This course examines American constitutional history, with a particular interest in constitutional change. We will examine how the Supreme Court has interpreted the Constitution over time, but we will also be interested in how constitutions are written and amended and how political practices that give shape to our constitutional system evolve. We will explore the continuing tension between the Constitution as an empowering device and the Constitution as a limiting rule. We will be interested in how the Constitution serves as an instrument of popular power and a symbol of political ideals, as well as how it serves as a fundamental law constraining government action. We will be interested in how our constitutional values and practices have changed over time, and how we can reconcile those changes with the idea of a written constitution and a consistent constitutional tradition extending from the founding to the present.

Schedule:

The Founding Period: Continuity or Counter-Revolution?

1. Liberalism and Republicanism, Rights and Powers (February 4)

2. Constitutional Politics (February 11)
   - Marc Kruman, *Between Authority and Liberty*, ch. 6
   - Bruce Ackerman, *We the People* ch. 3, 7-8
   - Jack Rakove, *Original Meanings* ch. 3-6

Early Developments

3. The Judiciary in the New Republic (February 18)
   - Keith Whittington, *Constitutional Construction*, ch. 2
   - Mark Graber, “The Problematic Establishment of Judicial Review,” in *The Supreme Court in American Politics*
   - Larry Kramer, *The People Themselves* (manuscript), ch. 5

4. Democratization (February 25)
   - Alexander Keyssar, *The Right to Vote*, ch. 2

5. State Action (March 4)
   - Gaines Foster, *Moral Reconstruction*, ch. 1
Civil War and Reconstruction

6. Antebellum Federal Disputes (March 11)
   Keith Whittington, *Constitutional Construction*, ch. 3
   Larry Kramer, *The People Themselves* (manuscript), ch. 6
   Barry Weingast, “Political Stability and Civil War,” in *Analytical Narratives*

7. Constitutional Failure? (March 25)
   Mark Graber, *The Civil War as a Constitutional Failure* (manuscript)
   Mark Brandon, *Free in the World*, ch. 7
   Harold Hyman, *A More Perfect Union*, ch. 7-9

8. Reconstruction or Revolution? (April 1)
   Keith Whittington, *Constitutional Construction*, ch. 4
   William Nelson *The Fourteenth Amendment*, ch. 1-6

Industrialism, Nationalization and Constitutional Stress

9. Reform Politics (April 8)
   Richard Hamm *Shaping the Eighteenth Amendment* ch. 1-2, 6-8
   Gaines Foster, *Moral Reconstruction*, ch. 7

10. Property and Powers (April 15)
    Howard Gillman *The Constitution Besieged*

Modern Era

11. Another Revolution (April 22)
    Bruce Ackerman *We the People* ch. 4-5
    Barry Cushman *Rethinking the New Deal Court* ch. 9-12
    William Leuchtenburg *The Supreme Court Reborn* ch. 5, 8

12. The Modern State (April 29)
    Theodore J. Lowi *The Personal President* ch. 3
    Keith Whittington, *Constitutional Construction*, ch. 5
    Louis Fisher, *Presidential War Power* ch. 7
    Harold Koh *The National Security Constitution* ch. 3

Materials:

The following books are available for purchase:

Jack Rakove *Original Meanings*
Keith Whittington, *Constitutional Construction*
Howard Gillman *The Constitution Besieged*
Bruce Ackerman *We the People*
William Nelson *The Fourteenth Amendment*
William Novak *The People’s Welfare*
Alfred Kelly, Winfred Harbison and Herman Belz *The American Constitution* (suggested)

The remaining readings are contained in a packet available from Pequod’s. All required readings are also available on reserve in the library.
Requirements:

The requirements for the course include both written and oral components. All students are expected to come to class fully prepared to be an active participant. A seminar cannot work unless all of its participants are prepared to make useful contributions, and you will not be able to take full advantage of the seminar if you are not prepared. Participation will be a significant component of your final grade. You will also be expected to give two scheduled oral presentations.

One oral presentation may accompany your short paper (5-10 pages) which will examine the issues in a given week’s (required) readings. The bulk of your grade will be determined by a term paper. This research paper (20-25 pages) will focus on a topic of your own choosing, approved by me before March 15. The paper will be due by 4:00 pm, May 13.

<table>
<thead>
<tr>
<th>Term</th>
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<tr>
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Background: Colonial Antecedents

Additional Resources for Research:
John Philip Reid, A Constitutional History of the American Revolution
John Philip Reid A Constitutional History of the American Revolution, four volumes
Charles Howard McIlwain The American Revolution: A Constitutional Interpretation
Randolph G. Adams The Political Ideas of the American Revolution
Robert L. Schuyler Parliament and the British Empire
Carl L. Becker The Declaration of Independence
Jack P. Greene Peripheries and Center
Harvey Wheeler “Calvin’s Case and the McIlwain-Schuyler Debate” American Historical Review 61 (1955-1956)
Bernard Bailyn The Ideological Origins of the American Revolution
Edmund S. Morgan The Birth of the Republic, 1763-89
Edmund S. Morgan “The American Revolution: Revisions in Need of Revising,” in In Search of Early America
Pauline Maier American Scripture
Pauline Maier From Resistance to Revolution
Willi Paul Adams The First American Constitutions
Peter S. Onuf The Origins of the Federal Republic
Andrew C. McLaughlin The Foundations of American Constitutionalism
Andrew C. McLaughlin A Constitutional History of the United States
Andrew C. McLaughlin “The Background of American Federalism,” APSR 12 (1918)
Jack N. Rakove The Beginnings of National Politics
Donald Lutz The Origins of American Constitutionalism
Donald Lutz Colonial Origins of the American Constitution: A Documentary History
A.E. Dick Howard The Road from Runnymede
David S. Lovejoy The Glorious Revolution in America
Michael Kammen Deputies & Libertyes
George Dargo Roots of the Republic
J.G.A. Pocock, ed. Three British Revolutions
Jennifer Carter “The Revolution and the Constitution,” in Britain After the Glorious Revolution, ed. G. Holmes
T.H. Breen Puritans and Adventurers
Hendrik B. Hartog, ed. Law in the American Revolution and the Revolution in the Law
Benjamin F. Wright “The Early History of Written Constitutions in America,” in Essays in History and Political Theory in Honor of Charles Howard McIlwain
Merrill Jensen The Articles of Confederation
Gordon S. Wood The Radicalism of the American Revolution
William E. Nelson and Robert C. Palmer Liberty and Community
William E. Nelson The Americanization of the Common Law
Shannon C. Stimson The American Revolution in the Law
2. Constitutional Politics

**Required:**
Marc Kruman, *Between Authority and Liberty*, ch. 6
Bruce Ackerman, *We the People* ch. 3, 7-8
Jack Rakove, *Original Meanings* ch. 3-6

**Additional Resources for Research:**
Jennifer Nedelsky, *Private Property and the Constitution* ch. 3, 5
Bruce Ackerman, *We the People: Transformations*
Willi Paul Adams, *The First American Constitutions*
George Anastaplo, *The Constitution of 1787: A Commentary*
Richard Beeman, Stephen Botein and Edward Carter III, eds. *Beyond Confederation*
Michael Kammen, *A Machine That Would Go of Itself*
Leonard Levy and Dennis Mahoney, eds. *The Framing and Ratification of the Constitution*
Michael Allen Gillespie and Michael Lienesch, eds. *Ratifying the Constitution*
Stephen Griffin, *American Constitutionalism*
Robert A. Licht, ed. *The Framers and Fundamental Rights*
Donald A. Lutz, *The Origins of American Constitutionalism*
Donald A. Lutz, *Popular Consent and Popular Control*
Forrest McDonald, *Novus Ordo Seclorum*
Edmund S. Morgan, *Inventing the People*
Thomas L. Pangle, *The Spirit of Modern Republicanism*
Gordon S. Wood, *The Creation of the American Republic, 1776-1787*
Max Farrand, ed. *The Records of the Federal Convention*
Alexander Hamilton, James Madison and John Jay, *The Federalist Papers*
Herbert Storing, *What the Anti-Federalists Were For*
Richard B. Morris, *The Forging of the Union, 1781-1787*
Calvin C. Jillson, *Constitution Making*
Frederick Marks, *Independence on Trial: Foreign Affairs and the Making of the Constitution*
Michael Lienesch, *New Order of the Ages*
Peter S. Onuf, *The Origins of the Federal Republic*
Marc Kruman, *Between Authority and Liberty*
3. The Judiciary in the New Republic

**Required:**
- Keith Whittington, *Constitutional Construction*, ch. 2
- Mark Graber, “The Problematic Establishment of Judicial Review,” in *The Supreme Court in American Politics*
- Larry Kramer, *The People Themselves*, ch. 5

**Additional Resources for Research:**
- Edward S. Corwin, *The Doctrine of Judicial Review*
- Edward S. Corwin, *The “Higher Law” Background of American Constitutional Law*
- William Crosskey, *Politics and the Constitution*
- Charles Grove Haines, *The American Doctrine of Judicial Supremacy*
- Sylvia Snowiss, *Judicial Review and the Law of the Constitution*
- Raoul Berger, *Congress v. the Supreme Court*
- Richard Ellis, *The Jeffersonian Crisis*
- David Currie, *The Constitution in the Court: The First Hundred Years*
- Brinton Coxe, *Judicial Power and Unconstitutional Legislation*
- Andrew C. McLaughlin, *The Courts, the Constitution, and Parties*
- James R. Stoner, Jr., *Common Law and Liberal Theory*
- Christopher Wolfe, *The Rise of Modern Judicial Review*
- Wallace Mendelson, “Was Marshall an Activist?” in *Supreme Court Activism and Restraint*, eds. Halpern and Lamb
- Mark Graber, ed., *Marbury v. Madison*
- Burt Newmyer, *John Marshall and the Heroic Age of the Supreme Court*
- Charles Hobson, *The Great Chief Justice*
- Edward White, *The Marshall Court and Cultural Change*
4. Democratization

**Required:**
Alexander Keyssar, *The Right to Vote*, ch. 2

**Additional Resources for Research:**
James Ceaser *Presidential Selection* ch. 3
Fletcher M. Green *Constitutional Development in the South Atlantic States* ch. 6
Ralph Ketcham *Presidents Above Party*
Lance Banning *The Jeffersonian Persuasion*
Richard V. Buel *Securing the Revolution*
Linda K. Kerber *Federalists in Dissent*
Leonard Levy *Emergence of a Free Press*
Richard Hofstadter *The Idea of a Party System*
Roy Nichols *The Invention of American Political Parties*
M. Ostrogorski *Democracy and the Party System in the United States*
Henry Jones Ford *The Rise and Growth of American Politics*
Amy Bridges *A City in the Republic*
Sean Wilentz *Chants Democratic*
Richard E. Ellis *The Jeffersonian Crisis*
Sylvia Snowiss *Judicial Review and the Law of the Constitution*
G. Edward White *The Marshall Court and Cultural Change, 1815-1835*
Alexis de Tocqueville *Democracy in America*
Leonard D. White *The Jacksonians*
Robert V. Remini *Andrew Jackson and the Bank War*
Richard P. McCormick *The Second American Party System*
Richard P. McCormick *The Party Period and Public Policy*
Richard P. Formisano *The Transformation of Political Culture*
Joel H. Silbey *The American Political Nation, 1838-1893*
Richard E. Ellis *The Union at Risk*
Merrill Peterson, ed. *Democracy, Liberty and Property: The State Constitutional Conventions of the 1820s*
James Q. Dealy *Growth of American State Constitutions, 1776-1914*
George M. Dennison *The Dorr War*
Mary P. Ryan *Women in Public*
Russell L. Hanson *The Democratic Imagination in America*
Robert H. Wiebe *The Opening of American Society*
Paul A. Gilje *The Road to Mobocracy*
David Montgomery *Citizen Worker*
Harry Watson *Liberty and Power*
5. State Action

Required:
Gaines Foster, *Moral Reconstruction*, ch. 1

Additional Resources for Research:
Max Lerner “The Supreme Court and American Capitalism,” *Yale Law Journal* 42 (1933)
James Willard Hurst *Law and the Conditions of Freedom in the Nineteenth Century United States*
Lawrence M. Friedman *A History of American Law*
Harry N. Scheiber *Ohio Canal Era*
Harry N. Scheiber “The Road to Munn: Eminent Domain and the Concept of Public Purpose in State Courts,” *Perspectives in American History* 5 (1971)
Carter Goodrich Governmental Promotion of American Canals and Railroads, 1800-1890
Oscar Handlin and Mary F. Handlin *Commonwealth*
Theodore J. Lowi “American Business, Public Policy, Case-Studies, and Political Theory,” *World Politics* 16 (1964)
Daniel J. Elazar *The American Partnership*
Morton J. Horwitz *The Transformation of American Law, 1780-1860*
Randolph Bridwell and Ralph W. Whitten *The Constitution and the Common Law*
Tony Freyer *Harmony and Dissonance*
Tony Freyer *Producers versus Capitalists*
William E. Nelson *The Americanization of the Common Law*
Leonard W. Levy *The Law of the Commonwealth and Chief Justice Shaw*
Hendrik Hartog *Public Property and Private Power*
Christopher L. Tomlins *Law, Labor and Ideology in the Early American Republic*
Milton Heath *Constructive Liberalism*
Bray Hammond *Banks and Politics in America*
Colleen Dunlavy *Politics and Industrialization*
Gerald Berk *Alternative Tracks*
James Kettner *The Development of American Citizenship, 1608-1870*
Charles C. Bright “The State in the United States During the Nineteenth Century,” In *Statemaking and Social Movements*, ed. Charles Bright and Susan Harding
Michael Grossberg *Governing the Hearth*
William E. Nelson *The Roots of American Bureaucracy*
Harry Watson *Liberty and Power*
6. Antebellum Federal Disputes

**Required:**
Keith Whittington, *Constitutional Construction*, ch. 3  
Larry Kramer, *The People Themselves*, ch. 6  
Barry Weingast, “Political Stability and Civil War,” in *Analytical Narratives*

**Additional Resources for Research:**
Alpheus Mason, *The States Rights Debate*  
Don Fehrenbacher, *Sectional Crisis and Southern Constitutionalism*  
Harold M. Hyman, *A More Perfect Union*  
Don E. Fehrenbacher, *The Dred Scott Case*  
Jesse T. Carpenter, *The South as a Conscious Minority*  
Paul Finkelman, *An Imperfect Union*  
Michael F. Holt, *The Political Crisis of the 1850s*  
Roy F. Nichols, *The Disruption of American Democracy*  
David M. Potter, *The Impending Crisis, 1848-1861*  
Harry V. Jaffa, *Crisis of the House Divided*  
Roy F. Nichols, “Federalism versus Democracy: The Significance of the Civil War in the History of United States Federalism,” in *Federalism as a Democratic Process*  
Leonard Richards, *The Slave Power*  
Richard Ellis, *The Union at Risk*  
Gary Rosen, *American Compact*  
David Ericson, *The Shaping of American Liberalism*  
William Freehling, *Prelude to Civil War*  
Merrill Peterson, *The Great Triumverate*  
Major Wilson, *Space, Time and Freedom*  
John C. Calhoun, *Union and Liberty*  
Samuel Beer, *To Make a Nation*  
Forrest McDonald, *States Rights and Union*
7. Constitutional Failure?

Required:
Arthur Bestor “The American Civil War as a Constitutional Crisis,” American Historical Review (1964)
Mark Graber “The Civil War as a Constitutional Failure” (selection from unpublished book manuscript)
Barry Weingast “Political Stability and Civil War,” in Analytical Narratives

Additional Resources for Research:
Don Fehrenbacher Sectional Crisis and Southern Constitutionalism
Harold M. Hyman and William M. Wiecek Equal Justice Under Law
Harold M. Hyman A More Perfect Union
Don E. Fehrenbacher The Dred Scott Case
William M. Wiecek The Sources of Antislavery Constitutionalism in America, 1770-1823
Robert Cover Justice Accused
Jesse T. Carpenter The South as a Conscious Minority
Paul Finkelman An Imperfect Union
Michael F. Holt The Political Crisis of the 1850s
Roy F. Nichols The Disruption of American Democracy
David M. Potter The Impending Crisis, 1848-1861
Harry V. Jaffa Crisis of the House Divided
Harold M. Hyman, ‘The Narrow Escape from the ‘Compromise of 1860’: Secession and the Constitution,’’ in Freedom and Reform, eds. Hyman and Leonard Levy
James G. Randall Constitutional Problems under Lincoln
Phillip S. Paludan “The American Civil War Considered as a Crisis in Law and Order,” American Historical Review 77 (1972)
Roy F. Nichols “Federalism versus Democracy: The Significance of the Civil War in the History of United States Federalism,” in Federalism as a Democratic Process
Harold M. Hyman “Law and the Impact of the Civil War,” Civil War History 14 (1968)
Eric Foner Free Soil, Free Labor, Free Men
David M. Potter The South and the Concurrent Majority
Robert Remini Martin Van Buren and the Making of the Democratic Party
Arthur C. Cole The Irrepressible Conflict
Kenneth M. Stampf The Imperiled Union
Mark Brandon Free in the World
J. David Greenstone The Lincolnian Persuasion
8. Reconstruction or Revolution?

**Required:**
Keith Whittington, *Constitutional Construction*, ch. 4
William Nelson *The Fourteenth Amendment*, ch. 1-6

**Additional Resources for Research:**
Bruce Ackerman *We the People: Transformations*
Harold Hyman and William Wiecek *Equal Justice Under the Law*
Harold Hyman *A More Perfect Union*
Harold Hyman “Reconstruction and Political- Constitutional Institutions: The Popular Expression,” in *New Frontiers of the American Reconstruction*
William Wiecek *The Sources of Antislavery Constitutionalism*
Michael Kent Curtis *No State Shall Abridge*
Raoul Berger *Government by Judiciary*
James G. Randall *Constitutional Problems under Lincoln*
Herman Belz *A New Birth of Freedom*
Herman Belz *Emancipation and Equal Rights*
Herman Belz *Reconstructing the Union*
Michael Les Benedict *A Compromise on Principle*
James E. Sefton *Andrew Johnson and the Uses of Constitutional Power*
Earl M. Maltz *Civil Rights, the Constitution, and Congress, 1863-1869*
Michael Les Benedict “Preserving Federalism: Reconstruction and the Waite Court,” *Supreme Court Review* 1978
Eric Foner *Reconstruction*
Marshall DeRosa *The Confederate Constitution of 1861*
George M. Fredrickson, ed. *A Nation Divided*
LaWanda Cox *Lincoln and Black Freedom*
Richard Bensel *Yankee Leviathan*
Emory Thomas *The Confederacy as a Revolutionary Experience*
9. Reform Politics

Required:
Richard Hamm *Shaping the Eighteenth Amendment*, ch. 1-2, 6-8
Gaines Foster, *Moral Reconstruction*, ch. 7

Additional Resources for Research:
Richard Hofstadter *The Age of Reform*
Morton Keller *Affairs of State*
Nancy F. Cott *The Grounding of Modern Feminism*
Carroll Smith-Rosenberg *Disorderly Conduct*
Alison Parker *Purifying America*
Kenneth Rose *American Women and the Repeal of Prohibition*
James H. Timberlake *Prohibition and the Progressive Movement, 1900-1920*
Peter Odegard *Pressure Politics*
Joseph R. Gusfield *Symbolic Crusade*
Stephen B. Wood *Constitutional Politics in the Progressive Era*
Sandford Levinson, ed. *Responding to Imperfection*
Clement E. Vose *Constitutional Change*
David Kyvig *Explicit and Authentic Acts*
David Kyvig *Repealing National Prohibition*
David Morgan *Suffragists and Democrats*
George Anastaplo *The Amendments to the Constitution*
Russell Caplan *Constitutional Brinksmanship*
Jane Mansbridge *Why We Lost the ERA*
Vivian Hart *Bound by Our Constitutions*
Francis F. Piven and Richard A. Cloward *Poor People’s Movements*
Dennis Chong *Collective Action and the Civil Rights Movement*
Doug McAdam *Political Process and the Development of Black Insurgency*
Lawrence Goodwyn *The Populist Moment*
Gwendolyn Mink *Old Labor and New Immigrants in American Political Development*
Victoria Hattam *Labor Visions and State Power*
Arthur Link *Woodrow Wilson and the Progressive Era*
Theda Skocpol *Protecting Soldiers and Mothers*
Stephen Skowronek *Building a New American State*
Alan Brinkley *Voices of Protest*
Michael McCann *Taking Reform Seriously*
An Costain *Inviting Women’s Rebellion*
Eric Foner *Free Soil, Free Labor, Free Men*
William G. Ross *A Muted Fury*
Kenneth Finegold *Experts and Politicians*
John M. Jordan *Machine-Age Ideology*
Christopher Lasch *The New Radicalism in America*
William Forbath *Law and the Shaping of the American Labor Movement*
David Chalmers *And the Crooked Places Made Straight*
Karen Orren *Belated Feudalism*
Suzanne Marilley *Women Suffrage and the Origins of Liberal Feminism in the United States, 1820-1920*
Susan Becker *The Origins of the Equal Rights Amendment*
James Monroe *The Democratic Wish*
10. Property and Powers

Required:
Howard Gillman The Constitution Besieged

Additional Resources for Research:
Morton J. Horwitz The Transformation of American Law, 1870-1960
Morton Keller Affairs of State
Loren Beth The Development of the American Constitution, 1877-1917
Woodrow Wilson Congressional Government
Woodrow Wilson Constitutional Government in the United States
Henry Jones Ford The Rise and Growth of American Politics
J. Morgan Kousser The Shaping of Southern Politics
William M. Wiecek Constitutional Development in a Modernizing Society, 1803-1917
Jonathan Lurie The Constitution and Economic Change
Harry N. Scheiber “The Road to Munn: Eminent Domain and the Concept of Public Purpose in the State Courts,” Perspectives in American History 5 (1971)
Stephen Skowronek Building a New American State
William E. Nelson The Roots of American Bureaucracy, 1830-1920
Arnold M. Paul Conservative Crisis and the Rule of Law
Edward S. Corwin Liberty against Government
Benjamin R. Twiss Lawyers and the Constitution
Robert G. McCloskey The American Supreme Court
William G. Ross A Muted Fury
M.J.C. Vile Constitutionalism and the Separation of Powers
Herbert Croly The Promise of American Life
Morton White Social Thought in America
Herbert Hovenkamp, Enterprise and American Law, 1876-1937
11. Another Revolution?

Required:
Bruce Ackerman We the People ch 5-6
Barry Cushman Rethinking the New Deal Court ch. 9-12
William Leuchtenburg The Supreme Court Reborn ch. 5, 8

Additional Resources for Research:
Peter Irons The New Deal Lawyers
Bruce Ackerman We the People: Transformations
Edward S. Corwin Constitutional Revolution, Ltd.
Edward S. Corwin Court Over Constitution
Edward S. Corwin The Twilight of the Supreme Court
Robert Jackson The Struggle for Judicial Supremacy
Benjamin F. Wright The Growth of American Constitutional Law
Robert McCloskey The American Supreme Court
Paul Murphy The Constitution in Crisis Times, 1918-1969
Bernard Schwartz The Supreme Court: Constitutional Revolution in Retrospect
Alpheus Mason Harlan Fiske Stone
Melvin Urofsky Louis D. Brandeis and the Progressive Tradition
Merlo Pusey Charles Evans Hughes
Hadley Arkes The Return of George Sutherland
C. Herman Pritchett The Roosevelt Court
Robert Edes, ed. The New Deal and Its Legacy: Critiques and Reappraisal
Robert Higgs Crisis and Leviathan
Sidney Milkis President and Party
Barry D. Karl The Uneasy State
Clinton Rossiter Constitutional Dictatorship
Morton J. Frisch “Franklin D. Roosevelt and the Problem of Democratic Liberty,” Ethics 72 (1962)
Grant McConnell Private Power and American Democracy
John A. Rohr To Run a Constitution
Peri Arnold Making the Managerial Presidency
Clinton Rossiter “The Constitutional Significance of the Executive Office of the President,” APSR 43 (1949)
James T. Patterson The New Deal and the States
Max Lerner “The Great Constitutional War,” Virginia Quarterly Review 18 (1942)
Max Lerner “The Constitution and the Court as Symbols,” Yale Law Journal 46 (1937)
Henry Steele Commager Majority Rule and Minority Rights
Jacobus ten Broek, et al. Prejudice, War and the Constitution
Background: The Rights Revolution

Additional Resources for Research:
History 24 (1980)
Mark A. Graber Transforming Free Speech
William A. Donohue The Politics of the American Civil Liberties Union
Mark Tushnet The NAACP’s Legal Strategy Against Segregated Education, 1925-1950
Mark Tushnet Making Civil Rights Law
Richard C. Cortner The Supreme Court and the Second Bill of Rights
Alpheus T. Mason “The Core of Free Government, 1938-1940: Mr. Justice Stone and ‘Preferred Freedoms,” Yale
Law Journal 65 (1956)
C. Herman Pritchett Civil Liberties and the Vinson Court
Hugh Davis Graham The Civil Rights Era
Clement E. Vose Caucasions Only
Richard Kluger Simple Justice
Dennis Hutchinson “Unanimity and Desegregation: Decision-Making in the Supreme Court, 1948-1958,”
Georgetown Law Journal 68 (1979)
James W. Ely, Jr. The Crisis of Conservative Virginia
J. Harvie Wilkinson III From Brown to Bakke
Anthony King
Martin M. Shapiro “The Supreme Court’s ‘Return’ to Economic Regulation,” Studies in American Political
Development 1 (1986)
States, ed. M.J. Harmon
Robert G. McCloskey The American Supreme Court
Bernard Schwartz Super Chief
David J. Garrow Liberty and Sexuality
Wallace Mendelson “From Warren to Burger: The Rise and Decline of Substantive Equal Protection,” APSR 66
(1972)
Howard Gillman “Preferred Freedoms: The Progressive Expansion of State Power and the Rise of Modern Civil
Ronald Kahn The Supreme Court and Constitutional Theory, 1953-1993
Laura Kalman The Strange Career of Legal Liberalism
Donald A. Downs The New Politics of Pornography
Donald A. Downs Nazis in Skokie
Doug McAdam Political Process and the Development of Black Insurgency, 1930-1970
Kristen Luker Abortion and the Politics of Motherhood
Robert Max Jackson Destined for Equality
Judith Baer Equality under the Constitution
Sara Evans Personal Politics
Stephen M. Feldman “From Modernism to Postmodernism in American Legal Thought: The Significance of the
Warren Court,” in The Warren Court, ed. Bernard Schwartz
Mark Tushnet “The Warren Court as History: An Interpretation,” in The Warren Court in Historical and Political
Perspective, ed. Mark Tushnet
Michael J. Lacy and Knud Haakonssen, ed. A Culture of Rights
Michael Kammn Spheres of Liberty
12. The Modern State

Required:
Theodore J. Lowi The Personal President ch. 3
Keith Whittington, Constitutional Construction, ch. 5
Louis Fisher, Presidential War Power, ch. 7
Harold Koh The National Security Constitution ch. 3

Additional Resources for Research:
Cass Sunstein After the Rights Revolution
Samuel P. Huntington American Politics
Theodore J. Lowi The End of Liberalism
Norton E. Long “Bureaucracy and Constitutionalism” APSR 46 (1952)
Sotirios A. Barber The Constitution and the Delegation of Congressional Power
John A. Rohr To Run a Constitution
James O. Freedman Crisis and Legitimacy
Vincent Ostrom The Intellectual Crisis in American Public Administration
Joseph M. Bessette and Jeffrey K. Tulis, eds. The Presidency in the Constitutional Order
Arthur M. Schlesinger, Jr. The Imperial Presidency
Clinton Rossiter Constitutional Dictatorship
Richard Neustadt Presidential Power
James MacGregor Burns Presidential Government
Caleb Perry Patterson Presidential Government in the United States
Edward S. Corwin The President: Office and Powers
Herman Finer The Presidency
Charles M. Hardin Presidential Power and Accountability
Barry Dean Karl “Executive Reorganization and Presidential Power,” Supreme Court Review 1977
Gerald Garvey Constitutional Bricolage
Samuel Beer “In Search of a New Public Philosophy,” in The New American Political System, ed. Anthony King
Louis Henkin Foreign Affairs and the Constitution
Louis Fisher Presidential War Power
Louis Fisher Constitutional Conflicts Between Congress and the President
Charles Lofgren Government from Reflection and Choice
Raoul Berger Executive Privilege
Stanley I. Kutler The Wars of Watergate
Philip S. Kurland Watergate and the Constitution
James L. Sundquist The Decline and Resurgence of Congress
Richard A. Harris and Sidney M. Milkis, eds. Remaking American Politics
Theodore J. Lowi The Personal President
Stephen Skowronek The Politics Presidents Make
Morris Fiorina Divided Government
Lawrence C. Dodd and Richard L. Schott Congress and the Administrative State
Brian J. Cook Bureaucracy and Self-Government
Jessica Korn The Power of Separation
Gordon Silverstein Imbalance of Powers
Carl Friedrich Constitutional Government and Democracy
Stephen M. Griffin American Constitutionalism
Bruce Ackerman Reconstructing American Law
Peter Nardulli, ed. The Constitution and American Political Development
Martin Reddish The Constitution as Political Structure
Mark Tushnet Red, White and Blue
Herman Belz “Changing Conceptions of Constitutionalism in the Era of World War II and the Cold War,” Journal of American History 59 (1972)
Samuel P. Huntington The Soldier and the State