

PSCI 223 Constitutional Structure and Rights, Fall '23

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Office hours: M, 9:30-10:30 and 4:30-5:30; W, 1-2:00

By appointment, in person and zoom

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This course covers the structure, politics, and changes in the constitutional system from the early Republic to

5. Guides. There are a number of excellent guides for good writing. Strunk and White *The Elements of Style* is a classic, especially for grammar and word usage; it also offers a useful set of “principles of composition.” I especially recommend Joseph Williams, *Style: Toward Grace and Clarity*. His work is particularly helpful in offering examples of how awkward passages can be rewritten, using rules or principles that are fairly concrete and address specific issues such as clarity, cohesion, emphasis, etc. (these are all chapter headings in his book). Anthony Weston, *A Rulebook for Arguments*, offers a helpful discussion of how to develop (and express) an argument in a tight, logical way.

6. Grading. “B” papers will fulfill the foregoing criteria adequately. “A” papers will do more. They will not only be clearly and forcefully written, but they will show evidence of deep engagement with the issues. They will argue something interesting, and thought-provoking.

Readings:

I expect students to come to class, to have read the material assigned for that day, and to be ready to discuss it. Most of what you will get out of this, or any course, depends on this. I will supply all of the readings for this class. They will all be posted on a social e-reader called Perusall. There is a link to Perusall at the bottom of the course homepage on Blackboard. Once in Perusall, you will see a list of the reading assignments for the course. Most of the work for this course will be done in the course

“amen” or just free associating, as when someone says, “based off of what he said, I think” and then goes on to talk about something only tangentially related to the question or issue at hand.

4-6 = demonstrates superficial reading of the entire assignment Or thoughtful reading of only part of the assignment; comments state the obvious, are trivial, often irrelevant.

<4 = demonstrates superficial reading of only part of the assignment; comments state the obvious, are trivial, often irrelevant.

How many annotations do I need to enter?

When I look at your annotations I want them to reflect the effort you put in your study of the text. It is unlikely that that effort will be reflected by just a few thoughtful annotations per assignment. At the other extreme, 30 per assignment is too many, unless a number of them are superficial or short comments or questions (which is fine, because it is OK to engage in chat with your peers). Somewhere in between these two extremes is about right and, thoughtful questions or comments that stimulate discussion or thoughtful and helpful answers to other students' questions will earn you a higher score for the assignment. Note, also, that to lay the foundation for understanding the in-class activities, you must familiarize yourself with each assignment *in its entirety*. Failing to read and annotate across the entire assignment will result in a lower score.

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What does “on time” mean?

The work done in class depends on you having done the reading in advance, so it is necessary to complete the reading and post your annotations before the deadline to receive credit. I allow a late annotation period of two days during which the credit for your annotations linearly decreases from 100% at the deadline to 0% at the end of the annotation period. Similarly,

Sept 27

The Jacksonian Era and Slavery

Note on the natural law tradition, pp. 166-174

Challenges of the Jacksonian era, pp. 217-222

Note on slavery, p. 245

Sept 29

Prigg v. Pennsylvania, pp. 251-60

Secession, pp. 260-306

Dred Scott v. Sandford

Oct 2

Reconstruction Amendments and retreat

Oct 4

Read the 13th, 14th, and 15th amendments, pp. 11-12, and the history of their adoption, pp. 331-357

The Slaughterhouse Cases, 359-376

United States v. Cruikshank, pp. 376-377

Oct 6

Privileges and Immunities – what are the privilege and immunities of citizens of the United States? Neutering the 14th amendment.

Women's Citizenship in the Antebellum Era, pp. 182-186

Bradwell v. Illinois and Notes, pp. 377-380

Note on “The New Departure” and *Minor v. Happersett*, pp. 380-386

Oct 9

Equal Protection and Congressional enforcement

Strauder v. West Virginia and Notes, pp. 391-398

The Civil Rights Cases and Notes, pp. 398-412

Notes on the meaning of "slavery," pp. 481-487

Oct 11

Race

Plessy v. Ferguson and Notes, pp. 412-426

Charles Black, the Lawfulness of the Segregation Decisions, pp. 426-427

Note on The Spirit of *Plessy* and *Giles v. Harris*, pp. 427-431

The Insular Cases and Notes, pp. 431-444

Oct 13

Midterm

Fall Break!

The Lochner Era

Oct 18

Police Powers Jurisprudence

Notes on the Rise of Due Process Protection Against State Economic Regulation, pp. 456-460

Note on the Application of the Bill of Rights to the States, pp.

Oct 20

Oct 23

Oct 25

Franklin D. Roosevelt, Fireside Chat on the Court Packing Plan, pp. 603-607

NLRB v. Jones and Laughlin Steel Corp. and Notes, pp. 607-608

Franklin D. Roosevelt, Speech on Constitution Day, pp. 608-610

United States v. Darby and Notes, pp. 610-613

Wickard v. Filburn and Notes, pp. 613-616

Note on Constitutional Revolution, pp. 616-618

Notes on the Taxing and Spending Powers, pp. 618-621

Oct 27

The Warren Court and the Civil Rights Movement

The Civil Rights Act of 1964

Notes on The Civil Rights Movement and the Civil Rights Act of 1964, pp. 621-627

Note on Congressional Power to Pass the Civil Rights Bill, pp. 627-629

Heart of Atlanta Motel and *Katzenbach v. McClung*, pp. 629-633

Jones v. Alfred Mayer Co. and Notes, pp. 651-654

The Voting Rights Act of 1965

Note on the Reconstruction Power in the Civil Rights Era, pp. 633-634

Note on the Voting Rights Act of 1965, pp. 634-639

Notes and *South Carolina v. Katzenbach*, pp. 639-643

Oct 30

Katzenbach v. Morgan and Notes, pp. 643-651

The Roberts Court and the Voting Rights Act

Shelby County, Alabama v. Holder, pp. 759-783

The Contemporary Debate over National Power

Nov 1

The Commerce Power

Introduction, pp. 659-660

United States v. Lopez and Notes, pp. 660-678

U.S. v. Morrison, pp. 678-680

Nov 3

Scarborough v. United States, pp. 680-686

NFIB v. Sebelius (2012) and Notes, pp. 686-699

United States v. Comstock (2010), pp. 699-704

The Taxing Power

Nov 6

NFIB v. Sebelius (2012), part 2, and Notes, pp. 704-712

The Spending Power

Note on the Spending Clause and *South Dakota v. Dole*, pp. 712-714

NFIB v. Sebelius (2012), part 3, and Notes, pp. 714-727

The Modern Debate over Racial Equality

Nov 8

Brown and Its Legacy

Notes on the Background to the School Desegregation Case, pp. 1017-1022

Brown v. Board of Education, *Bolling v. Sharpe*, and Notes, pp. 1023-1030

The Southern Manifesto and Notes, pp. 1030-1032

Brown and the Original Understanding, pp. 1032-1038

Nov 10

Four Decades of School Desegregation, pp. 1038-1053 (skim)

Parents Involved in Community Schools v. Seattle School District No. 1 (2007) and Notes, pp. 1186-1216

The Antidiscrimination Principle

Anticlassification and Antisubordination

Nov 13

Korematsu v. United States (1944) and Notes, pp. 1054-1060

Loving v. Virginia (1967) and Notes, pp. 1061-1073

The Reach of the Suspect Classification Doctrine

Johnson v. California (2005) and Notes, pp. 1073-1074

Note on Child Custody and Placement and the Suspect Classification Doctrine

Nov 15

Griggs v. Duke Power Co. (1971) and Notes, pp. 1085-1089

Washington v. Davis (1976) and Notes, pp. 1089-1094

Village of Arlington Heights v. Metro Housing Development Corp. (1977), pp. 1094-1095

Personnel Administrator of Massachusetts v. Feeney (1979) and Notes, pp. 1095-1101

Race and the Criminal Process

United States v. Clary (1994) and notes, pp. 1112-1116

Nov 17

McCleskey v. Kemp (1987) and Notes, pp. 1116-1123

Brown v. Oneonta (1999) and Notes, pp. 1123-1125

Racial Profiling and the Equal Protection Clause, pp. 1125-1128

Affirmative Action (11/05/2018)

Notes and *Bakke v. Regents of the University of California* (1978), pp. 1128-1137

Nov 20

Richmond v. J.A. Croson Co. (1989), and Notes, pp. 1137-1152

Adarand Constructors v. Pena (1995) and Notes, pp. 1152-1154

Note on Originalism and Affirmative Action, pp. 1154-1159

Nov 23-26

Happy Thanksgiving!

Nov 27

Grutter v. Bollinger and *Gratz v. Bollinger* (2003), pp. 1159-1186

Students for Fair Admissions, Inc. V. President and Fellows of Harvard College

Gender Classifications and Gender Equality

Nov 29

Frontiero v. Richardson (1973) and Notes, pp. 1257-1266

United States v. Virginia (1996) and Notes, pp. 1287-1306

Paper due!

Dec 1

Personnel Administrator of Massachusetts v. Feeney (1979) and Notes, pp. 1327-1335

Geduldig v. Aiello (1974) and Notes, pp. 1335-1339

Note on Pregnancy as a Justification for Sex-Differentiated Treatment of Men and Women, pp. 1315-1317

Note on the Equal Rights Amendment, pp. 1266-1273

Dec 4

Other (arguably) Suspect Classifications; Due Process

Romer v. Evans, pp. 1525-35

Lawrence v. Texas, 1535-66

Dec 6

Note on Same Sex Marriage and *United States v. Windsor*, pp. 1566-74

Obergefell v. Hodges, pp. 1575-1607

Concluding thoughts – is our constitutional system dysfunctional?

Dec 8

Dec 11

Dec 13