

CONSTITUTIONAL HISTORY OF THE U.S. SINCE 1877 (AMH 3552)
SPRING 2019
PROFESSOR MICHAEL ALLAN WOLF
3 CREDIT HOURS

SYLLABUS AND CLASS PROCEDURES

OUR CLASS WILL MEET ON TUESDAYS FROM 9:35 TO 11:30 AM AND THURSDAYS FROM 10:40 TO 11:30 AM IN MATHERLY 0015.

My office is Holland Hall Room 307, my email address is wolfm@law.ufl.edu, and my phone number is 352-273-0934. I am typically in my office Monday through Friday. If my door is open, you are welcome, as I do not restrict my contact with students to a few hours per week. If you would like to make sure that I am available in my office or to set up an appointment, please send me an email message.

IN ADDITION TO THE EDITED CASES AND OTHER MATERIALS DISTRIBUTED ELECTRONICALLY, THERE ARE FOUR REQUIRED TEXTS FOR THIS CLASS:

Michael J. Klarman, *Brown v. Board of Education and the Civil Rights Movement* (2007)

Paul Kens, *Lochner v. New York: Economic Regulation on Trial* (1998)

Philippa Strum, *Speaking Freely: Whitney v. California and American Speech Law* (2015)

Noah Feldman, *Scorpions: The Battles and Triumphs of FDR's Great Supreme Court Justices* (2010)

COURSE DESCRIPTION: *Continues AMH 3551, giving special attention to the way in which constitutionalism has adapted to the growth of an urban and industrial society, to the extension of civil liberties and civil rights, and to the growth of executive authority.*

The course will explore how the turbulent decades between the 1870s and 1960s witnessed significant changes in society and politics that had an impact on, and were directly affected by, the decisions of the U.S. Supreme Court. The course will explore the give-and-take between the Court and the American people.

COURSE POLICIES:

ATTENDANCE POLICY: *Attendance is expected and absences will have an impact on your participation grade (see discussion below). If you know you will miss class the day an assignment is due, you should consult the instructor beforehand. Unexpected*

illnesses and emergencies do happen. If you become ill or are otherwise unable to make class the day an assignment is due, please email the instructor as soon as possible (ideally before class).

INTERNET USE IN THE CLASSROOM: *I expect that during each class all students will be prepared to conduct research on the internet using a laptop, tablet, or other means. Of course, students are not to use these devices (including smart phones) for any non-pedagogical purposes.*

ACADEMIC HONESTY: *UF students are bound by The Honor Pledge which states, “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.”*

The Honor Code (<https://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor in this class.

GRADING AND ASSIGNMENTS:

Reading assignments listed on the course schedule should be completed for the date listed on the schedule (subject to revision), so that you are prepared to discuss the material in class.

There will be three essay tests, one essay final exam, and one 5-7 page paper. Papers turned in after class on the day due will be marked down half a grade (for example, from an A to an A-). Papers turned in a day late will be marked down a full grade (for example, from an A to a B). Papers turned in two days late will be marked down two full grades (from an A to a C). Papers turned in five days late will be given an F.

- 1. Class participation (based on a mix of attendance and discussion): 20% of grade*
- 2. Three tests: 30% of grade*
- 3. 5-7 page paper: 25% of grade*
- 4. Final exam (5-7 page paper): 25% of grade*

I expect that students will have done the assigned readings for each class. I will rely on student participation to facilitate the learning of challenging concepts. Students who participate at a consistently high level may be rewarded by a one-half grade bump (e.g., from B+ to A-). I reserve the right to lower the grades of students disrupt the learning environment by a one-half grade bump.

GRADING SCALE:

Letter Grade	Point Equivalent
A	4.00
A-	3.67
B+	3.33
B	3.00
B-	2.67
C+	2.33
C	2.00
C-	1.67
D+	1.33
D	1.00
D-	0.67
E	0.00

Additional information about UF's grading policies is available here:

<https://catalog.ufl.edu/UGRD/academic-regulations/grades-grading-policies/#gradingpoliciestext>

ACCOMMODATIONS:

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

CLASS READINGS:

You will find below a list of the cases that I anticipate we will cover during the semester, at a pace of roughly 2 cases per 50-minute period. I will distribute electronically a short excerpt from each case listed. *The dates for reading assignments and tests are my best estimate; they are not set in stone.* In the event we are moving more slowly than anticipated, I will not speed up to cover all of these readings. Instead, I will make cuts in the assigned readings.

Classes 1-4 (Jan. 8, 10, 15)

Bradwell v. The State (1873): Gender Discrimination

Slaughterhouse Cases (1873): Reconstruction Amendments

United States v. Cruikshank (1875): Racial Violence during Reconstruction

Munn v Illinois (1877): Rate regulation

Reynolds v. United States (1879): Anti-Mormon legislation

Civil Rights Cases (1883): Racial discrimination in public accommodations

Classes 4-6 (Jan. 15, 17, 22)

Klarman pages 3-27

Yick Wo v. Hopkins (1886): Local regulation targeting Asian immigrants

Mugler v. Kansas (1887): State prohibition

Pollock v. Farmers Loan and Trust (1895): Income taxes

United States v. E. C. Knight Company (1895): Sherman Antitrust Act

Plessy v. Ferguson (1896): Racial segregation by law

Williams v. Mississippi (1898): Literacy test and poll tax for African American voters

Classes 7-9 (Jan. 22, 24, 29)

Lone Wolf v. Hitchcock (1903): Congressional abrogation of Native American treaty

Dorr v. United States, 195 U.S. 138 (1904): Constitution did not require jury trial in case from the Philippines

Paul Kens, Lochner v. New York: Economic Regulation on Trial (1998)

Lochner v. New York (1905): Maximum hours legislation

Muller v. Oregon (1908): Maximum hours legislation for women

Classes 10-12 (Jan. 29, 3, Feb. 5)

Coppage v. Kansas (1915): Anti-union legislation

Frank v. Mangum (1915): No due process violation for disorder in courtroom

Buchanan v. Warley (1916): Racial zoning

Hammer v. Dagenhart (1918): Child labor laws

*****FIRST TEST*****

Strum to page 105

Abrams v. U.S. (1919): Inciting resistance to the World War I effort

Classes 13-15 (Feb. 5, 7, 12)

Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs (1922): Antitrust protection for baseball

Meyer v. Nebraska, 262 U.S. 390 (1923): State statute outlawing foreign language instruction

Pierce v. Society of Sisters (1925): Compulsory public education statute

Village of Euclid v. Ambler Realty Co. (1926): Local zoning

Buck v. Bell (1927): State sterilization statute

Classes 16-18 (Feb. 12, Feb. 14, Feb. 19)

Strum to page 155

Whitney v. California (1927): California Criminal Syndicalism Act did not violate First Amendment

Olmstead v. U.S. (1928): Wiretapped telephone conversations

Feldman to page 73

Powell v. Alabama (1935): Right to counsel in trial charged with racial bias

Schechter Poultry (1935): National Industrial Recovery Act

Carter v. Carter Coal Co. (1936): New Deal Act protecting coal miners

Brown v. Mississippi (1936): Confession extracted by coercion

Classes 19-21 (Feb. 19, 21, 26)

Feldman pages 74-174

Palko v. Connecticut (1937): Double-jeopardy incorporation

National Labor Relations Board v. Jones & Laughlin Steel Corporation (1937): NLRA

West Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937): State minimum wage act for women workers

*****SECOND TEST*****

***Klarman* pages 27-53**

Missouri ex rel. Gaines v. Canada (1938): Denial of admission to state law school

United States v. Carolene Products Company (1938): Rational basis test for economic regulation

U.S. v. Miller (1939): Sawed-off shotgun and Second Amendment

Classes 22-24 (Feb. 26, 28, Mar. 12)

***Feldman* pages 177-302**

Minersville School District v. Gobitis (1940): Flag salute

Ex Parte Quirin (1942): Military commission trial for German saboteurs

Skinner v. Oklahoma (1942): Sterilization of habitual criminal offender

Wickard v. Filburn (1942): Allotments for wheat growers

West Virginia State Board of Education v. Barnette (1943): Flag salute

Korematsu v. U.S. (1944): Evacuation and internment of Japanese-Americans

Classes 25-29 (Mar. 12, 14, 19, 21)

***Feldman* pages 305-68**

Marsh v. Alabama (1946): Distributing religious literature in a company town

Colegrove v. Green (1946): Apportionment challenge to congressional districts

Everson v. Board of Education (1947): Establishment Clause challenge to funding costs of private schools

Adamson v. California (1947): Incorporation of self-incrimination right

Shelley v. Kraemer (1948): Racially restrictive covenants

Sweatt v. Painter (1950): Separate but equal for law schools

Dennis v. United States (1951): Communists in labor unions

Youngstown Sheet & Tube Company v. Sawyer (1952): Government seizure of steel mills

Berman v. Parker (1954): Eminent domain for urban renewal

Classes 30-32 (Mar. 26, 28)

***Klarman* pages 55-187**

***Feldman* pages 305-408**

Brown v. Bd. of Education I and II (1954, 1955): Racially segregated public schools

Cooper v. Aaron (1958): State resistance to Brown

Gomillion v. Lightfoot (1960): 15th Amendment voting rights

Baker v. Carr (1962): Legislative apportionment and political questions

*****THIRD TEST*****

Classes 33-34 (Apr. 2)

Roth v. U.S. (1957): No First Amendment protections for obscenity

Mapp v. Ohio (1961): Exclusionary rule for evidence obtained in police searches and seizures

Brady v. Maryland (1962): Suppression of evidence by prosecutor

Gideon v. Wainwright (1963): Right to counsel for state criminal defendants

Class 35-37 (Apr. 4, 9)

***Klarman* pages 189-231**

Engel v. Vitale (1962): Prayer in public schools

Sherbert v. Verner (1963): Substantial burden of First Amendment rights of Seventh-Day Adventist

N.Y. Times v. Sullivan (1964): Libel claims brought by public figures

Heart of Atlanta Motel, Inc. v. U.S. (1964): Civil Rights Act of 1964

Griffin v. School Board of Prince Edward County (1964): Closing public schools to avoid Brown

*****PAPER DUE*****

Classes 38-41 (Apr. 11, 16, 18)

***Feldman* pages 411-33**

Griswold v. Connecticut (1965): Contraceptives and the right to privacy

Miranda v. Arizona (1966): Self-incrimination protection for suspects

Harper v. Virginia Board of Elections (1966): Poll tax

Loving v. Virginia (1967): Interracial marriage

Katz v. United States (1967): FBI eavesdropping on pay phone conversation

Epperson v. Arkansas (1968): Teaching evolution

Jones v. Alfred H. Mayer Company (1968): Housing discrimination

FINAL EXAM:

Monday, April 29, 2019, 12:30 pm- 2:30 pm

COUNSELING AND WELLNESS CENTER:

College can be difficult, sometimes our personal lives can be stressful. Contact information for the Counseling and Wellness Center:

<http://www.counseling.ufl.edu/cwc/Default.aspx>, 392-1575. If there is an emergency, you can also contact the University Police Department: 392-1111 or 9-1-1.

CLASS DEMEANOR:

Students are expected to arrive to class on time and behave in a manner that is respectful to the instructor and to fellow students. Please avoid the use of cell phones. Opinions

COURSE EVALUATION:

Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.