

# COURSE OUTLINE

**1. Course Number and Name:** Govt4306, Constitutional Law: The Grant of Powers to the Federal Government

**Prerequisites:** Govt4201, Origins of the Constitution and Hist4101, U.S. History to 1800.

**Credits:** 3

**2. Course Description:** This course is an examination of United States Constitutional History. Particular emphasis will be placed on the origins of the Constitution, the constitutional convention, and debate surrounding the written Constitution of 1787. Since this is a survey course, emphasis will be placed on the major periods of American history. In addition, students will learn about important Supreme Court cases, Justices, and the political atmosphere surrounding constitutional issues.

**3. Course Goals:** This course introduces students to the history of the Constitution and provides a survey of the principal decisions of constitutional law that have influenced the development of the American polity. Students will learn how the Constitution was formed, the structure of the Constitution, and the major debates over the Constitution.

**4. Course Learning Outcomes:** Students who complete this course will be able to:

1. Understand why the Constitution was written and structures within the Constitution such as Separation of Powers and Checks and Balances.

2. The Student will gain an understanding of the major constitutional disputes throughout American history. In addition, Students will be able to understand the different theories of constitutional interpretation.

3. Trace the development of Supreme Court decisions and learn how the Court has viewed the Constitution through some of their more historic decisions.

4. Identify the rules and principles that define:  
the constitutional doctrines of the implied powers of government,  
the inherent powers of the national government, and  
the incidental or auxiliary powers of the branches of government

5. Trace the development of these judicial rules and principles in Supreme Court decisions throughout U.S. history.

6. Identify the constitutional doctrines relating to Congress, such as the doctrine of the non-delegation of legislative power, the interpretation of the Necessary and Proper Clause, the interpretations over the years of the Commerce Clause, and the protections afforded members of Congress and their aides by the Speech or Debate Clause, and

trace the development of these doctrines in Supreme Court cases throughout U.S. history.

7. Identify the constitutional doctrines relating to the President of the United States, such as the President's appointment and removal power, the President's constitutional power in foreign affairs and in times of war.

8. Trace the changing constitutional relationship between the national and the states' governments throughout American history through the differing interpretations in Supreme Court decisions of constitutional doctrines and provisions such as the doctrine of dual federalism, the federal regulatory power under the Commerce Clause, the state regulatory power under the police power and the negative or dormant Commerce Clause, the Eleventh Amendment, and the Reconstruction Amendments.

9. Identify the principal limitations of governmental power over private property as reflected in the court's interpretations of the Contract Clause, the doctrine of liberty of contract, and the concept of the governmental taking of property.

10. Apply the aforementioned rules, principles, and doctrines to hypothetical and realistic sets of facts by identifying the constitutional issue and principle presented by a particular factual situation, stating the rule accurately, and reasoning logically and plausibly from the rule to a resolution of the issue presented by the facts.

**5. Course Concepts:** The following legal and constitutional concepts are the focus of Govt4306:

1. Court opinions and Judgments—issues, holdings, rules and principles, majority opinions, plurality opinions, concurring opinions, dissenting opinions, opinions concurring in the judgment, case citations.

2. Court jurisdiction, doctrines of justiciability, the doctrine of judicial review.

3. Governmental powers—enumerated, implied, inherent, and incidental powers, immunity and privilege.

4. The powers of Congress and their limits—the delegation of legislative power doctrine, the Necessary and Proper Clause, the Speech or Debate Clause, incidental powers.

5. The powers of the President—the appointment and removal power, the pardon power, the powers of the President in foreign affairs and war, executive immunity and privilege, incidental powers.

6. The powers of the national government vis a vis the states—the doctrine of dual federalism, the powers of Congress under the Commerce Clause, the Eleventh Amendment, the taxing and spending power.

7. The powers of the states in the federal system—the state police powers, the negative or dormant Commerce Clause, preemption doctrine.

8. The powers of the governments over private property and economic liberties—the Contract Clause, the doctrine of liberty of contract, the taking of property.

## **6. Required Texts:**

Melvin I. Urofsky and Paul Finkelman, *A March of Liberty: A Constitutional History of the United States, Volume I, From the Founding to 1890*, Oxford University Press, 2002. ISBN-0-19-512635-1.

John A. Garraty, editor, *Quarrels That Have Shaped The Constitution*, Harper-Perennial, New York, 2009. ISBN: 978-0-06-132084-2.

## **7. Recommended Readings:**

Henry Abraham. *Justices, Presidents and Senators: A History of U.S. Supreme Court Appointments from Washington to Bush II*. Rowman and Littlefield, 2007. ISBN-10: 0742558959 ISBN-13: 978-0742558953

George Anastaplo. *Abraham Lincoln: A Constitutional Biography*. Rowman and Littlefield, 2001. ISBN-10: 0847694321 ISBN-13: 978-0847694327

John Nowak and Ronald Rotunda. *Constitutional Law*. 7<sup>th</sup> ed. West, 2004. ISBN-10: 0314144528 ISBN-13: 978-0314144522

Bernard Schwartz. *A History of the Supreme Court*. Oxford University Press, 1995. ISBN-10: 0195093879 ISBN-13: 978-0195093872

## **8. Additional Resources:**

Complete copies of Supreme Court and other court opinions are available on the Internet via several free sites. Students may be asked to register for some of the sites, but there is no charge or obligation. Some of the sites have useful search capabilities. A list of some of the most useful for students of constitutional law follows:

[www.findlaw.com](http://www.findlaw.com) A broad legal resource site sponsored by Thomson and West publishing group. This is especially useful for Supreme Court opinions through the 1980s. Use the tab “For Legal Professionals” on the main webpage.

[www.lexisone.com](http://www.lexisone.com) A narrower site sponsored by Thomson/West’s chief rival in legal publishing, Lexis-Nexis. This site is more useful for recent Supreme Court decisions.

[www.supremecourtus.gov](http://www.supremecourtus.gov) The official public website of United States Supreme Court. No registration required. This site is particularly useful for up-to-the-minute publication of new Supreme Court opinions (though the site only makes them available for about a year) and for information about the litigation process at the Supreme Court.

<http://supct.law.cornell.edu/supct> The site sponsored by the Legal Information Institute of Cornell University Law School. The site is particularly useful for locating recent Supreme Court opinions, for identifying the legal issues and arguments in Supreme Court cases before and after the cases are argued, and for a wide range of legal and legal procedure information.

[www.oyez.org](http://www.oyez.org) A flashy site titled "U.S. Supreme Court Media" and featuring audio recordings of the arguments in many cases since 1955.