 357

The Eleventh Amendment, 363
Alden v. Maine (1999), 364
New Judicial Federalism, 370
Michigan v. Long (1983), 371

National Preemption of State Laws, 376
State of Missouri v. Holland (1920), 376
Arizona v. United States (2012), 385

7. THE COMMERCE POWER (four sessions)

Constitutional Foundations of the Commerce Power, 392
Gibbons v. Ogden (1824), 394

Defining Interstate Commerce, 399
United States v. E. C. Knight Co. (1895), 401
Stafford v. Wallace (1922), 405
Hammer v. Dagenhart (1918), 411

The Supreme Court and the New Deal, 415
A. L. A. Schechter Poultry Corp. v. United States (1935), 420
National Labor Relations Board v. Jones & Laughlin Steel Corpora-
tion (1937), 429
United States v. Darby Lumber (1941), 436
Wickard v. Filburn (1942), 439

Era of Expansive Commerce Power, 442
Heart of Atlanta Motel v. United States (1964), 444

Limits on the Commerce Clause
Garcia v. San Antonio Metropolitan Transit Authority (1985), 449
United States v. Lopez (1995), 455
United States v. Morrison (2000), 461
Gonzalez v. Raich (2005), 467

Commerce Power of the States, 482
Cooley v. Board of Wardens (1852), 484
Southern Pacific Company v. Arizona (1945), 489
492
Maine v. Taylor (1986), 496
Granholm v. Heald (2005), 499

8. THE POWER TO TAX AND SPEND (three sessions), 492

The Constitutional Power to Tax and Spend, 503

Direct Taxes and the Power to Tax Income, 505
Pollock v. Farmers' Loan & Trust Co. (1895), 508

Taxation of Exports, 513
United States v. United States Shoe Corp. (1998), 513

Intergovernmental Tax Immunity, 515
South Carolina v. Baker (1988), 517
Davis v. Michigan Dept. of Treasury (1989), 519

Taxation as a Regulatory Power, 522
McCray v. United States (1904), 523
Bailey v. Drexel Furniture Co. (1922), 526

Taxing and Spending for the General Welfare, 530
United States v. Butler (1936), 530
Steward Machine Co. v. Davis (1937), 535
National Federation of Business v. Sibelius (2012), 543

SECTION IV: ECONOMIC LIBERTIES (one session)

10. SUBSTANTIVE DUE PROCESS, 606

The Development of Substantive Due Process, 608
The Slaughterhouse Cases (1873), 608
Munn v. Illinois (1877), 614
The Roller Coaster Ride of Substantive Due Process: 1898–1923, 623
Lochner v. New York (1905), 623
The Heyday of Substantive Due Process: 1923–1936, 635
Adkins v. Children’s Hospital (1923), 636
The Depression, the New Deal, and the Decline of Substantive Due Process, 630
West Coast Hotel v. Parrish (1937), 644
The Contemporary Relevance of Substantive Due Process, 650