Legal Studies 190 – Seminar: Originalism and Constitutionalism

Spring 2014

Syllabus

This course explores the Constitution through an examination of the history of its framing. We will discuss the ideological origins of the American Revolution, the Critical Period under the Articles of Confederation, the drafting and ratification of the Constitution, and important debates in Washington administration. Readings will include a mix of primary sources, such as the Federalist Papers and debate records, and secondary historical works.

There is no casebook or reader. The required books are:

The Federalist Papers
Gordon Wood, The Creation of the American Republic
Pauline Maier, Ratification
John Yoo, Crisis and Command
Gordon Wood, Empire of Liberty

Class meets on Tuesday, 2:00-4:00 pm in 119 Moses Hall. Attendance and participation are required. The grade will be based on a final paper. All paper topics must be approved by the instructor.

Readings Assignments

Week I (Jan. 21, 2014) Introduction
Week II (Jan. 28, 2014) Originalism

Scalia, Originalism: The Lesser Evil, 57 U. Cin. L. Rev. 849

Week III (Feb. 4, 2014) The American Revolution
Wood, Creation of the American Republic, ch. 1, 4

Week IV (Feb. 11, 2014) The Critical Period
Federalist No. 3-7  
Federalist No. 15-17  
Federalist No. 21-22  

Wood, Creation of the American Republic, chs. 9, 10

**Week V (Feb. 18, 2014)**  The Constitutional Convention: Representation

Federalist No. 10  
Federalist No. 37  
Federalist No. 39  
Federalist No. 50  

Wood, Creation of the American Republic, ch. 8, 12

**Week VI (Feb. 25, 2014)**  The Constitutional Convention: Federalism

Federalist No. 41  
Federalist No. 45-46  
Federalist No. 62-64  
Wood, Creation of the American Republic, ch. 13

**Week VII (Mar. 4, 2014)**  The Constitutional Convention: Separation of Powers

Federalist No. 47-49  
Federalist No. 51  
Federalist No. 67-73  

Yoo, Crisis and Command, ch. 2  
Wood, Creation of the American Republic, ch. 11

**Week VIII (Mar. 11, 2014)**  Ratification

Maier, Ratification, chs. 3-5

**Week IX (Mar. 18, 2014)** Ratification

Maier, Ratification, chs. 9-10, 12-13

**Week X (Apr. 1, 2014)** Early Disputes I: The Government and the Bank

Wood, Empire of Liberty, ch. 3, 4  
Yoo, Crisis and Command, 47-64  

Speech of Madison
Opinions of Jefferson and Hamilton

Week XI (Apr. 8, 2014)    Early Disputes II: The French Revolution
Wood, Empire of Liberty, ch. 5
Yoo, Crisis and Command, pp. 64-86
Washington, Jefferson, Hamilton Correspondence

Helvidius-Pacificus Debate

Week XII (Apr. 15, 2013)    TBA
Week XIII (Apr. 22, 2013)    TBA
Week XIV (Apr. 29, 2013)    Conclusion