

**CONSTITUTIONAL HISTORY OF THE U.S. SINCE 1877 (AMH 3552)**

**SPRING 2023**

**PROFESSOR MICHAEL ALLAN WOLF**

**3 CREDIT HOURS**

***SYLLABUS AND CLASS PROCEDURES***

OUR CLASS WILL MEET ON TUESDAYS FROM 3 TO 4:55 PM AND THURSDAYS FROM 3:00 TO 3:50 PM IN HOLLAND 355C.

*My office is Holland Hall Room 307, my email address is [wolfm@law.ufl.edu](mailto: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.*

**THERE ARE FOUR REQUIRED TEXTS FOR THIS CLASS:**

WILLIAMJAMES HULL HOFFER, *PLESSY V. FERGUSON: RACE AND INEQUALITY IN JIM CROW AMERICA* (2012)

PAUL KENS, *LOCHNER V. NEW YORK: ECONOMIC REGULATION ON TRIAL* (1998)

LAURA KALMAN, *FDR'S GAMBIT: THE COURT PACKING FIGHT AND THE RISE OF LEGAL LIBERALISM* (2022)

JOHN W. JOHNSON, *GRISWOLD V. CONNECTICUT: BIRTH CONTROL AND THE CONSTITUTIONAL RIGHT OF PRIVACY* (2005)

**ADDITIONAL ASSIGNMENTS WILL BE POSTED ON THE CANVAS SITE FOR THIS COURSE.** Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

**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): 15% of grade*

2. Three tests: 30% of grade
3. 5-7 page paper: 25% of grade
4. Final exam: 30% 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
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*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 ([disability.ufl.edu/](http://disability.ufl.edu/)). Once registered, students will receive an 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" (50-minute period). I will post on Canvas *very short* excerpts from each case listed. 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

*Hoffer* through Chapter 1

**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**

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

**Mugler v. Kansas (1887): State prohibition**

#### Class hours 6-8

*Hoffer* Chapters 2 through 4

**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**

**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**

**Class hours 9-11**

***Kens* through Chapter 10**

**Lochner v. New York: Maximum hours legislation**

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

**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**

**Class hours 12-14**

***Kens* Chapter 11**

**Hammer v. Dagenhart (1918): Child labor laws**

**\*\*\*FIRST TEST\*\*\***

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

**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**

**Class hours 15-16**

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

**Buck v. Bell (1927): State sterilization statute**

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

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

**Class hours 17-19**

***Kalman* through Chapter 3**

**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**

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

**Class hours 20-22**

***Kalman* Chapters 4 through 6**

**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\*\*\***

***Hoffer* Chapter 5 (until discussion of *Brown v. Bd. of Education*)**

**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 23-24**

***Kalman* Chapter 7 and Afterword**

**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 25-29**

***Johnson* through Chapter 2**

**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 30-31**

***Hoffer* Chapter 5 (beginning with discussion of *Brown v. Bd. of Education*) and Epilogue**

**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 32-33**

***Johnson* Chapters 3 and 4**

**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 34-36**

***Johnson* Chapters 5 and 6**

**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***

**Class hours 37-40**

***Johnson* Chapters 7 through Epilogue**

**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**

**\*\*\*PAPER DUE\*\*\***

**Brandenburg v. Ohio (1969): free speech**

**New York Times Co. v. United States: Pentagon papers, First Amendment**

**Roe v. Wade (1973): abortion and privacy rights**

**San Antonio Independent School District v. Rodriguez (1973): education rights and wealth discrimination**

**Remaining class hours**

**United States v. Nixon (1974): executive privilege**

**Milliken v. Bradley (1974): school busing**

**Buckley v. Valeo (1976): campaign finance and the First Amendment**

**Washington v. Davis (1976): equal protection and intent**

**FINAL EXAM:**

*Friday, May 5, 2023, 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: [counseling.ufl.edu](http://counseling.ufl.edu), 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 inappropriate use of cell phones. Opinions held by other students should be respected in discussion.*

## COURSE EVALUATION:

*Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.*