

**University of Toronto Department of Political Science**

**Fall 2024 POL 347H1F**

**U.S. Government and Politics: Constitutional Structure and Development**

**Professor Ryan Hurl**

**Meeting Code: LEC 0101**

**Lecture Times: Wednesday, 9am-11am**

**Location: Claude T. Bissell Building (140 St. George Street) room  
BL 313**

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**Office Hours: Wednesday, 11am to 12 noon or by appointment**

**Course Description**

In this course we will examine American political institutions, understood as the rules which shape the pursuit of power (political agency), the distribution of power (political authority) and the exercise of power (the political process.)

The guiding question of the course is whether and how Constitutional rules matter. Our tentative answer, always subject to revision, is that constitutional rules, including the quasi-constitutional rules that shape political parties and bureaucratic administration, shape the practice of politics in critical ways.

Constitutional rules are not only the “rules of the game;” constitutional politics and constitutional change emerge from political disagreements over the meaning and even the value of constitutionalism.

The politics of the contemporary era cannot be understood without understanding the

depth of constitutional disagreement in the USA. Our study of American institutions will reveal that the USA currently has two distinct (though partially overlapping) “constitutions,” neither of which is entirely accepted by all citizens. In a way, Americans are currently testing Abraham Lincoln’s proposition that “a house divided against itself cannot stand,” as Americans are now divided between those who believe in the original constitution—the constitution that was adopted in 1787, though later changed through formal amendments—and those who believe in the “real” constitution, the constitution that, while never formally adopted, has nevertheless been the basis of American political practice for more than a century.

The course will begin by considering the basic principles and compromises that shaped the creation of the Constitution, paying particular attention to the key theoretical defenses of the Constitution found in what we now refer to as The Federalist Papers. We will then proceed through a series of case studies to consider how the constitutional order has changed over time, with a particular focus on the role played by the American President.

The rise of Presidential government is in some ways the central puzzle of American politics, and considering the puzzle of Presidential power will help us to better understand the problems of the present day: political polarization, disputes over identity and belonging, economic inequality, and so forth.

The question of race and racial discrimination is obviously central to the American political experience. To what extent, and in what ways, did the American constitutional order shape and protect an illiberal and anti-democratic racial caste system? How was it that the tyranny of the majority was overcome? How did the politics of federalism and the politics of rights shape the politics of race? To examine these questions, as well as the question of how the constitutional order creates obstacles to and opportunities for political change, we will consider various ways in which the American political system has attempted to confront racism and promote desegregation over the past 60 years. Unavoidably, we will raise the question of whether this massive government effort to overcome the legacy of racism has failed.

The legislative process described and mandated by the Constitution no longer provides an exhaustive account of how policy is created in the USA. For at least sixty years, and arguably much longer, a new policy-making process has co-existed with the older constitutional order, a process dominated by courts, bureaucratic agencies, interest groups, and unilateral Presidential authority. We will consider how this new order

functions, why it emerged, and whether it is in tension with representative government and the rule of law.

### **Course Requirements**

**Additional details about the content of the assignments will be provided on Quercus**

**Late assignments will receive a penalty of 1% for every day they are late, up to two letter grades.**

**Please do not commit plagiarism when completing your assignment.**

**You are responsible for knowing what plagiarism is, though of course you can consult with Professor Hurl if you have any doubts.**

**Note: a “page”= one side, double-spaced, 12 point font**

**Final Exam: 40%** *This exam will take place during the exam period in December, and will consist of short answer questions and essay questions*

**Essay Proposal: 2%** Approximately one page DUE SEPTEMBER 18<sup>th</sup> (More information on the project will be presented in class and on-line)

**Research Plan and bibliography: 8%** 2-4 pages DUE WEDNESDAY OCTOBER 9th

**Rough Draft 10%** Approximately 10-15 pages 10% DUE FRIDAY NOVEMBER 8th

**Final Draft 35%** Approximately 10-15 pages DUE FRIDAY DECEMBER 8<sup>th</sup>

**Class Participation: 5%**

*Students are expected to attend lectures, complete all readings and assignments, and discuss the material covered by the class in an intelligent and respectful manner.*

*You will also have the opportunity to submit questions and comments about the lectures*

*and readings on Quercus during the lecture.*

## **What can I do to succeed in this course?**

### **Attend the lectures and be an active participant**

You should use the lecture to ask questions—about the lecture itself, about the readings, about the assignments, about anything you can think of.

I strongly advise that you take notes using paper/pen/pencil—recent studies suggest that this improves your ability to retain information. But it is fine to use laptops if that is what you prefer.

While I do not ban laptops, I ask as a courtesy that you refrain from watching videos, texting your friends, playing video games, gambling etc. during class.

**Begin working on the Research Project Assignment as soon as possible.** In addition, you should plan to make use of your college’s writing centre prior to submitting the paper.

- **Make use of Office Hours.** If there are issues in the readings that you do not understand, then you should make every effort to discuss them with me during my office hours. We can also do meetings over “Zoom” during office hours... if you didn’t get enough of that during the plague years.
- **Send me emails.** I am happy to answer your questions over email.
- **Do Some Additional Reading.** If you are entirely unfamiliar with American politics and American political history, it would probably be a good idea to do some additional reading. The following books are both short and informative, and are available on-line.

Donald Critchlow, *American Political History: A New Introduction*. Oxford: University of Oxford Press, 2015 (available on-line through the U of T library)

Morton Keller, *America’s Three Regimes*. Oxford: Oxford University Press, 2007. (available on- line through the U of T library)

Richard M. Valelly, *American Politics: A Very Short Introduction*. Oxford: University of Oxford Press, 2013. (Available on Amazon for less than \$10)

**Lecture slides** will be posted on Quercus prior to each lecture.

The slides are in NO WAY a substitute for attending the lectures—in fact, they will only contain an outline of the lecture, along with occasional graphs, charts, images, etc.

**Main Texts (all available through U of T library in electronic format)**

Richard Ellis *The Development of the American Presidency*. New York : Routledge, 2022

Alexander Hamilton, John Jay, and James Madison (Publius.) *The Federalist Papers*. This book can be accessed on-line at...

[http://oll.libertyfund.org/?option=com\\_staticxt&staticfile=show.php%3Ftitle=788&chapter=108558&layout=html&Itemid=27](http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=788&chapter=108558&layout=html&Itemid=27)

R. Shep Melnick, *The Crucible of Desegregation: The Uncertain Search for Educational Equality*. Chicago: University of Chicago Press, 2023

**Lectures and Readings**

**Week One, September 4th, Constitutionalism and American Politics**

The Declaration of Independence

The Constitution of the United States

*Federalist Papers* #1-9

**Week Two, September 11th The Constitution of 1787 and The Problem of Faction**

*Federalist Papers* #10, 47-51

**Week Three, September 18<sup>th</sup> The Presidency in Theory and Practice  
Proposal Due (by midnight! Submit through Quercus!)**

Ellis, Part One, Chapter One “Envisioning the Presidency,”

Ellis, Part One, Chapter Two “Selecting the President,”

Ellis, Part One, Chapter 3 “The Public Presidency.”

**Week Four September 25th The Constitutional Order and the Rise of the Modern State, Part One**

Ellis, Part Two, Chapter 4, “The Legislative Presidency,”

Ellis, Part Two, Chapter 6 “The Unilateral Presidency.”

**Week Five, October 2<sup>nd</sup> The Constitutional Order and the Rise of the Modern State, Part Two**

Ellis, Part Three, Chapter 7 “Organizing the Presidency.”

Ellis, Part Three, Chapter 8 “The Removal Power, Party Patronage, and the Unilateral Executive.”

**[Seila Law LLC v. Consumer Financial Protection Bureau, 591 U.S. 197 \(2020\)](#)**

**Week Six, October 9th, The Presidency, the Law, and Executive Power**

Ellis, Part Four, Chapter 9 “The President and the Judiciary.”

Ellis, Part Four, Chapter 10 “Law and Executive Power.”

**Outline/Bibliography Due (by midnight! Submit through Quercus!)**

**Week 7, October 16<sup>th</sup> The Presidency, the Law, and Executive Power**

**[Loper Bright Enterprises v. Raimondo, 603 U.S. \(2024\)](#)**

**Week Eight October 23rd Race, Desegregation, and the Modern American State, Part One**

Melnick, Chapters 1-5

(October 30<sup>th</sup>—Reading Week)

**Week Nine November 6th The Election of 2024**

**Rough Draft Due by Midnight on *FRIDAY NOVEMBER 8th!* Submit Through Quercus!**

**Week 10 November 13th Race, Desegregation, and the Modern American State, Part Two**

Melnick, Chapters 6-10

**Week 11 November 20th The Question of Rights in the 21<sup>st</sup> Century: Abortion, Affirmative Action, Censorship**

**[Dobbs v. Jackson Women's Health Organization](#), 597 U.S. 215 (2022)**

**[Students for Fair Admissions v. Harvard](#), 600 U.S. 181 (2023)**

**[Murthy v Missouri](#), 603 US \_ (2024)**

**Week 12, December 6<sup>th</sup> Conclusions: The Two Constitutions and the Future of American Politics**

Ellis, Part V, Chapter 11 “Evaluating Presidents.”

**Final Draft Due by Midnight on Friday December 8<sup>th</sup>! Submit through Quercus!**