HST 617-896 and HST 617-899, American Legal and Constitutional History, Fall 2020

Prof. F. Thornton Miller

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Office Hours: Virtual, by email: Tuesday, 9:00-11:30 and Wednesday, 9:00-11:30

If a student would like to, I can also, by appointment, set up a Zoom session for us to meet.

Correspondence by Email

Except for the Virtual Office Hours on Tuesday and Wednesday, I will try to respond to email by the next day. For email received on Friday, Saturday, and Sunday, I will try to reply by Monday. My email replies will be during the day Monday-Friday, 8:00-5:00. I will not be responding to email after 5:00 or on the weekend.

Course Objectives

To study the development of the Common Law in America, the origins of American constitutionalism, the Philadelphia Convention, and the historical context of the changes in the law, in the Constitution, and in the courts since 1789.

Goals include making written arguments using supporting information; thinking critically about different interpretations of historical developments; and understanding American legal and constitutional development.

Required Reading

Texts: Documents on the internet including The Federalist

See Book Reports below

Course Policies

Students are required to have a Missouri State email account.

Makeup exams are allowed and are given toward the end of the term.

Grading

For your course grade, you must have at least a 94% average for an A, 90% for a A-, 87% for a B+, 84% for a B, 80% for a B-, 77% for a C+, 74% for a C, 70% for a C-, 67% for a D+, and 60% for a D.

Attendance

This is an online course but keep up with the windows for each exam that is posted and keep up with the due dates on the course calendar on the Main Course Page.

Academic Dishonesty

Missouri State University is a community of scholars committed to developing educated persons who accept the responsibility to practice personal and academic integrity. You are responsible for knowing and following the university’s student honor code, Student Academic Integrity Policies and Procedures.
and also available at the Reserves Desk in Meyer Library. Any student participating in any form of academic dishonesty will be subject to sanctions as described in this policy.

Nondiscrimination

Missouri State University is an equal opportunity/affirmative action institution, and maintains a grievance procedure available to any person who believes he or she has been discriminated against. At all times, it is your right to address inquiries or concerns about possible discrimination to the Office for Institutional Equity and Compliance, Park Central Office Building, 117 Park Central Square, Suite 111, 417-836-4252. Other types of concerns (i.e., concerns of an academic nature) should be discussed directly with your instructor and can also be brought to the attention of your instructor’s Department Head. Please visit the OED website at www.missouristate.edu/equity/.

Disability Accommodation

If you are a student with a disability and anticipate barriers related to this course, it is important to request accommodations and establish an accommodation plan with the University. Please contact the Disability Resource Center (DRC) (https://www.missouristate.edu/disability/), Meyer Library, Suite 111, 417-836-4192, to initiate the process to establish your accommodation plan. The DRC will work with you to establish your accommodation plan, or it may refer you to other appropriate resources based on the nature of your disability. In order to prepare an accommodation plan, the University usually requires that students provide documentation relating to their disability. Please be prepared to provide such documentation if requested. Once a University accommodation plan is established, you may notify the class instructor of approved accommodations. If you wish to utilize your accommodation plan, it is suggested that you do so in a timely manner, preferably within the first two weeks of class. Early notification to the instructor allows for full benefit of the accommodations identified in the plan. Instructors will not receive the accommodation plan until you provide that plan, and are not required to apply accommodations retroactively.

Dropping the Class

It is your responsibility to understand the University’s procedure for dropping a class. If you stop attending this class but do not follow proper procedure for dropping the class, you will receive a failing grade and will also be financially obligated to pay for the class. For information about dropping a class or withdrawing from the university, contact the Office of the Registrar at 836-5520.

Standard university policies not applicable to completely online courses: Cell Phone and Emergency Response policies.

Course Topics

Colonial America, Common Law, and Government in the British Empire

Development of Freedom of Religion

Revolutionary America and State Constitutions

Philadelphia Convention and the Debate over Ratifying the Constitution

Bill of Rights and Establishing the New Government
Development of Judicial Review

Development of Freedom of the Press

Marshall and Taney Courts and Economic Development

Slavery, Civil War, Racial Segregation, and the Civil Rights Movement

Industrialization, Regulation, Social Darwinism and the Fuller Court

Progressivism, Liberalism, the Progressive, New Deal, and Warren Courts

Women and the Family in the Law

% Breakdown of the Course:

Book Report(s): 15% for one report, 7.5% each if submitting two reports

Essays on The Federalist: 15%

Journal: 15%

Class Discussion on the Constitution: 5%

3 Exams: 50% (16.66% each)

Exams

There will be three exams. The exams will consist of identification (1/3) and essay questions (2/3). The terms or identification items will be given in advance. They will consist of terms to define, and major jurists, government acts, publications, and court cases to identify--give a brief description of the item, tell who was involved, when and where it occurred, and state why it was significant. In preparing for the exams, you are responsible for all lecture notes and primary source readings. In the essay part, you will be graded on organization and clarity as well as accuracy of information. You should be comprehensive in discussing all significant points and giving examples to support your statements. Particular dates are not required, but you should show development through time and keep events in the correct chronological sequence.

There will be online reviews before the exams.

The exams will be on Blackboard. You will have a window of several days to take the exams. Once you open the exam link you will have an hour and fifteen minutes to take and submit the exam, like a Tuesday/Thursday seated class.

The exams are “open book.” While you are taking the exam, you may consult your notes, the course lecture notes, or the course readings. Obviously, the more you study in advance, and the less you need to refer to the course materials during the exam time, the more time you will have in writing your answers.

Book Report(s)

Option 1: Read and report on one Book
Pick one of the books from the following:

Jack P. Greene, *Peripheries and Center: Constitutional Development*

Forrest McDonald, *Novus Ordo Seclorum*

Jackson Turner Main, *The Antifederalists*

Robert Clinton, *Marbury v. Madison and Judicial Review*

Tony Freyer, *Harmony and Dissonance: The Swift and Erie Cases in American Federalism*

Option 2: Read and report on two books

Dealing with the Separate but Equal Doctrine, there have been several books written on both the ruling that established the doctrine, *Plessy*, and on the ruling that overturned the doctrine, *Brown*. If you pick this subject read and report on two books, one on a book on *Plessy v Ferguson* and one on a book on *Brown v Board of Education of Topeka*.

More information will be provided later on this assignment.

**Essays on The Federalist**

A: Did Publius have a split personality? In this essay assignment you will explore differences between the contributions to *The Federalist* by Alexander Hamilton and James Madison. Your essay should be about 5-7 pages.

B: Interpreting *Federalist 10*

Over time *The Federalist* has been considered one of the most important works on the Constitution and, within *The Federalist*, the most famous is No. 10. Historians can use the same primary sources but interpret them very differently. In your essay you will explore how different historians/historiographical schools have dealt with and interpreted *Federalist 10*. Your essay should be about 3-5 pages.

More information will be provided later on this assignment.

**Journal**

In your journal you will address questions about the primary sources we will be reading in the class. More information will be provided later on this assignment.

**Class Discussion on the Constitution**

There will be an online discussion on Blackboard. We will take up several issues from the debate over the ratification of the Constitution. Students will debate with each other taking the Federalist and Anti-Federalist positions. More information will be provided later on this assignment.