

**U.S. CONSTITUTIONAL HISTORY I:
FROM THE FOUNDING TO RECONSTRUCTION
LAW 6930 (13823)
SPRING 2024
PROFESSOR MICHAEL ALLAN WOLF
3 CREDIT HOURS

SYLLABUS AND CLASS PROCEDURES**

OUR CLASS WILL MEET ON TUESDAYS FROM 3 TO 5:00 PM AND
THURSDAYS FROM 3:00 TO 3:55 PM IN HOLLAND 360

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. Because I have been told that I have to set aside two hours for office hours despite my open-door policy, please note that I will be available to meet with you for one hour after class, that is, from 3-4 pm on Tuesdays and 5-6 pm on Thursdays.

THERE ARE FOUR REQUIRED TEXTS FOR THIS CLASS:

MICHAEL J. KLARMAN, THE FRAMERS' COUP: THE MAKING OF THE UNITED STATES CONSTITUTION (2016)

PAULINE MAIER, RATIFICATION: THE PEOPLE DEBATE THE CONSTITUTION, 1787-1788 (2010)

PAUL FINKELMAN, SUPREME INJUSTICE: SLAVERY IN THE NATION'S HIGHEST COURT (2018)

HERBERT A. JOHNSON, JOHN MARSHALL, STEAMBOATS, AND THE COMMERCE CLAUSE (2010)

ADDITIONAL ASSIGNMENTS WILL BE POSTED ON THE CANVAS SITE FOR THIS COURSE.

COURSE DESCRIPTION (FROM WEB PAGE): *This course will explore the origins and early interpretations of the U.S. Constitution. Readings will focus on English constitutionalism, early state constitutions, the Articles of Confederation, the*

framing and ratification processes, and Supreme Court opinions from the beginning of the Court to Reconstruction.

COURSE GOALS AND/OR OBJECTIVES: *By the end of this course, it is my hope that students will:*

- *be familiar with the interplay between social, political, economic, and ideological developments and the work of the Supreme Court,*
- *appreciate the origins and unique nature of American constitutionalism,*
- *understand how modern understandings (popular, political, and legal) of the origins, ratification, and meaning of the Constitution contrast with the historical reality,*
- *engage in research in primary sources and present those findings to the class,*
- *appreciate that the current body of constitutional law is a product of decades of complex and profound developments within and outside the Court,*
- *analyze and discuss the course of American constitutional history in class and in writing.*

ADDITIONAL ASSIGNMENTS (INCLUDING NEW CASES) WILL BE POSTED ON THE CANVAS SITE FOR THIS COURSE OR DISTRIBUTED BY EMAIL.

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 EXPECTATIONS AND GRADING EVALUATION:

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 who disrupt the learning environment by a one-half grade bump.

THERE WILL BE ONE PAPER, ONE FINAL EXAMINATION, AND AT LEAST THREE ORAL PRESENTATIONS: The paper (5-7 pages, 30% of final grade) will require the student to do outside research using primary and secondary sources, and the two-hour, open-book, unlimited-source, take-home final examination (50%) will be an essay test that

students will take during the exam period. Students will also be required to make at least three oral presentations during the semester (20% of final grade).

CLASS ATTENDANCE POLICY:

Attendance in class is required by both the ABA and the Law School. Each student is permitted five class absences during the semester. Within one week of missing class, you are responsible for reporting to me via email that you missed class. There is no need to explain your absence, as I do not differentiate between excused and non-excused absences. I reserve the right to reduce the grade for a student with excessive absences and to bar the student from taking the final exam. The law school's policy on attendance can be found [here](#).

UF LEVIN COLLEGE OF LAW STANDARD SYLLABUS POLICIES:

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link:

<https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

ABA OUT-OF-CLASS HOURS REQUIREMENTS:

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. Each week of class is approximately 3 hours in length, requiring at least 6 hours of preparation outside of class.

INTERNET USE IN THE CLASSROOM:

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

FINAL EXAM:

The two-hour, unlimited source, open-book exam will be administered on a flexible basis, meaning that you can choose the time during the final examination period during which to take the test. The law school policy on exam delays and accommodations can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form> .

You will find below the book chapters, cases, and other materials that I anticipate we will cover during the semester. A "class" is equivalent to a "class hour" (there are three class

hours per week). I will distribute electronically a short excerpt from each case listed. Before reading that excerpt, students should review the summary for the case on the Oyez site (www.oyez.org). For most classes, I will also distribute one or more historical documents to accompany the assignment. 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 1-2

The British Constitution: <https://www.ucl.ac.uk/constitution-unit/explainers/what-uk-constitution>

The Declaration of Independence:

https://avalon.law.yale.edu/18th_century/declare.asp

Constitution of Pennsylvania (1776):

https://avalon.law.yale.edu/18th_century/pa08.asp

The Articles of Confederation: https://avalon.law.yale.edu/18th_century/artconf.asp

Klarman, Chapter 1, up to Sectional Conflict

Classes 3-5

Klarman, remainder of Chapter 1 and Chapter 2

Maier, Prologue

Classes 6-9

Klarman, Chapter 3

U.S. Constitution: <https://www.archives.gov/founding-docs/constitution-transcript>

Classes 10-12

Klarman, Chapter 4

Finkelman, pages 1-24 (Introduction and Chapter 1)

UNDERGRAD TEST ONE

Classes 13-15

Klarman, Chapter 5

Maier, Introduction, Chapters 1-3

Classes 16-20

Maier, Chapters 4-14

Klarman, Chapter 6 (optional for undergrads, required for law students)

Classes 21-22

Bill of Rights: https://avalon.law.yale.edu/18th_century/rights1.asp

Maier, Epilogue

Klarman, Chapters 7-8

Classes 23-24

Chisholm v. Georgia (1793): state parties and federal jurisdiction

Ware v. Hylton (1796): state law and the Treaty of Paris

Hylton v. U.S. (1796): carriage tax

Calder v. Bull (1798): ex post facto laws

UNDERGRAD TEST TWO

Classes 25-29

Finkelman, Chapters 2-3

Johnson, Introduction, Chapters 1-3

Marbury v. Madison (1803): mandamus and judicial review

Fletcher v. Peck (1810): Yazoo land fraud

Martin v. Hunter's Lessee (1816): Supreme Court review of state decisions

Trustees of Dartmouth College v. Woodward (1819): Contract Clause and private colleges

Classes 30-33

Johnson, Chapters 4-7

McCulloch v. Maryland (1819): constitutionality of the Bank of the United States

Cohens v. Virginia (1821): state decisions and the Supreme Court

Gibbons v. Ogden (1824): steamboat monopolies and the Commerce Clause

Worcester v. Georgia (1832): state regulation of Native Americans

Barron v. Baltimore (1833): Bill of Rights not applicable to the states

Charles River Bridge v. Warren Bridge (1837): Contracts Clause and competition

Classes 34-36

Finkelman, Chapters 4-5 and Coda

United States v. The Amistad (1841): slave revolt on a ship

Prigg v. Pennsylvania (1842): preemption and fugitive slaves

Dred Scott v. Sandford (1857): slavery and the Missouri Compromise

UNDERGRAD TEST THREE

Classes 37-41

Ex parte Vallandigham (1864): appeals from military courts

Ex parte Milligan (1866): civilian trials in military tribunals

Mississippi v. Johnson (1867): challenging Reconstruction

Georgia v. Stanton (1868): challenging Reconstruction (again)

Ex parte McCordle (1869): congressional withdrawal of Supreme Court jurisdiction

Texas v. White (1869): legal effects of secession

UNDERGRAD PAPER/LAW STUDENT PAPER