

# PSC 371

## The Constitution and the Supreme Court

### Summer Session 2 2022

**Time & Location:** Mondays (asynchronous lecture videos released at 4pm), Wednesdays 4:00-7:45pm (Wednesdays 4:00-7:00 synchronous on Zoom)

**Instructor:** Dan Carrigg / [carrigd@uri.edu](mailto:carrigd@uri.edu) / 401-218-0004 / Office Hours: Wednesdays 3:00pm-4:00pm, on Zoom. Physical office location on Kingston Campus: Washburn Hall, Rm. 129

**Purpose:** This course is designed to be an upper-level, interactive undergraduate course on the United States Constitution and the effect of judicial interpretation of constitutional law on civil rights and liberties in America over time. Students will learn in-depth knowledge about the historical evolution of the United States Constitution, the nature, powers, and limitations placed on government by the constitution, the importance Constitutional Law to the lives of everyday American citizens, their individual rights, their democratic rights, their political equality, and what all this means for citizenship and criminal justice in America.

**Textbook:** American Constitutionalism Vol. II 3rd ed. by Gilman, Graber, and Whittington. It is available in the Bookstore. The cheapest way to obtain it there is to rent it used for \$59.20. The used purchase price is \$94.45, and it may also be rented digitally for \$63. We will also be using excerpts from various court cases and news publications to supplement chapter readings. These will be uploaded to the course website on Brightspace.

**Interactive Learning:** Throughout this course, students will break out into groups, brief cases, pull out the relevant constitutional arguments, and present them to the class.

**Course Effort:** Over the semester, students will spend 7.5 hours per week in class and 10 hours per week doing weekly course readings and assignments. In addition, there are two major papers/exams, which require 20 hours of work each, and group work, course portfolios, and briefings which require 4 hours each to prepare.

**Grading:** Grading will be based on a take-home midterm (25%), a final exam (25%), a portfolio of the work you accomplished during case briefs and constitutional arguments (30%), and class attendance and participation (20%). In order to participate, you must keep up with the readings and attend class.

**Homework:** Homework in this class simply requires keeping up with the assigned readings and performing your assigned group work, case briefs, and preparing for presenting arguments.

**Class Attendance and Participation:** Particularly as there is an interactive learning component to this course, attendance and participation are mandatory. Do not attend in person classes if you feel ill.

**Midterm:** A take-home midterm will be due in online **July 13<sup>th</sup>, 2022**. The exam will be in the form of an essay. For the essay, class materials, Oyez, the Legal Information Institute, SupremeCourt.gov, and news sources should suffice. The essay should be approximately 10 pages in a double-spaced, 12-point standard font with standard margins.

**Midterm Topic:** Analyze the major changes to the Constitution effectuated by the Civil War amendments. How did the 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> amendments fundamentally effect constitutional foundations, individual rights, democratic rights, equality, or criminal justice? How did these amendments change conceptions of rights and liberties that predate the Civil War? Why do you think the 14<sup>th</sup> amendment remains so relevant to civil rights and liberties today?

**Final Portfolio:** You will be required to submit a final portfolio of your work this semester. Your final portfolio will be 30% of the course grade. You will be graded on the quality of your work and contributions over the semester, the substance of your case briefings and constitutional arguments and what they mean for constitutional foundations, individual rights, democratic rights, equality, or criminal justice in America. Keep each of these goals in mind as you work throughout the semester. We will discuss details on how to assemble and submit your portfolio in class. Final Portfolios will be due on **FRUDAY July 29<sup>th</sup>, 2022**.

**4-Credit-Class:** As a 4-credit class, students are expected to do 33% more work compared to 3-credit classes. In this class, most of the additional work will be focused on your individual research project.

**Final Exam:** A final exam will due online **FRIDAY July 29<sup>th</sup>, 2022**.

### **Course Schedule:**

- **Monday, June 27** – Course Introduction (materials online)
  - **Reading Assignment:** Textbook Part 1, pages 1-21
  - **Homework Assignment:** Form five groups. Each group will have a focus, either: constitutional foundations, individual rights, democratic rights, equality, or criminal justice. Groups will divide up case work, draw up briefs, and present relevant constitutional arguments to the class.
  - **Group Assignment:** Please read the English Bill of Rights before this class. You can find it at Yale's Avalon Project: [https://avalon.law.yale.edu/17th\\_century/england.asp](https://avalon.law.yale.edu/17th_century/england.asp).
  
- **Wednesday, June 29** – Foundations of the Constitution: The Colonial Era (meeting synchronous 4-7pm)
  - **Reading Assignment:** Textbook Chapter 2, pages 25-79
  - **Reading Assignment:** Textbook Chapter 3, pages 81-142

- **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
- **Group Assignment (prepare for next class Wednesday, July 6<sup>th</sup>):**
  - Group 1: Constitutional Foundations:
    - US v. The La Jeune Eugenie (in book)
    - Calder v. Bull (in book)
    - Early Years of American Law (find here: <https://law.jrank.org/pages/11900/Early-Years-American-Law.html> )
  - Group 2: Individual Rights:
    - Fletcher v. Peck (in book)
    - MA Test Oaths (in book)
    - An Act for the Encouragement of Learning (find at pg. 243-245 here: <https://www.loc.gov/law/help/statutes-at-large/1st-congress/c1.pdf> )
  - Group 3: Democratic Rights:
    - The Sedition Act (in book)
    - MA Property Rights (in book)
    - Indian Nonintercourse Act of 1790 (pages 256-257 here: <https://www.loc.gov/law/help/statutes-at-large/1st-congress/c1.pdf> )
  - Group 4: Equality:
    - Congressional Debates over Missouri Compromise (in book)
    - Martin v. Massachusetts (in book)
    - Letter from Thomas Jefferson to John Adams, October 28, 1813 (find here: <https://founders.archives.gov/documents/Adams/99-02-02-6189> )
  - Group 5: Criminal Justice
    - Mayo v. Wilson (in book)
    - US v. Callender (in book)
    - Criminal Act of 1790 (find at pages 231-238 here: <https://www.loc.gov/law/help/statutes-at-large/1st-congress/c1.pdf> )
- **Monday, July 4th (Independence Day, Monday classes meet Friday) – The Birth of the Constitution: The Revolutionary Era (materials online)**
  - **Reading Assignment:** Textbook Chapter 4, pages 145-209
  - **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
  - **Group Assignment (prepare for class next Wednesday, July 6<sup>th</sup>):**
    - Group 1: Constitutional Foundations:
      - Marbury v. Madison (in book) [This one is super-important!]
      - McCulloch v. Maryland (find online)
      - Gibbons v. Ogden (find online)
    - Group 2: Individual Rights:
      - Fairfax’s Devisee v. Hunter’s Lessee (find online)

- Martin v. Hunter's Lessee (find online)
  - Laidlaw v. Organ (find online)
  - Group 3: Democratic Rights:
    - Cohens v. Virginia (find online)
    - Ogden v. Saunders (find online)
    - Sturges v. Crowninshield (find online)
  - Group 4: Equality:
    - Johnson v. M'Intosh (find online)
    - The Antelope (find online, 23 US 66)
    - Strawbridge v. Curtis (find online)
  - Group 5: Criminal Justice
    - Ex Parte Bollman (find online)
    - Bailiff v. Tipping (find online)
    - US v. Hudson and Goodwin (find online)
- **Wednesday July 6<sup>th</sup>**– Expanding Democracy: The Jacksonian Era (Meeting in-person)
  - **Reading Assignment:** Textbook Chapter 5, pages 211-279
  - **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
  - **Group Assignment (Prepare for class Wednesday, July 13<sup>th</sup>):**
    - Group 1: Constitutional Foundations:
      - Barron v. Baltimore (in book) [This one is super-important!]
      - Cooley v. Board of Wardens (find online)
      - Chrisholm v. Georgia (find online)
    - Group 2: Individual Rights:
      - Cherokee Nation v. Georgia (find online)
      - Worcester v. Georgia (find online) [key for the Jackson presidency]
      - Taylor v. Porter & Ford (in book)
    - Group 3: Democratic Rights:
      - Norris v. City of Boston (find online)
      - Smith v. Turner (find online) [These two cases together are known as The Passenger Cases, and the decisions were all concurrent!]
      - Virginia Debates on Property Qualifications for Voting and Apportionment (in book)
    - Group 4: Equality:
      - Dred Scott v. Sanford (in book) [This one is super-important too!]
      - Roberts v. City of Boston (in book)
      - Elizabeth Cady Stanton Seneca Falls Address (in book)
    - Group 5: Criminal Justice
      - Commonwealth v. Dana (in book)
      - Ableman v. Booth (find online) [Vital antebellum background!]
      - Commonwealth v. Anthes (in book)

- **Monday, July 11<sup>th</sup>** – Civil War, Reconstruction, and a New Political Equality (meeting online)
  - **Reading Assignment:** Textbook Chapter 6, pages 281-355
  - **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
  - **Group Assignment (Prepare for next Wednesday, July 13<sup>th</sup>):**
    - Group 1: Constitutional Foundations:
      - Debates over 14th Amendment (in book)
      - Slaughterhouse Cases (in book)
      - Mississippi v. Johnson (find online)
    - Group 2: Individual Rights:
      - Takings, Debate over the 2nd Confiscation Act (in book, but also find online and read the 1862 Confiscation Act itself) & Gen. W. T. Sherman's Field Order No. 15 (find online)
      - Crandall v. Nevada (find online)
      - Prize Cases (find online, 67 US 635)
    - Group 3: Democratic Rights:
      - Texas v. White (find online)
      - U.S. v. Cruikshank (find online) [This one is really key, but you'll have to think clearly to connect it to Democratic Rights!]
      - Georgia v. Stanton (find online, but also look up the Reconstruction Acts and explain briefly what they're about)
    - Group 4: Equality:
      - Civil Rights Cases (Just use this link: <http://cdn.loc.gov/service/ll/usrep/usrep109/usrep109003/usrep109003.pdf>)
      - Bradwell v. Illinois (in book)
      - Debates over the 13th Amendment (in book)
    - Group 5: Criminal Justice
      - Ex Parte Milligan (in book, also look up Habeas Corpus suspension)
      - Strauder v. West Virginia (find online)
      - Pevear v. Massachusetts (find online)
- **Wednesday, July 13<sup>th</sup>** – Midterm Due - Civil War, Reconstruction, and a New Political Equality Cont'd (meeting in-person)
  - **Reading Assignment:** Textbook Chapter 6, pages 281-355
  - **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
  - **Group Assignment (prepare for next Wednesday, July 20<sup>th</sup>):**
    - Group 1: Constitutional Foundations:
      - Ex Parte Garland (find online)
      - Springer v. US (find online)
      - US v. Harris (find online)
    - Group 2: Individual Rights:
      - Santa Clara vs. Southern Pacific Railroad (find online)

- Legal Tender Cases [Including Knox v. Lee & Parker v. Davis, Knox overturns Hepburn v. Griswold] (find online)
  - US v. Klein (find online)
  - Group 3: Democratic Rights:
    - Ex Parte Crow Dog (find online)
    - Baylis v. Travelers' Insurance Co (find online)
    - Yick Wo v. Hopkins (find online)
  - Group 4: Equality:
    - Minor v. Happersett (find online)
    - Pace v. Alabama (find online)
    - Elk v. Wilkins (find online)
  - Group 5: Criminal Justice
    - Ex Parte McCardle and Ex Parte Yerger [These go together] (find online)
    - Wilkerson v. Utah (find online)
    - Hurtado v. California (find online)
- **Monday, July 18th** – The Lochner Era: Child Labor, Prohibition, and Jim Crow (meeting online)
  - **Reading Assignment:** Textbook Chapter 7, pages 357-476
  - **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
  - **Group Assignment (prepare for next Wednesday, July 20<sup>th</sup>):**
    - Group 1: Constitutional Foundations:
      - Debates over 19th Amendment (in book)
      - Schenk v. US (in book)
      - Pollock v. Farmer's Loan and Trust (find online)
    - Group 2: Individual Rights:
      - Allgeyer v. Louisiana (find online)
      - Lochner v. New York (in book, also look up 'Lochner Era,' your group starts off on Friday)
      - Adkins v. Children's Hospital (in book)
    - Group 3: Democratic Rights:
      - US v. Wong Kim Ark (in book)
      - Gonzalez v. Williams (find online) [This one is does some weird legal things with citizenship, follow it closely]
      - Arvner v. US (find online, aka 'Select Draft Law Cases')
    - Group 4: Equality:
      - Plessy v. Ferguson (find online)
      - Buck v. Bell (in book)
      - US v. E.C. Knight Co. (find online)
    - Group 5: Criminal Justice
      - In re Jacobs (in book)
      - Olmstead v. US (in book)
      - Weeks v. US (in book)

- **Wednesday July 20<sup>th</sup>** – The New Deal and The Great Society in the Liberal Era (meeting in-person)
  - **Reading Assignment:** Textbook Chapter 8, pages 479-627
  - **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
  - **Group Assignment (prepare for next Wednesday, July 27<sup>th</sup>):**
    - Group 1: Constitutional Foundations (you lot have a hard week. think carefully about these cases and what they actually do. several pieces of the constitution are shifting simultaneously, and fast):
      - US v. Carolene Products Co. (in book, carolene does both obvious things vis-a-vis the rational basis test, and less obvious things, vis-a-vis application of substantive due process & unenumerated rights)
      - Erie Railroad Company v. Tompkins (find online, this one is really important and somewhat hard to follow, do background research as required)
      - Steward Machine Co. v. Davis (find online)
    - Group 2: Individual Rights:
      - West Coast Hotel v. Parish (in book, also look up "the switch in time that saved nine," the "four horsemen," and the "three musketeers")
      - Nebbia v. NY (find online)
      - New Negro Alliance v. Sanitary Grocery Co. (find online)
    - Group 3: Democratic Rights:
      - Grovey v. Townsend (find online, this one ties into Smith v. Allwright)
      - WV Board of Ed. v. Barnett (in book)
      - Smith v. Allwright (find online, vital case for democratic rights)
    - Group 4: Equality:
      - Skinner v. Oklahoma (in book)
      - Korematsu v. US (in book)
      - NLRB v. Jones and Laughlin Steel (find online)
    - Group 5: Criminal Justice
      - Wickersham Commission Report (in book)
      - Glasser v. US (find online, this one rests on the 6th, but touches criminal justice, equality, and democratic rights. think about why.)
      - Betts v. Brady (find online)
- **Monday, July 25<sup>th</sup>** – The New Deal and The Great Society in the Liberal Era Cont'd
  - **Reading Assignment:** Textbook Chapter 8, pages 479-627
  - **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
  - **Group Assignment (prepare for next Wednesday, July 27<sup>th</sup>):** There are a LOT of blockbuster cases this week—Famous stuff. Thankfully, the cases are relatively more straightforward than last week. Think deeply about the roles substantive due process & selective incorporation play in most of these cases. Criminal Justice

will kick it off this Friday. Very relevant how much constitutional law for their group changes in these, the Civil Rights years.

- Group 1: Constitutional Foundations:
    - Heart of Atlanta Motel v. US (find online)
    - Griswold v. CT (in book 412, pay attention to the penumbra argument)
    - Katzenbach v. Morgan (in book 443, watch the ratchet theory that later gets undone in City of Boerne v. Flores in the 1990s. Notice how different the younger Harlan is.)
  - Group 2: Individual Rights:
    - Sherbert v. Verner (in book 404, be able to define the 'Sherbert Test.')
    - Williamson v. Lee Optical (in book 399, was this the Lochner Era's coffin nail?)
    - Miranda v. Arizona (in book 485)
  - Group 3: Democratic Rights:
    - NY Times v. Sullivan (in book 425)
    - Brandenburg v. Ohio (in book 429)
    - Reynolds v. Sims (in book 434, think deeply about what this meant for state governments in the south)
  - Group 4: Equality:
    - Brown v. Board of Education of Topeka (in book 461, also read "The Road to Brown" section & make sure to differentiate between Brown v. Board I and Brown v. Board II)
    - Green v. County School Board (in book 465, this follows up Brown II)
    - Loving v. Virginia (find online, think about the fact this was only 50 years ago)
  - Group 5: Criminal Justice
    - Gideon v. Wainwright (in book 485)
    - Duncan v. Louisiana (in book 382, also talk about the chart on page 384 and how much action happens in the 1960s)
    - Mapp v. Ohio (in book 474)
- **Wednesday, June 27<sup>th</sup>** – The Evolving Court of the 1970s (meeting in-person)
    - **Reading Assignment:** Textbook Chapter 9, pages 628-734
    - **Homework Assignment:** Draw up briefs and present relevant constitutional arguments to the class.
    - **Group Assignment:** Note that there are fewer blockbusters, more technical cases, and less of an interventionist bent in the 1970s, but the changes of the 1960s are not substantially undone.
      - Group 1: Constitutional Foundations:
        - Oregon v. Mitchell (find online)
        - US v. Nixon (find online, think about what this one means vis-a-vis the first Trump impeachment)



- Oneida Indian Nation v. County of Oneida (find online, and think about how this jibes with the concept of 'domestic dependent nations' that we previously encountered)
  - Craig v. Boren (find online)
  - Group 2: Individual Rights:
    - Wisconsin v. Yoder (find online)
    - Dandridge v. Williams (in book, 502)
    - Roe v. Wade (in book, 509)
    - Phillips v. Martin Marietta Co. (find online)
  - Group 3: Democratic Rights:
    - Oregon v. Mitchell (find online)
    - Richardson v. Ramirez (in book, 527)
    - NY Times v. US (in book, 518)
    - Harris v. Harvey (find online)
  - Group 4: Equality:
    - Swann v. Charlotte-Mecklenburg (in book, also this follows up Brown, 536)
    - San Antonio v. Rodriguez (in book, 531)
    - Eisenstadt v. Baird (find online)
    - Regents of UC vs. Bakke (find online)
  - Group 5: Criminal Justice:
    - Furman v. Georgia (find online)
    - Gregg v. Georgia (in book, whoever takes this should take Furman too, they relate to each other, 564)
    - US v. Calandra (in book, think about this vis-a-vis Mapp v. Ohio from last week, 556)
    - Gates v. Collier (find online)
- **Final Assignment** – Final Due **June 27th** - The Reagan Era, Conservatism, and the Modern Court
  - **Reading Assignment:** Textbook, Chapter 10 pages 737-878
  - **Homework Assignment:** Draw up briefs and and finish portfolios with the following cases.
  - **Group Assignment:** Note the conservative shift of the court in this era. A liberal majority never returned to the court.
    - Group 1: Constitutional Foundations:
      - McDonald v. City of Chicago (in book)
      - NFIB v. Sebelius (find online)
      - Rucho v. Common Cause (find online)
      - Vega v. Tekoh (active case, so maybe no decision yet, find online)
    - Group 2: Individual Rights:
      - Kelo v. City of New London (in book)
      - City of Boerne v. Flores (in book)
      - Burwell v. Hobby Lobby (in book)
      - FNU Tanzin v. Tanvir (2021 case, concerns RFRA)

- Group 3: Democratic Rights:
  - *Shelby County v. Holder* (in book)
  - *Citizens United v. FEC* (in book)
  - *McCutcheon v. FEC* (find online)
  - *Cruz v. FEC* (2022 case)
- Group 4: Equality:
  - *Obergefell v. Hodges* (in book)
  - *Lawrence v. Texas* (in book)
  - *US v. Virginia* (in book)
  - *Dobbs v. Jackson Women’s Health Center* (active case)
- Group 5: Criminal Justice:
  - *Carpenter v. US* (find online)
  - *Glossip v. Gross* (in book)
  - *Miller v. Alabama* (find online)
  - *Canigula v. Strom* (2021 case, Rhode Island based too)

**Accommodations:** If you believe you are in need of academic accommodations, please visit URI Disability Services for Students and let me know of any required accommodations as soon as possible.

**Academic Honesty:** All students are to be aware of requirements concerning academic honesty as set forth in the URI Student Manual.

**COVID-19 Statement:** As members of the URI community, students are required to comply with standards of conduct and take precautions to keep themselves and others safe. Students are required to comply with Rhode Island state laws, including the Rhode Island Executive Orders related to health and safety, ordinances, regulations, and guidance adopted by the University as it relates to public health crises, such as COVID-19.

[An addendum on policies and guidelines concerning your obligations](#) during this crisis has recently been integrated into the Student Handbook. These obligations include:

- Wearing of face masks by all community members when on a URI campus in the presence of others
- Maintaining physical distancing of at least six feet at all times
- Following state rules on the number of individuals allowed in a group gathering
- Completing a [daily health self-assessment](#) also available through the [Rhody Connect](#) app before coming to campus
- Submitting to COVID-19 testing as the University monitors the health of our community
- Following the University’s quarantine and isolation requirements

**If you answer yes to any of the questions on the daily health assessment, do not come to class. YOU MUST STAY HOME/IN YOUR ROOM and notify URI Health Services via phone at 401-874-2246 immediately.**

June 2022 **Draft - not final**

**If you are already on campus and start to feel ill**, you need to remove yourself from the public and notify URI Health Services via phone immediately at 401-874-2246 and go home/back to your room and self-isolate while you await direction from Health Services.

###