

Constitutional Law I: Government Structure (LAW 121-001)

George Mason University Antonin Scalia Law School – Fall Semester 2026

Prof. Lael Weinberger

Office: Hazel Hall 321

Class time: Mon./Wed. 1:50pm–3:50pm

Email: lweinber@gmu.edu

Course description

This is a course about the United States Constitution, focusing on the structural provisions of the Constitution. Most of what we will cover will fall into two major categories: the separate powers created by the Constitution (legislative, executive, and judicial), and the relationship of the federal government to the states. We will read the text of the Constitution, a sampling of important texts about the Constitution (such as excerpts from the Federalist Papers), and many important cases applying the Constitution.

Constitutional law is often messy, the product of many different perspectives on how to understand, interpret, and apply the Constitution. In this course, we will try to get a broad historical perspective on these varied and changing views of the Constitution. We will consider the legal doctrines of constitutional law (what the courts say the law is), as well as how existing doctrines could be critiqued from alternative perspectives on the Constitution. Think of this course as fundamentally about building a toolkit of constitutional arguments. Today's courts (and you!) may find particular approaches or emphases more compelling (originalism or evolution; text or purpose; judicial restraint or judicial engagement). But the more you know about the range of approaches, the better you will understand constitutional law as a whole—and the better equipped you will be as a lawyer, able to advocate in our constitutional system.

Required Materials

The casebook for this class is Paulsen, McConnell, Bray & Baude, *The Constitution of the United States* (5th ed. 2022). There will also be supplemental reading assignments posted online so that we can cover some important cases that are not in the book. Those will appear on the course Canvas site.

We will regularly look at the text of the Constitution. It is printed in the casebook, but flipping back and forth between the Constitution and cases is sometimes cumbersome. You may wish to obtain (or print out) a pocket copy of the Constitution so you can conveniently look at the relevant provisions as we go.

Learning Outcomes

Objectives of this course include familiarity with the general approaches to the study of law and legal reasoning, and to demonstrate the ability to identify and

understand key concepts in substantive law, legal theory, and procedure. In this course, you don't have to agree with how the Constitution is understood by the Supreme Court, or the textbook, or your professor. The goal is for you to have a good grasp of existing doctrine and of major approaches to analyzing the Constitution.

Evaluations and Exam

Students' grades will be based on an in-class final exam (open book, no internet, no electronic resources). During the semester, I will call on members of the class randomly to discuss issues raised in the reading. I will also seek out volunteers or ask you to talk in groups or participate in various other exercises. All students get two days of "immunity" from being called on over the course of the semester, but to use it, you must give notice that you are using an immunity before the start of class that day. I will take into account whether you are consistently prepared and willing to participate as part of your final grade; this may affect a grade by a single increment (e.g., from B to B+).

Laptop Policy

[Note to students: The faculty may adopt a policy modeled on the policy at UChicago Law. If the faculty adopts such a policy, that policy will govern instead of the below.]

Research suggests that there are learning upsides to handwriting notes. (If you haven't read on the topic, you may want to start with this [Scientific American](#) article summarizing some recent studies.) And devices can be a distraction, with downsides for learning, retention, and performance. (Here's another [article](#) describing some recent studies.) I encourage you to consider trying the handwritten note approach without using your laptop in class. That said, I am not prohibiting use of laptops in class. I recognize that there are tradeoffs with every approach and I let you make the decision of what is best for your learning.

Online Option and Makeups

If we have to meet remotely due to weather or otherwise, we will use a Zoom link to conduct class. I'll announce regular office hours at the start of the semester, but I may occasionally need to reschedule the office hours; if this is necessary, I'll announce in advance via Canvas.

Miscellaneous Policies

AI: Use of generative artificial intelligence is prohibited in drafting or writing coursework or examinations. For Scalia Law's policy, see [Academic Regulation](#) 4-3.

Integrity: Students must adhere to the Scalia Law School Honor Code, which prohibits lying, cheating, or stealing. This includes an obligation to never represent

the work of another as their own, and to never provide or accept unauthorized assistance on any school related assignment.

Accommodations: If you are seeking accommodations for this class, please visit ds.gmu.edu for information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation; requests must be handled by the office of Disability Services. You may contact Disability Services via ods@gmu.edu or (703) 993-2474. For questions about accommodations at Scalia Law, contact the Assistant Dean, Student Academic Affairs.

Email: Use GMU email addresses or Canvas for communicating.

More: [Title IX resources](#) are available online.

Reading Schedule

Assignments for this class will be stated in a reading schedule, published along with this syllabus. Please note that all assignments are subject to revision, depending on our progress.

Reading Schedule: All assignments are subject to revision as we proceed.

Topic	Reading Assignment
Part I: Separated and Enumerated Powers	
1. An Introduction to the Constitutional Text (Aug. 17)	pp. 1-18 The Constitution of the United States pp. 38-40 Types of Constitutional Argument
2. Introduction to the Separation of Powers (Aug. 19)	pp. 43-60 Youngstown Sheet & Tube v. Sawyer
3. Legislative Power: Specificity and Delegation (Aug. 24)	pp. 60-81 Map of Article I; Post Roads Debate; One Good Year; Gundy v. United States
4. Legislative Power: Specificity and Delegation, Continued (Aug. 26)	Loper-Bright v. Raimondo (online)
5. Legislative Power: Bicameralism and Presentment (Aug. 31)	pp. 106-128 INS v. Chadha; Clinton v. City of New York
6. Executive Power: Appointment (Sept. 2)	pp. 163-177 Introduction; Map of Article II; Federalist 70; Federalist 76; Buckley v. Valeo pp. 193-196 Decision of 1789 pp. 209-212 Humphrey's Executor v. FEC
7. Executive Power: Removal and Control (Sept. 9)	pp. 212-226 Morrison v. Olson pp. 228-242 Seila Law v. CFPB Trump v. Slaughter (online) Trump v. Cook (online)
8. Executive Power: Law Execution (Sept. 14)	pp. 248-267 United States v. Cox; Adams v. Richardson; Thompson Memo
9. Declaring War and Commander-in-Chief Powers (Sept. 16)	pp. 300-311 Madison's Notes; The Prize Cases pp. 315-329 War Powers Resolution & Veto
10. Foreign Policy and Conduct of War (Sept. 21)	U.S. v. Curtiss-Wright Export (online) pp. 328-339 Korematsu v. United States pp. 281-298 Zivotofsky v. Kerry

Topic	Reading Assignment
11. Impeachment and Immunity (Sept. 23)	pp. 349-370 Impeachments of Presidents Johnson, Clinton, and Trump Trump v. United States (online)
12. Judicial Power: Judicial Review (Sept. 28)	pp. 370-396 Map of Article III; Brutus & Federalist 78; Marbury v. Madison; Stuart v. Laird
13. Judicial Power: Judicial Supremacy (Sept. 30)	pp. 396-415 Lincoln-Douglas debates; Cooper v. Aaron; Ex Parte Merryman
14. Judicial Power: Cases and Controversies (Oct. 5)	pp. 415-428 Correspondence of the Justices; Tocqueville; Ex Parte Levitt; Massachusetts & Frothingham v. Mellon
Part II: Federalism	
15. The Bank, Part I (Oct. 7)	pp. 461-484 A Map of the Federalism Provisions; Legislative and Executive Debate on the Bank
16. The Bank, Part II (Oct. 14)	pp. 484-508 McCulloch v. Maryland; Madison's Letter to Lafayette; Andrew Jackson's Veto Message; The Death of the Second Bank
17. The Commerce Clause, Part I (Oct. 19)	pp. 510-525 Gibbons v. Ogden; Hamer v. Dagenhart
18. Commerce Clause, Part II (Oct. 21)	pp. 525-535 Darby; Wickard; Heart of Atlanta Motel National Pork Producers (online)
19. Federalism Revolution (?) (Oct. 26)	pp. 536-561 United States v. Lopez; Gonzales v. Raich
20. State Sovereignty (Oct. 28)	pp. 571-596 Garcia v. SAMTA; Printz v. United States
21. Taxing Power (Nov. 2)	pp. 596-609 Express Limits; Hylton v. United States; Implied Limits
22. Spending (Nov. 4)	pp. 609-629 Madison's Veto Message; Hamilton's Report on Manufactures; Savannah Fire Debate; South Dakota v. Dole Landor v. Louisiana Dept. of Corrections (online)
23. Can Congress Make You Buy Broccoli? (Nov. 9)	pp. 629-659 NFIB v. Sibelius
24. Slavery, States, and Citizens (Nov. 11)	pp. 696-699 Slavery in the Constitution

Topic	Reading Assignment
	pp. 709-724 Full Faith and Credit Clause; Privileges and Immunities Clause; Prigg v. Pennsylvania
25. Secession and the Nature of the Union (Nov. 16)	pp. 760-780 Buchanan; Lincoln; Texas v. White
26. Review: The Constitutional Toolkit (Nov. 18)	