This course explores the development of American constitutional law from the founding era to the secession crisis. We'll focus not only on constitutional doctrine but also on the broader intellectual and political context in which it evolved. Topics will include the intellectual origins of the Constitution, the Constitutional Convention and ratification, the development of the judiciary and centralization of federal power, the role of natural law in constitutional adjudication, the constitutional issues revolving around slavery, and the persistent institutional and sectional conflict that led to the nullification and secession crises.

Texts:


Cover, *Justice Accused* (on reserve)

Additional readings in coursepack and on reserve

Course requirements: The course will consist of lecture and discussion. You are expected to complete the readings before class so that you can come to class prepared to listen attentively and engage in a lively and thoughtful discussion.

Your grade will be computed as follows:

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<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
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<tr>
<td>Midterm</td>
<td>25%</td>
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<tr>
<td>Final</td>
<td>35%</td>
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<tr>
<td>Quizzes and presentations</td>
<td>15%</td>
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<tr>
<td>Research Paper</td>
<td>25%</td>
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Weekly presentations: Each week, selected students will present an assigned case to the class. The student should locate the full text of the case in the library and concisely present the following:

1. Summarize the facts of the case
2. Explain the Court's reasoning and the holding
3. Explain the reasoning of the dissenting opinions, if any
4. Explain why this case is significant, both politically and legally

**COURSE OUTLINE**

**I. Origins**

Kelly, Harbison & Belz (KHB), Ch. 3, 4
Locke, Two Treatises (handout)
Blackstone, Commentaries (handout)
Dickinson, Letters from a Farmer (handout)
Declaration of Independence (in KHB)
Articles of Confederation (in KHB)
Waldron, Precommitment and Disagreement (on reserve)

QUIZ #1

DEBATE: Was the Revolution justified?

II. The Constitutional Convention and Ratification

KHB Ch. 5, 6
Constitution (in KHB)
Beard, Framing the Constitution (on reserve)
Roche, The Founding Fathers: A Reform Caucus in Action (on reserve)
Federalist Papers #1, #10, #39, #51, #78 (in coursepack [CP])
Antifederalists (selected) [CP]
Paul Brest, The Misconceived Quest for Original Understanding (on reserve)

QUIZ #2

III. The Alien and Sedition Acts

KHB Ch. 7, 8
Zenger's Case (Hamilton's summation) [CP]
Sedition Act & Congressional debate on repeal [CP]
Virginia and Kentucky Resolutions [CP]

QUIZ #3

IV. Marshall and the Development of the Federal Judiciary

KHB Ch. 9, 10, 11
Judiciary Act of 1789 [CP]
Calder v Bull [CP]
Marbury v Madison [CP]
Eakin v Raub [CP]
Cohens v Virginia, Martin v Hunter's Lessee [CP]
Fletcher v Peck [CP]
Gibbons v Ogden [CP]

DEBATE: Who should interpret the Constitution?

V. Jackson v Marshall

KHB Ch. 12, 13
Charles River Bridge v Warren Bridge [CP]
McCulloch v Maryland [CP]
Jackson's Veto Message [CP]
Cherokee Nation v Georgia [CP]
Worcester v Georgia [CP]
Nullification Proclamation [CP]

QUIZ # 4

VI. Slavery and Secession
KHB, Ch. 14, 15
Cover, Justice Accused
Arguments on removal of Judge Loring [CP]
Prigg v Pennsylvania [CP]
Ableman v Booth [CP]
Dred Scott v Sanford [CP]

*Movie: Amistad

RESEARCH PAPER

Your assignment is to research a significant constitutional case and explain why it’s important to the development of constitutional law, to constitutional politics, and to the development of the Court as a political institution. You may choose to discuss two related cases, but no more than two. Your paper should contain four parts:

1. Explain the facts of the case: how it arose, how it was decided in the lower courts, who was involved with the case, and any other relevant information.
2. Explain the political context of the decision: Why was it politically controversial? What political pressures did the Court face? Where did each Justice stand on the issue?
3. Explain and evaluate the reasoning of the majority and dissenting opinions. Were their arguments sound? How did the opinion change the law?
4. Discuss the decision’s impact: Did it change the way other government officials operate? Did it alter the balance of power among the branches of government? Did it affect other areas of constitutional law? Overall, was it a good decision?

Suggested cases: (You may choose a case not on this list, but I must approve it.)

- Zenger's Case
- Marbury v. Madison, 5 US 137
- Martin v Hunter's Lessee, 14 US 304 (1816) & Cohens v Virginia, 19 US 264 (1821)
- McCulloch v Maryland, 17 US 316 (1819)
- Impeachment trial of Samuel Chase (1805)
- Trial of Aaron Burr (1807)
- Fletcher v Peck, 10 US 87 (1810)
- Dartmouth College v Woodward, 4 Wheaton 518 (1819)
- Gibbons v Ogdens, 22 US 1 (1824)
- Charles River Bridge v Warren Bridge, 36 US 420 (1837)
- Worcester v Georgia, 6 Peters 515 (1832) & Cherokee Nation v Georgia, 5 Peters 1 (1831)
- Prigg v Pennsylvania, 41 US 539 (1842)
- Ableman v Booth, 21 Howard 506 (1856)
- Dred Scott v Sanford, 60 US 393 (1857)

I expect this paper to be 10-15 pages. However, there is no page limit. You should include a bibliography and document your references (you may use the Chicago Manual of Style or MLA, as long as you are consistent.) A thoroughly researched paper will draw on many sources, including both books and periodicals. Please do not rely on the internet.

Note: The bibliography at the end of Kelly, Harbison & Belz suggests a number of excellent sources.