This course is concerned with examining the nature of constitutionalism. This is a broad topic, and we can only scratch the surface in a semester. The goal of the course is to propose some questions about constitutionalism and to provide some familiarity with alternative approaches and conceptions of constitutional theory and practice. This is not a course in constitutional law. The judiciary lurks in the background of many of our readings, but we will read few opinions and judges carry no special authority for our purposes. Much of this theorizing and discussion draws upon the American case in particular. Although the lessons to be learned are generalizable, they are largely elaborated in the context of American institutions, culture and theoretical assumptions. If you need more to refresh yourself on American constitutional history, I suggest Lucas Powe’s *The Supreme Court and the American Elite* and Alfred Kelly, Winfred Harbison and Herman Belz’s *The American Constitution*. There are a number of American constitutional law casebooks available that provide introductions to some canonical cases. There are a smaller number of comparative constitutional law casebooks, including Vicki Jackson and Mark Tushnet’s *Comparative Constitutional Law*.

Our concerns include defining what a constitution actually is and identifying its function within a political system. This requires expanding our inquiry beyond the traditional emphasis on the legal constitutional text that predominates in American constitutional analysis. Examining what a constitution is also requires us to ask why we have one. A commitment to constitutionalism raises questions of constitutional interpretation. How should we interpret our fundamental political commitments and who is authorized to resolve disagreements as to its meaning? The mechanisms of constitutional change must be examined. If constitutions are to be binding, they must be relatively stable. But if constitutions are to be authoritative, they must be flexible. We will consider some ways of asking these questions and some ways that they have been answered. Finally, we will consider some important issues of constitutional design and the empirical and normative significance of some common constitutional features.

Our examination of constitutionalism should raise both empirical and normative questions. The Constitution is not only the subject of normative theory, it is also an aspect of political practice. If constitutions are to be authoritative, the is and the ought must be linked. Determining what the Constitution is should also determine how we should behave. On the other hand, constitutions should not only prescribe political practice, but a functioning constitution should also describe the actual political system. Ultimately, those two aspects of the Constitution must be related to one another. The topics under examination this semester are only a selection of the possible ones. Not only will our examination of each individual topic necessarily be limited, but also there will be other topics of constitutional theory that will not be examined at all (for example, other possible justifications for constitutionalism). These readings should relate not only to the other readings within a given week, but also to other readings in the semester and to other topics not discussed this semester. Class discussion in any given week should be permeable to those concerns. The syllabus provides a brief comment on each week’s readings. The questions asked in those comments are at best starting points for your thinking, and are merely intended to help orient you toward that week’s material in the context of the course. Those suggested questions are also framed in a rather general fashion, and do not explore the specifics raised by the assigned readings. You should certainly be thinking about those specifics, as well as how the readings relate to our general concerns.

**Schedule:**

What and Why?
1. September 17: Introduction: The Political Constitution
2. September 24: The Legal Constitution: Rights and Constraints
3. October 1: Structure and Order
4. October 8: Democracy and Sovereignty
5. October 15: Promises and Commitments
6. October 22: Functionality

Who Interprets?

7. October 29: Judicial Review
8. November 12: Departmentalism

Temporality

10. December 3: Maintenance and Change

Structural Issues

11. December 10: Presidents, Parliaments, and Courts
12. December 17: Power and Representation

Materials:

The following books are available for purchase:

Bruce Ackerman We the People
Zachary Elkins, Tom Ginsburg, and James Melton, The Endurance of National Constitutions

The remaining readings are on electronic reserve at the library. All required readings are available on reserve in the library.

Requirements:

Seminar participants will prepare two short papers of 6-8 pages each and one substantial literature review or review essay of 6-8 pages during the course of the semester. Each short paper is to explore some problem arising from or addressed by the readings of a selected week. There is no reason why two or even three of your papers could not address different facets of a common problem. The papers may be guided by the suggested questions provided in the syllabus, but they are by no means constrained by those suggestions.

The literature review or review essay should be framed around a work or topic suggested by a given week of the syllabus. The essay should provide an original, synthetic, and analytical accounting of the subject at hand. It should integrate at least seven relevant sources into the discussion. This is not a short book review, of the type that can be found in Perspectives on Politics or the Law and Politics Book Review (http://www.bsos.umd.edu/gvpt/lpbr), which are generally limited to under 2000 words and focused on summary and quick evaluation of a single book. Some useful tips on writing a literature review can be found at http://www.writing.utoronto.ca/advice/specific-types-of-writing/literature-review. Literature reviews can be found as a section in most journal articles and as a chapter or portion of a chapter in most dissertations and some academic books. Good examples can be found in JOP 72 (2010): 767; JOP 72 (2010): 747; JOP 72 (2010): 672. Stand-alone review essays are related but take a somewhat different form. Examples can be found in journals like Reviews in American History, Law and Social Inquiry, Political Theory, as well as some law reviews, annuals and handbooks. For some models, consider LSI 24 (1999): 221; LSI 17 (1992): 715; LSI 34 (2009): 747. You have flexibility in choosing the thesis and central works for the review, so long as it connects to a specific week in the syllabus.
Each paper should include a brief abstract (150-500 words). Papers should not simply be read at the seminar, but you should be prepared to present an oral version of your argument. The oral presentation should develop the argument contained in your paper and initiate that day’s discussion. Papers will be scheduled at the beginning of the semester and are **due the day before the relevant seminar**. They should be emailed to me and the other seminar participants by 5:00 pm on the preceding Thursday, if not before.

The “required” readings are absolutely required. You are expected to have read thoroughly and thought about each of these readings before every class. The suggested readings are for your further consideration and reference. You are welcome to make use of the suggested readings in preparing your papers, and to incorporate them as appropriate for the benefit of the other participants. The suggested readings are sometimes directly related to the required readings. In other weeks, the suggested readings are a diverse collection of interesting works that raise related questions.

Each of the three papers will constitute a quarter of your final grade, with the remainder determined by participation.
Readings

1. Introduction: The Political Constitution

What is “the Constitution,” and what does it do within the political system? Is the Constitution constraining or empowering?

Required:

Edward S. Corwin “The Constitution as an Instrument and as Symbol” APSR (1936)
William F. Harris II The Interpretable Constitution ch. 1
Keith E. Whittington, “Constitutionalism,” in Oxford Handbook of Law and Politics

2. The Legal Constitution: Rights and Constraints

The “standard” view of the Constitution is that it is a mechanism for limiting government and protecting minority and individual rights. Constitutionalism contrasts with democracy, and the enforcement of constitutional constraints is best conceptualized as countermajoritarian. The Constitution is a “law” that is applied against the government. What is a constitution? What does it mean to think of the constitution as a law? What is the significance of the legalization of the constitution? What are constitutional rights, and how should they be enforced? Is there a relationship between the negative, legal constitution and the positive, political constitution?

Required:

Charles McIlwain Constitutionalism: Ancient and Modern ch. 1, 6
Giovanni Sartori “Constitutionalism: A Preliminary Discussion” APSR (1962)
Ronald Dworkin “Constitutional Cases” in Taking Rights Seriously
Richard Bellamy, “Republicanism, Democracy and Constitutionalism,” in Republicanism and Political Theory

Suggested:

Edward S. Corwin The “Higher Law” Background of American Constitutional Law
Carl Friedrich Constitutional Government and Democracy
James Stoner Common Law and Liberal Theory
Gerald Stourzh “Constitution: Changing Meanings of the Term from the Early Seventeenth to the Late Eighteenth Century,” in Terence Ball and J.G.A. Pocock, eds. Conceptual Change and the Constitution
Walter Murphy “Constitutions, Constitutionalism and Democracy,” in D. Greenberg, et al., Constitutionalism and Democracy
Harry Hirsch A Theory of Liberty
Jennifer Nedelsky Private Property and the Limits of American Constitutionalism
Friedrich Hayek The Constitution of Liberty
3. Structure and Order

Constitutions can also be conceptualized as a mechanism for imposing order within a political system. The political universe is not inherently ordered; structure must be imposed. The political sphere must be “constituted.” Why is the ordering of politics a “constitutional” project? Why does politics need ordering? What is the conceptual problem driving concerns of institutional structure? What is the relationship, if any, between the constitution as an institution and the constitution as a law? How is order constituted? To what extent are ideas “constitutional”?

Required:

Rogers M. Smith “Historical Institutionalism & the Study of the Law,” in The Oxford Handbook of Law & Politics
John Finn, “The Civic Constitution,” in Constitutional Politics
Herbert McClosky and John Zaller, The American Ethos, ch. 7

Suggested:

Jon Elster and Rune Slagstad, eds. Constitutionalism and Democracy
Stephen Holmes Passions and Constraint
Jack Knight Institutions and Social Order
Jack Knight and Itai Sened, eds. Explaining Social Institutions
Anthony Giddens The Constitution of Society
Walter Powell and Paul DiMaggio, eds. The New Institutionalism in Organizational Analysis
H.L.A. Hart The Concept of Law
James Hart Ely Democracy and Distrust
Louis Fisher Constitutional Conflicts Between the Congress and the President
M.C. Vile Constitutionalism and the Separation of Powers
Martin Reddish The Constitution as Political Structure
Giovanni Sartori Comparative Constitutional Engineering
Roland Czada and Adrienne Windhoff-Heritier, eds. Political Choice
Vincent Ostrom Governing the Commons
Jan-Erik Lane Constitutions and Political Theory
Kenneth Shepsle “Institutional Equilibrium and Equilibrium Institutions” in Political Science, ed. Weisberg
Kathleen Thelen and Sven Steinmo “Historical Institutionalism in Comparative Politics,” in Structuring Politics
Bert Rockman “The New Institutionalism and the Old Institutions,” in New Perspectives on American Politics, eds. Lawrence Dodd and Calvin Jillson
Thomas Hobbes Leviathan
Carl Schmitt The Concept of the Political
Paul Pierson and Theda Skocpol, “Historical Institutionalism in Contemporary Political Science,” in Political Science, eds. Ira Katznelson and Helen Milner
B. Guy Peters, Institutional Theory in Political Science
Clifford Geertz “Ideology as a Cultural System,” in The Interpretation of Cultures
Pierre Bourdieu Language and Symbolic Power
James Boyd White When Words Lose Their Meaning
4. Popular Sovereignty

American constitutionalism in particular elevates the idea of popular sovereignty. Fidelity to the U.S. Constitution has been justified in terms of popular sovereignty, and the constraints imposed on government have been regarded as democratically legitimated. In this context, the Constitution can be seen as the expression of the will of the people, and judges act as agents of the people in enforcing its terms against government officials. Alternatively, the Constitution can be seen as a vehicle of democracy, shaping the popular will and well as expressing it. What is the democratic status of the Constitution? Is it authorized by “we the people”? Is any such authorization sufficient to establish constitutional legitimacy? Is American constitutionalism an expression of democracy, or a constraint on democracy?

Required:

Bruce Ackerman  *We the People* ch. 1-2, 7-8, 11
Bryan Garsten, “Representative Government and Popular Sovereignty,” in *Political Representation*

Suggested:

James Buchanan and Gordon Tullock *The Calculus of Consent*
James Buchanan “The Ethics of Constitutional Order,” in *The Economics and the Ethics of Constitutional Order*
Michael Lienesch *New Order of the Ages*
Gordon Wood *The Creation of the American Republic, 1776-1789*
Bernard Bailyn *The Ideological Origins of the American Revolution*
Donald Lutz *Popular Consent and Popular Control*
James Morone *The Democratic Wish*
Paul Kahn *Legitimacy and History*
Alexander Hamilton, James Madison and John Jay *The Federalist Papers*
Thomas Paine *The Rights of Man*
Hanna Pitkin *The Concept of Representation*
Edmund Morgan *Inventing the People*
William Riker *Liberalism Against Populism*
John Locke *Two Treatises of Government*
Jean-Jacques Rousseau *On the Social Contract*
Thomas Hobbes *Leviathan*
William Nelson *On Justifying Democracy*
Patrick Riley *Will and Political Legitimacy*
John Simmons *On the Edge of Anarchy*
Richard D. Parker “Here, the People Rule”
Sheldon Wolin “Collective Identity and Constitutional Power,” in *The Presence of the Past*
Harry Beran *The Consent Theory of Political Obligation*
Hans Lindahl, “Sovereignty and Representation in the European Union,” in *Sovereignty in Transition*
5. Promises and Precommitments

The Constitution can be seen as a promise, a precommitment or a contract. In this reading, the Constitution is not primarily seen as a constraint on government imposed by the people, but rather as a constraint on the people themselves. The question then becomes how the people can constrain themselves and what the implications of such self-constraint are. Is self-restraint possible? Can prior commitments be binding on contemporary political actors? Should they be binding? What is the difference between a promise, a precommitment and a contract? Is the Constitution a promise? What is being promised, and to whom? Can democratic theory justify constraints on democratic politics?

Required:

Stephen Holmes  Passions and Constraints ch. 5
Russell Hardin  Liberalism, Constitutionalism, and Democracy ch. 3
Larry Alexander, “Constitutionalism,” in Contemporary Debates in Political Philosophy

Suggested:

Jon Elster Ulysses and the Sirens
Jon Elster Ulysses Unbound
Paul de Man “Political Allegory in Rousseau” Critical Inquiry 2 (1976)
Stephen Holmes Passions and Constraints
Friedrich Hayek The Political Order of a Free People
James Buchanan The Limits of Liberty
James Buchanan and Gordon Tullock The Calculus of Consent
Richard Epstein Takings
John Rawls Theory of Justice
James Gwartney and Richard Wagner, eds. Public Choice and Constitutional Economics
Paul Kahn Legitimacy and History
Geoffrey Brennan and James Buchanan The Reason of Rules
Anne Norton Alternative Americas
Benjamin Wright “The Early History of Written Constitutions in America,” in Essays in History and Political Theory in Honor of Charles Howard McIlwain, ed. Carl Wittke
Andrew McLaughlin “Social Compact and Constitutional Construction” American Historical Review (1900)
Patrick Riley Will and Political Legitimacy
John Dunn Political Obligation in its Historical Context
David Ericson The Shaping of American Liberalism
David Gauthier Moral Dealing
Stefán Voigt Explaining Constitutional Change
6. Functionality

Many argue that constitutions (in the modern sense) and constitutionalism are concerned with limiting the state and protecting the rights of individuals and minorities. Some, however, have argued that a well-designed constitution should serve other purposes, which may or may not operate in tandem with the power-limiting features of the liberal constitution. Well designed constitutions might be instruments for achieving a well functioning and stable government and good public policy, for example. Constitutions might be designed to (or evaluated by their capacity to) limit government corruption, enhance national security, project national interests abroad, create or fairly distribute national wealth, draw able leaders into public office, maintain domestic peace and stability, facilitate territorial expansion or a variety of other pressing goals. Are these incidental features of constitutions? How should they be integrated into constitutional theory?

Required:

Alexander Hamilton, Federalist No. 70
Stephen L. Elkin, “Constitutionalism’s Successor,” in A New Constitutionalism
Jeffrey Tulis, “The Two Constitutions,” in The Presidency and the Political System

Suggested:

Torsten Persson and Guido Tabellini, Political Economics
David Brian Robertson, The Constitution and America’s Destiny
Max Edling, A Revolution in Favor of Government
David Hendrickson, Peace Pact
Marc Krueman, Between Authority and Liberty
Alison LaCroix, The Ideological Origins of American Federalism
Roger Congleton and Birgitta Swedenborg, eds., Democratic Constitutional Design and Public Policy
Daniel Treisman, The Architecture of Government
Stephen Elkin, Reconstructing the Commercial Republic
Stephen Elkin and Karol Soltan, eds., A New Constitutionalism
Walter Murphy, Constitutional Democracy
Geoffrey Brennan and James Buchanan, The Power To Tax: Analytical Foundations of a Fiscal Constitution
James Caesar, Presidential Selection
Anne Van Aaken, et al., eds, Deliberation and Decision
Adrian Vermeule, Mechanisms of Democracy
Joseph Bessette, The Mild Voice of Reason
The institution of judicial review is often viewed as the defining element of modern constitutionalism, especially as it is understood in its legalistic sense. The judiciary is seen as an external agent, standing outside of normal politics and enforcing the terms of the Constitution. This raises some questions of authority – why should we adhere to the Constitution rather than our political outcomes? Some of the justifications for that authority have already been considered. Judicial review also raises a particular question of authority – why should we obey the judicial interpretation of the Constitution rather than our political outcomes? Why should judges be able to trump other government officials? What is the justification for a particular institution like judicial review? What is the purpose of judicial review? This also raises empirical questions, however. What is judicial review? How have judges behaved in practice? Is the judiciary really a countermajoritarian force in American politics? How would the empirical practice of judicial review affect our understanding of the authority of judicial review?

Required:

Keith Whittington, “‘Interpose Your Friendly Hand’: Political Supports for the Exercise of Judicial Review by the United States Supreme Court,” APSR 99 (2005): 583
Howard Gillman, “Courts and the Politics of Political Regimes,” The Oxford Handbook of Law and Politics

Suggested:

William Lasser The Limits of Judicial Power
Ronald Kahn The Supreme Court and Constitutional Theory, 1953-1993
John Brigham The Cult of the Court
David O’Brien Storm Center
Jesse Choper Judicial Review and the National Political Process
Robert McCloskey The American Supreme Court
Michael J. Klarman “Rethinking the Civil Rights and Civil Liberties Revolutions” Virginia Law Review (1996)
Gerald Rosenberg The Hollow Hope
H.W. Perry Deciding to Decide
John Gates and Charles Johnson, eds. The American Courts: A Critical Assessment
John Gates The Supreme Court and Partisan Realignment
William Ross A Muted Fury
Bruce Ackerman Reconstructing American Law
Richard Kluger Simple Justice
Walter Murphy Elements of Judicial Strategy
Mark Tushnet Making Civil Rights Law
Charles Johnson and Bradley Canon Judicial Policies: Implementation and Impact
Martin Shapiro “The Supreme Court from Warren to Burger” in A. King, ed. The New American Political System
Thomas Reed Powell “Logic & Rhetoric of Constitutional Law” J. of Phil., Psychology & Scientific Methods (1918)
8. Departmentalism

Constitutional theory has generally assumed judicial supremacy: the Constitution is what the judges say it is, and the judges have the right to settle disputes over constitutional meaning. This view has been challenged. Other political actors may also offer interpretations of the Constitution, and those interpretations may conflict with the judiciary's interpretations. Who should interpret the Constitution? Under what circumstances? Should the judiciary defer to other political actors? Is the judiciary the final interpreter of the Constitution? Is it the exclusive interpreter? Does judicial review make sense in the absence of judicial supremacy? Does constitutionalism make sense in the absence of judicial supremacy?

Required:

Keith E. Whittington, Political Foundations of Judicial Supremacy, ch. 2, 4 (partial)

Suggested:

Stephen Macedo Liberal Virtues
Robert Burt The Constitution in Conflict
Bruce Ackerman We the People
Frederick Schauer “The Occasions of Constitutional Interpretation” Boston University Law Review (1992)
Paul Dimond The Supreme Court and Judicial Choice
Robert Lowry Clinton Marbury v. Madison and Judicial Review
Wayne Moore Constitutional Rights and the Powers of the People
William Harris II The Interpretable Constitution
Robert Nagel Constitutional Cultures
Donald Morgan Congress and the Constitution
Robert Scigliano The Supreme Court and the Presidency
Walter F. Murphy Congress and the Court
Edward Corwin Court Over Constitution
John Agresto The Supreme Court and Constitutional Democracy
Louis Fisher Constitutional Conflicts Between Congress and the President
Gary J. Jacobsohn The Supreme Court and the Decline of Constitutional Aspiration
Scott E. Gant “Judicial Supremacy and Nonjudicial Interpretation of the Constitution” Hastings Con. Law Q. (1997)
Neal Devins Shaping Constitutional Values
Susan Burgess Contest for Constitutional Authority
Larry Kramer, “We the Court,” Harvard Law Review (2001)
9. Constitutional Survival

Constitutions must be created through political effort. Once put in place, constitutions must also be capable of surviving various crises and of effectively structuring actual politics over time. How can polities effect the transition from one constitutional regime to another? How do constitutions reflect their political origins? What allows constitutions to survive crises? What causes constitutions to fail? What is constitutional “failure”?

Required:

Zachary Elkins, Tom Ginsburg, and James Melton, The Endurance of National Constitutions
Larry Sager, “The Birth Logic of a Democratic Constitution,” in Constitutional Culture and Democratic Rule

Suggested:

Avinash Dixit, Lawlessness and Economics (forthcoming)
Jon Elster, Claus Offe, and Ulrich Preuss, eds., Institutional Design for Post-communist Societies
Claus Offe, Modernity and the State
Ulrich Preuss, Constitutional Revolution
Andrew Arato, Civil Society, Constitution, and Legitimacy
Andrew Reynolds, ed., The Architecture of Democracy
John Ferejohn, et al., eds., Constitutional Culture and Democratic Rule
Larry Diamond, Developing Democracy
Robert Gooden, ed., Institutions and their Design
Nancy Bermeo, Ordinary People in Extraordinary Times
Giovanni Sartori, Comparative Constitutional Engineering
Clinton Rossiter, Constitutional Dictatorship
Carl Friedrich, Constitutional Reason of State
Juan Linz and Alfred Stepan, eds., The Breakdown of Democratic Regimes
Philippe Schmitter, et al., eds., Transitions from Authoritarian Rule
Frederick Watkins, The Failure of Constitutional Emergency Powers in the German Republic
Leonard Binder, et al., eds., Crises and Sequences in Political Development
Franz Neumann, Behemoth
Arthur Bestor, “The American Civil War as a Constitutional Crisis,” American Historical Review (1964)
Brian Loveman, The Constitution of Tyranny
Alfred Stepan, The Military in Politics
Barry Ames, The Deadlock of Democracy in Brazil
Adam Przeworski, et al., Democracy and Development
Robert Barros, Constitutionalism and Dictatorship
Ruth Collier and David Collier, Shaping the Political Arena
10. Maintenance and Change

Constitutions constrain politics over time as well as within any given political moment. Constitutions help create political stability and continuity. But constitutions must also allow for change. One mechanism of change is amendment. How can we distinguish amendment from interpretation? What is the purpose of amendment? What do amendments do within a constitutional system? What is the authority of an amendment? Are there limits on amendment? In addition, constitutional commitments may change in the absence of any formal change in the constitutional text. What is the status of such changes in constitutional understandings? What practices are part of “the Constitution”? Is “the Constitution” more than the text?

Required:

Bruce Ackerman  We the People ch. 9-10
Mark Graber, “Settling the West,” in The Louisiana Purchase and American Expansion

Suggested:

H. Monaghan “We the People(s), Original Understanding, & Constitutional Amendment,” Columbia L. Rev. (1996)
John R. Vile Constitutional Change in the United States
Clement E. Vose Constitutional Change
David Kyvig Explicit and Authentic Acts
George Anastaplo The Amendments to the Constitution
Peter Suber The Paradox of Self-Amendment
John Finn Constitutions in Crisis
Benjamin Cardozo The Nature of the Judicial Process
Elaine K. Swift The Making of an American Senate
Herbert W. Horwitt The Usages of the American Constitution
Sanford Levinson, ed. Responding to Imperfection
A critical choice in designing a constitutional framework is the distribution of political power among various institutions. Those choices may affect the type of constitutional regime put in place and the kinds of political values and policy outcomes that it facilitates, and they may well affect the survival of the constitutional regime itself. What are the advantages and disadvantages of a presidential system as opposed to a parliamentary system? Are presidential systems inherently dangerous or unstable? How can horizontal checks on political power be established?

Required:

Matthew Shugart and John Carey, *Presidents and Assemblies*, ch. 1, 3, 9
Jose Cheibub, *Presidentialism, Parliamentarism, and Democracy*, ch. 6

Suggested:

Juan Linz, and Arturo Valenzuela, eds., *The Failure of Presidential Democracy*
John M. Carey and Matthew S. Shugart, eds., *Executive Decree Authority*
Matthew S. Shugart and John M. Carey, *Presidents and Assemblies*
Matthew S. Shugart and Scott Mainwaring, eds., *Presidentialism and Democracy*
Stephen Haggard and Mathew McCubbins, eds., *Presidents, Parliaments, and Policy*
Andreas Schedler, et al., eds., *The Self-Restraining State*
Jennifer Widner, *Building the Rule of Law*
John Huber and Charles Shipan, *Deliberate Discretion?*
Adam Przeworski, et al., eds., *Democracy, Accountability, and Representation*
George Tsebelis, *Veto Players*
Robert Barros, *Constitutionalism and Dictatorship*
Torsten Persson and Guido Tabellini, *The Economic Effects of Constitutions*
Mark Jones, *Electoral Laws and the Survival of Presidential Democracies*
Michael Laver and Kenneth Shespsle, *Making and Breaking Governments*
David Mayhew, *Divided We Govern*
Keith Krehbiel, *Pivotal Politics*
Kaare Strom, *Minority Governments and Majority Rule*
12. Power and Representation

Constitutions structure politics as well as constrain it. In doing so, constitutions can channel politics in a variety of ways, and the structural features of a particular political system may reflect important constitutional choices about what kind of polity is desirable. What kind of polity should be constituted? What interests should be represented? How should those interests be represented? How should policy decisions be made? How distinct should the policymaking process be from the constitution-making process? How can subversive elements within the polity be contained through constitutional design? How can the constitutional system encourage political stability? Economic growth? Other substantive goods? How insulated should government be from society?

Required:

Arend Lijphart, Patterns of Democracy ch. 1-3
G. Bingham Powell, Elections as Instruments of Democracy ch. 10
Adrian Vermeule, Mechanisms of Democracy, ch. 3-4

Suggested:

Gary Cox Making Votes Count
William Riker, Liberalism versus Populism
John Carey and Matthew Shugart Presidents and Assemblies
Kaare Strom Minority Government and Majority Rule
Heinz Kug Constituting Democracy
Richard Bellamy, ed. Constitutionalism, Democracy, and Sovereignty
G. Bingham Powell Contemporary Democracies
Benjamin Reilly, Democracy in Divided Societies
George Tsebelis and Jeannette Money Bicameralism
Juan J. Linz The Breakdown of Democratic Regimes: Crisis, Breakdown and Reequilibrium
Adam Przeworski, et al., Democracy and Development
Adam Przeworski, et al., eds. Democracy, Accountability and Representation
Alfred Stepan Arguing Comparative Politics
Scott Mainwaring and Matthew Shugart, eds. Presidentialism and Democracy in Latin America
Juan J. Linz and Arturo Valenzuela, eds. The Failure of Presidential Democracy
Andreas Schedler, Larry Diamond and Marc F. Plattner eds. The Self-Restraining State
Guillermo O’Donnell Counterpoints
Keith Krehbiel Pivotal Politics
Charles Cameron Veto Bargaining
David Mayhew Divided We Govern
David Epstein and Sharyn O’Halloran Delegating Powers
John Ferejohn, et al., eds. Constitutional Culture and Democratic Rule
John Mueller Constitutional Democracy
Robert Cooter The Strategic Constitution