

## Govt201 Origins of the Constitution

### 1. Course Number and Title: Govt201: Origins of the Constitution

**Prerequisites:** Govt200, Roots of American Order

**Credits:** 3 credits

**2. Course Description:** Origins of the Constitution, Govt201, addresses the origins of the United States Constitution and American constitutionalism. The course delineates both the ideals as well as the practical considerations that shaped this unique document. Beyond these ideals and practicalities, however, committed interests fueled the discussions at the Philadelphia Convention, a thorough analysis of which is central to the course's discussions. The outcome of the convention was a spare but deft management of all these pressures. The U.S. Constitution became not only the backbone for this nation's but arguably Western civilization's concept of rule of law under a genuinely republican regime.

The course is based on the primary text, *Liberty, Order, and Justice* by Dr. James McClellan, as well as three other secondary sources. Chapters from the McClellan text may be accessed in Izio in "Assignments." You may also purchase a copy of this book from Liberty Fund located at <http://www.libertyfund.org/browse.asp>

*Liberty, Order, and Justice* provides contextual information about this formative period during the American Founding. Students will also participate in online discussions by responding to topics located in "Discussion" in Izio.

**3. Course Goals:** Students will analyze and evaluate how ideals about liberty, order, and justice were grounded in a political formula for organizing a functional and just government, which operated according to an evolving body of law. They will be able to trace contemporary arguments about what constitutes the "rule of law" back to their original concepts and how they were debated during the Convention. Finally, they will identify the qualities of character among the Framers that inform American models of public leadership and civic virtue.

**4. Course Outcomes:** To achieve the course goals, students will accomplish the following:

1. Students will identify and evaluate the influence of political concepts drawn from the Greek, Roman and English philosophies, and how these ideas influenced the Founding generation.
2. Students will compare and explicate the influence of the following political theorists and jurists: Edmund Burke, Edward Coke, Francis Bacon, William Blackstone, Algernon Sidney, John Locke, and Montesquieu. Students will also demonstrate how the English common law tradition impacted the formation of constitutional government in
3. Students should describe the origin and development of representative government and constitutionalism in the American colonies in terms of the unique cultural and geographic circumstances of North America. Students will begin formulating an understanding about representative government and its connection to American rights and liberties.
4. Recognize the advantages and flaws of early constitutional documents at the state and federal level. Frame these characteristics within the broader sweep of English constitutionalism. Explain the different interpretations of the Declaration of Independence, particularly in terms of the tension between liberty and equality.

5. Analyze the political and social interests of key delegates to the Philadelphia Convention. Contrast their political beliefs and account for the various compromises reached at the Philadelphia Convention.
6. Delineate the evolution of federalism in early America and contrast the decentralized form of federalism with the plans of nationalists to centralize political power. Above all, students should defend the key values, beliefs, and restraints necessary for American federalism to properly function.
7. Assess the success of the specific constitutional restrictions that provide for the “checks and balances” between the “separated” powers of government and the limited powers afforded the federal government in protecting individual and States’ rights.
8. Weigh and contrast the different positions of the Federalists and Anti-federalists in terms of federalism, separation of powers, and the political theories previously discussed in the course.
9. Describe the various means by which Americans interpret the United States constitution particularly in light of three positions: originalist, textualist, and a “living” constitution. Students will be able to discuss competing means of ruling on the constitutionality of federal policy and law.
10. Describe and justify the elaborate means by which the Constitution is amended.

#### **5. Course Concepts:**

1. The Greek, Roman, and English philosophical and political influence
2. Edmund Burke, Edward Coke, Francis Bacon, William Blackstone, John Locke, Algernon Sidney, Montesquieu
3. The Stamp Act, the “Ship Money Case”
4. Declaration and Resolves of the First Continental Congress (1774), Declaration of Independence, Preamble to the Declaration of Independence, The Articles of Confederation,
5. Federal Convention in Philadelphia, the Framers, the Virginia Plan, the New Jersey Plan, Connecticut Compromise, Three-Fifths Compromise, the Constitution, the Bill of Rights
6. Confederation, Federalism, Federalists, States’ Rights, Anti-Federalists, The Federalists Papers, The Anti-Federalist Papers
7. Democratic republic, separation of powers, checks and balances, independent judiciary, supremacy clause
8. Constitutional interpretation and amendment
9. Independent regulatory commissions, Doctrine of Incorporation
10. Northwest Ordinance, Kentucky and Virginia Resolutions of 1798

#### **6. Required Texts:**

James McClellan, *Liberty, Order, and Justice* (Liberty Fund, 2000)  
 ISBN: 13: 9780865972568,

This book is included in the course and students may access, and print, the text from within the course delivery system. You may purchase a hardcopy from Liberty Fund by visiting <http://www.libertyfund.org/howto.htm>

Ralph Ketchum, *The Anti-Federalist Papers and the Constitutional Convention Debates* Signet Classics (May 6, 2003). ISBN: 13: 9780451528841.

Kendall and Carey, *Basic Symbols of the American Political Tradition* (Catholic University Press, 1995) ISBN: 13: 978-0-8132-0826

## 7. Recommended Reading

Merrill Jensen, *New Nation: A History of the United States during the Confederation*. Northeastern University Press (March 1981). ISBN: 13: 9780930350147.

M.E. Bradford, *The Founding Fathers: Brief Lives of the Framers of the United States Constitution* (Kansas, 1994) ISBN: 13: 9780700606573

Donald Lutz, *A Preface to American Political Theory* (Missouri, 1992) ISBN: 13: 9780700605453

## 8. Resources

American Memory Project  
[memory.loc.gov/ammem/amlaw/lawhome.html](http://memory.loc.gov/ammem/amlaw/lawhome.html)

Avalon Project  
[www.yale.edu/lawweb/avalon/avalon.htm](http://www.yale.edu/lawweb/avalon/avalon.htm)

Joseph Story's Commentaries on the Constitution  
[www.constitution.org/js/js\\_000.htm](http://www.constitution.org/js/js_000.htm)

The Constitution in Five Acts  
[www.teachingamericanhistory.org](http://www.teachingamericanhistory.org)

The Constitution Society  
[www.constitution.org/](http://www.constitution.org/)

The Federal Government by Abel Upshur  
[www.constitution.org/ups/upshur.htm](http://www.constitution.org/ups/upshur.htm)

The Founder's Constitution  
[press-pubs.uchicago.edu/founders/](http://press-pubs.uchicago.edu/founders/)

The Library of Economics and Liberty  
[www.econlib.org/](http://www.econlib.org/)

The Mises Institute  
[www.mises.org/](http://www.mises.org/)

The Philadelphia Convention  
[teachingamericanhistory.org/convention/intro.html](http://teachingamericanhistory.org/convention/intro.html)

## **COURSE SYLLABUS**

**Course Number:** Govt201

**Course Title:** Origins of the Constitution

**Faculty:** Carey Roberts, Ph.D

Preliminaries: (Review Announcements in Izio)

### **Performance Requirements/Course Grade:**

Students will be evaluated on the basis of performance in four areas:

1. Midterm Exam (20%) Your mid-term is located in Assignments.
2. Final Exam (20%) Your final is located in Assignments.
3. Discussion (30%)
4. Writing Assignment #1 (15%)
5. Writing Assignment #2 (15%)

You will find that the following book is recommended reading for students in Govt201:

M.E. Bradford, *The Founding Fathers: Brief Lives of the Framers of the United States Constitution* (Kansas, 1994) ISBN: 13: 9780700606573.

Your writing assignment for Session 5 of Govt201 is to choose one of the “Founding Fathers” from M.E. Bradford’s *The Founding Fathers* and write a three page biographical sketch.

Your writing assignment for Session 9 of Govt201 is to choose a second “Founding Father” and write a three page biographical sketch.

Use the University of Chicago Manual of Style for all citations you make and include a Bibliography of sources you consulted.

Yorktown University official grade and writing rubrics are located at

[http://www.yorktownuniversity.com/grad\\_rubrics.cfm](http://www.yorktownuniversity.com/grad_rubrics.cfm)

### **Course Participation and Assignment Submissions**

Students are responsible for participating in the course through the following academic activities: uploading assignments, posting to discussion folders, and responding to faculty inquiries. Students are expected to be involved in ongoing instructional activities based on the recommended schedule for course completion as detailed in the syllabus. In order to actively participate in a course, Students must make contact with their faculty mentor on a regular basis through one of the following methods:

- Posting of an assignment in the assignment area of the course web site (e.g., a paper, project, etc.).
- Posting of an assignment to share with the faculty mentor and other students in the course web site (e.g., a review of a book or article, a proposal for a research study, a presentation in the form of a PowerPoint presentation file, reporting on participation in a research study, etc).
- Participation in a threaded discussion in the course web site (e.g., commenting on a discussion question posted by the faculty mentor, providing feedback to another student, etc.).
- Viewing instructional materials (e.g., a PowerPoint presentation prepared by the faculty mentor, a streaming audio or video presentation, etc.).

### **Academic Integrity**

Available both in the student and faculty handbooks.

### **Recommended schedule for course completion**

[Each session of the course focuses on specific sections of McClellan's Liberty, Order, and Justice. The topics from that book are listed for each session.]

**Session 1: The Constitution's Deep Roots and America's First Constitutions:** The Meaning of Constitutional Government. The Lamp of Experience  
The Constitutions of Antiquity. English Origins of Americas Constitution  
The Growth of Parliament. The Challenge of Parliamentary Supremacy

#### **Lectures**

"How to Read Primary Sources" by Carey Roberts

"The British Influence on the American Constitutional and Political Tradition: The Supremacy of Law and the Rights of Englishmen" [all parts]

#### **Assignments**

##### **Reading**

McClellan, part 1, p. 1-38

#### **Discussion Question(s):**

What is meant by the term "Founding" when it comes to the Founding era? Was the political tradition that guided the Framers of the US Constitution "founded" in any direct fashion, or did it evolve over time?

**Session Outcomes:** 4:1 (reference to section 4 above)

**Session 2: Achievement at Philadelphia and Basic Constitutional Concepts.** The Common Law Tradition. The Republican Tradition & Struggle for Constitutional Liberty. The Influence of Continental Thinkers. The Education of the Founders  
The French & American Revolutions Compared

#### **Lectures**

[None]

#### **Assignments**

McClellan, part 1, p. 39-88

#### **Discussion Question(s):**

What "threads of tradition" are interwoven in the early American political tradition? Where do the roots of American order lie, and finally, how did seemingly diverse traditions eventually come together?

**Session Outcomes:** 4:2

**Session 3: America's First Constitutions and Declarations of Rights. Part I.** Colonial Governments. Relations with Great Britain. Local Government in the Colonies. Civil Liberties in the Colonies. The Movement toward Independence.

**Lectures**

(None)

**Assignments**

McClellan, part 2, p. 89-120

**Discussion Question(s):**

What role do state constitutional traditions play in the overall picture of American constitutional development? More specifically, if some from a foreign country came to the United States to study constitutionalism, why would it be a good idea for them to study state constitution making rather than the federal constitution of 1787?

To what degree did the founders of the American colonies have a vision of liberty and order for their respective colony? How successfully do you think they were in achieving these goals?

**Session Outcomes:** 4:3

**Session 4: America's First Constitutions and Declarations of Rights. Part II** The Declaration of Independence. The Rights Proclaimed. The First State Constitutions, 1776-1783. The Articles of Confederation

**Lectures**

"The Declaration of Independence" by H. Lee Cheek located in "Audio Lectures" in Lectures in Izio.

**Assignments**

McClellan, part 2, p. 121-240 (the bulk of this session's readings are primary documents).

**Discussion Question(s):**

In what ways can the phrase "all men are created equal" be used to promote the radical reorganization of human society? What do you believe Jefferson meant by this phrase?

What kinds of rights are included in the Declaration of Independence? From where did these rights come?

**Session Outcomes:** 4:4

**Session 5: The Achievement of the Philadelphia Convention**

Detailed treatment of the Philadelphia Convention. The Problems of the Convention. The Delegates to the Convention. A Wide Range of Talents

Plans and Progress at Philadelphia. The Meaning of Federal. The Virginia Plan: A Supreme National Government. Hamilton's Concept of a Unified America

The New Jersey Plan: Checks Upon Central Power. The Benefits of Compromise  
Compromise and Consensus

**Lectures**

Located in "Audio Lectures" in Lectures:  
McClellan, The Philadelphia Convention: Introduction  
McClellan, The Philadelphia Convention: Part II

**Assignments**

McClellan, part 3, p. 241-294

**Discussion Question(s):**

To what degree were the Framers motivated by political theory and to what degree were they motivated by their and their state's interests?

What kinds of different plans were offered to change the nature of the American union? What did these plans supposed to achieve?

**Session Outcomes:** 4:5

**Session 6: Basic Constitutional Concepts: Federalism**

Powers Delegated to Congress. Powers Denied to Congress

Powers Denied to the States. The Division of Powers. The Supremacy Clause

National and State Obligations. Obligations of the National Government to the States. Obligations of the States to the National Government. Obligations of the States to Each Other. The Role of the States in the Amendment Process

The Advantages of Federalism. The Future of Federalism

**Lectures**

[None]

**Assignments**

McClellan, part 4A, p. 295-321

**Discussion Question(s):**

What is federalism?

Why was federalism a better form of government for the thirteen states in 1787 than a republic? Please note that a republic and a federation are not the same.

**Session Outcomes:** 4:6

**Session 7: Basic Constitutional Concepts: Separation of Powers and Rule of Law** The Separation of Powers. Checks and Balances. Checks Upon the Congress. Checks Upon the President. Checks Upon the Judiciary

The Independence of Congress. The Independence of the President. The Independence of the Judiciary. Summary and Review. Separation of Powers: A Critical Evaluation. Separation of Powers at the Crossroads

The Rule of Law: The Basic Principles of the American Constitution

**Lectures**

(None)

**Assignments**

McClellan, part 4B, p. 327-380

**Discussion Question(s):**

What does the term "separation of powers" mean?

Can power really be separated?

Should we modify the term to mean the "exercise of power," or something along those lines?

**Session Outcomes:** 4:7

**Session 8: Defending the Constitution: The Struggle Over Ratification and the Bill of Rights**

Survey of the major arguments, movements, and interests involved in the ratification of the Constitution of 1787. The Anti-Federalist Persuasion. The Constitution Establishes a Consolidated Empire. The Constitution Establishes an Aristocracy. The Constitution Confers Too Much Power. An Imperial Congress An Elected Monarch. An Omnipotent Judiciary  
The Federalist Response. Congress is not an Oligarchy. The President is not a King. The Judiciary is the Least Dangerous Branch. Whether a Bill of Rights was Necessary. The Clash of Values. The Progress of Ratification. The Bill of Rights: The First Ten Amendments

**Lectures**

[None]

**Assignments**

McClellan, part 5, p. 381-462

Ketcham, *The Anti-Federalist Papers and the Constitutional Convention Debates*, 199-221, 256-308, 269-308, and 324-335

**Discussion Question(s):**

Usually, historians and political scientists frame the ratification debates in terms of what the Federalists were "for" versus what the Anti-federalists were "against." Allow me to turn the tables on this old interpretation.

What were the Federalists "against" and what were the Anti-federalists "for?"

**Session Outcomes:** 4:8

**Session 9: Interpreting and Preserving the Constitution**

Principles of Statutory Construction. The Doctrine of Judicial Review  
The Supreme Court as Final Interpreter. The States as Final Interpreter  
Strict Versus Loose Construction. The Independence of the Judiciary  
Origins of Judicial Independence. The Judicial Power and Jurisdiction

**Lectures**

[None]

**Assignments**

McClellan, part 6, p. 463-550.

**Discussion Question(s):**

By the late 20th century, the Supreme Court delivered rulings as if it sat as a perpetual constitutional convention--or as was discussed at the Philadelphia Convention, as a Council of Revision.

Where should responsibility lie for interpreting and enforcing the Constitution?

**Session Outcomes:** 4:9

**Session 10: Changing the Constitution-Together With an Explanation of the**

**Amendments Added Since 1791** Our Living Constitution. Our Changing Constitution. Amending the Constitution. The Limits of the Amending Power.

## The Amended Constitution

### **Lectures**

[None]

### **Assignments**

McClellan part 7, p. 551-599

Kendall and Carey, *Basic Symbols of the American Political Tradition* (the entire book)

### **Discussion Question(s):**

Why is it important that a Constitution be amendable? Should the ability of amending be difficult or easy?

**Session Outcomes:** 4:10