

**CONSTITUTIONAL HISTORY OF THE U.S. SINCE 1877 (AMH 3552)
SPRING 2021
PROFESSOR MICHAEL ALLAN WOLF
3 CREDIT HOURS**

SYLLABUS AND CLASS PROCEDURES

OUR CLASS WILL MEET ON TUESDAYS FROM 3:00 TO 5:00 PM AND ON THURSDAYS FROM 3:00 TO 3:55 PM ONLINE AND (ONLY FOR STUDENTS ENROLLED IN THE IN-PERSON SECTIONS) IN HOLLAND 382.

My email address is wolfm@law.ufl.edu, and my phone number is 352-273-0934. If you would like to schedule a Zoom meeting, 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).*

PROCEDURES FOR STUDENTS REGISTERED IN LIVE VERSION OF THE

CLASS: *In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.*

- *You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus.*
- *This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.*
- *Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.*
- *Be mindful of how to properly enter and exit the classroom. Practice physical distancing to the extent possible when entering and exiting the classroom.*
- *If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus. (See <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.)*
- *Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work. (See <https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>).*

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.*

PHOTOS AND VIDEOS: *Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University's Office of Student Conduct and Conflict Resolution.*

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 often 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-gradingpolicies/#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 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 "class hour" (55-minute period). I will distribute on Canvas very 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.

Class hours 1-5 Jan. 12, 14, 19)

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

Class hours 6-8 (Jan. 21, 26)

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

Class hours 9-11 (Jan. 28, Feb. 2)

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

Class hours 12-14 (Feb. 4, 9)

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

Class hours 15-17 (Feb. 11, 16)

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

Class hours 18-20 (Feb. 18, 23)

***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

Class hours 21-23 (Feb. 25, March 2)

***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

Class hours 24-26 (March 4, 9)

***Feldman* pages 177-302**

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

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

Class hours 27-31 (March 11, 16, 18, 23)

***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

Class hours 32-34 (March 23, 25, 30)

***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

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

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

Class hours 35-36 (March 30, April 1)

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

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

Class hours 37-39 (April 6, 8)

***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*****

Class hours 40-44 (April 13, 15, 20)

***Feldman* pages 411-33**

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

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

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, 2021, 5:30 pm- 7:30 pm

HEALTH AND WELLNESS RESOURCES:

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. Other resources include:

U Matter, We Care: If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit U Matter, We Care website to refer or report a concern and a team member will reach out to the student in distress.

Student Health Care Center: Call 352-392-1161 for 24/7 information to help you find the care you need, or visit the Student Health Care Center website.

UF Health Shands Emergency Room / Trauma Center: For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; Visit the UF Health Emergency Room and Trauma Center website.

CLASS DEMEANOR:

Students are expected to arrive to class on time (for online students, this means with your video on and your sound muted) and behave in a manner that is respectful to the instructor and to fellow students. Please avoid the use of cell phones except for Zoom purposes.

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/>.