Making the Constitution (H346)

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Class: 1:30 – 2:45, Tuesday, Thursday  
Office Hours: 11:00-12:00 Tues., Thurs.; 1:30-2:30 Weds.; by appointment and chance

Classroom: Lewis Environ. Studies Cntr 104

The U.S. Constitution is the oldest operating written constitution in the world and has achieved the status of a “sacred” text in the American polity. This course will explore the forces and concerns that led to the Philadelphia Convention, the progress of the Convention itself, ratification, and, briefly, the modern debate on originalism. In doing so, it will discuss in some detail the provisions of the Constitution and their historical origin and significance.

Generally, classes will be structured as a lecture and discussion. I expect students to attend class and to be prepared to participate in a discussion. I will not be taking regular attendance in this class, but attendance is in your interest; missing classes inevitably tends to hurt ones grade. Regular absences will be taken up by the professor. If you do miss a class, I suggest you get notes from one of your colleagues. This class will, of course, be subject to the Honor Code.

Tardiness: All students are expected to be in a seat and ready for the class to begin at the scheduled start time of 1:30. Walking into the class late or leaving during class time is disruptive and disrespectful to the class, and our class time is short.

Use of electronic devices (laptops, netbooks, telephones, etc.) during class is prohibited.

This is a writing-intensive course: The class will require weekly questions (10%), a mid-length paper concerning the Critical Period, the drafting or ratification of the Constitution or the Bill of Rights, the history of a particular provision, or a related topic (55%), a draft of part of which will be due before Spring Break, and an informed critique of another student’s paper (12%). Each student will present the results of his or her research to the class (10%). Class participation will count for an additional 13% (absences will also detract from the class participation grade). While I am happy to meet with you at any time, the marked draft of your final paper presents a particular opportunity to discuss drafting and the project generally. Drafting issues will likely be discussed periodically in class, but if you have a question, you should not wait in the hope that the matter will be addressed.

The final paper for this class should be 20-25 pages long. You must visit the professor in his office or e-mail him with a contemplated topic and a brief explanation by no later than February 19 (the sooner the better). The draft, which is due on Thursday, March 19, should include a full outline and at least part of the text (at least 6 pages, a more complete draft will, of course, receive more thorough comments).
Presentations of the research and paper to the class should be 15-25 minutes. Each student will also be assigned to critique another student’s paper; that critique will consist of an oral presentation of 7-10 minutes (discussing, for example, strengths, weaknesses, questions, areas for additional research, etc.) and a short paper, 3-5 pages. Presentations and critiques will be scheduled in April (a sign-up sheet will be available in the first several weeks of class). A near-final copy of the paper must be e-mailed to the person doing your critique and the professor no later than 5:00 pm 4 days before your scheduled presentation. (I will be checking to see that these are near final; it is only fair to the person doing the critique that they be so.) Final papers will be due 5 days after your presentation.

Any papers for this class (other than weekly questions) should be double-spaced, 12 pt. type (footnotes 11 or 12 pt.), with one-inch margins. The Chicago Manual of Style should be used for citation format (a bibliography is not needed for a document less than monograph length, so plan to use the text/footnote format and short citations after a first full citation – see me if you have questions). Turning in an assignment late will affect the grade, with each day an assignment is late reducing the grade.

You should also review the essay “Writing History” posted for this class. I also encourage you to visit the Writing Center (and consider their resources).

Questions Assignment: Beginning with the week of Tuesday, February 10, through the week of May 4, once each week that we have class with assigned reading, by no later than 11:00 a.m. on the day of class, each student must post in the Blackboard Discussion Board for that week a question concerning the readings for that day. (The question can be submitted on Tuesday or Thursday for the readings for that day.) The question might simply seek clarification of some point in the material. Preferably, the question should raise a broader matter of analysis or understanding and place the question in the context of the readings and the course. For example, one might ask for the first day:

Given the relative success of the Confederation (winning war, Northwest Ordinance, etc.) and the fact that the post-war recession had largely ended by 1787, why is the Convention seen as so necessary? As Jefferson observes, Shays’ Rebellion was a relatively small matter and was easily put-down. There was apparently no comparable rebellion or opposition in Virginia. Do we have to see reaction in Madison’s and Washington’s support of the Convention? From a historiographic perspective, does the result of the Convention implicitly undermine the success of the Confederation?

A question and any background to provide context should be no longer than a paragraph. Be prepared to discuss your questions in class. These questions will be graded and account for 10% of your grade. I encourage you to discuss questions on the readings with other students.

The drop deadline for this class is February 11; the last day to withdraw is April 6.

The textbooks for this class are:


We will also be reading some essays and selections from *The Federalist Papers* (any edition should do or they are available on-line).

Most of the texts should be available in the bookstore or you can obtain them on-line. (I recommend bookfinder.com, half.com, abebooks.com, and amazon.com. If you have difficulty locating any of the texts, please let me know.)

Other materials will be provided, posted on “Blackboard,” or placed on electronic reserve as needed. Only material listed as “Reading” is assigned; “Suggested Reading” and “Additional Reading” are listed for your benefit (and, I might add, are certainly not a thorough or even balanced list of scholarship in the area). With a Tues./Thurs. schedule, the reading is not perfectly spaced, so look ahead on the syllabus and plan your reading as necessary.

This syllabus is subject to change at the instructor’s discretion.

**Students with a disability requiring special consideration:** Oberlin College will make reasonable accommodations for students with properly documented disabilities. If you are eligible to receive an accommodation and would like to request it for this course, please discuss it with me during the first two weeks of class. You will need to provide the Office of Disability Services (50 N. Professor St., Peters Hall Rm. G-27/28) with appropriate documentation.

**Day 1: Tuesday, February 3**

**Reading:**

The United States Constitution


**Suggested Reading:**

James Madison, "Vices of the Political System of the United States" (April 1787) (Blackboard).

**Additional Reading:**


**Discussion Questions:**

What are the successes and failures of the Confederation? Is the “Critical Period” only “critical” in retrospect?

What is the economic situation in the United States in 1786-87? How was it changing?

**Day 2: Thursday, February 5**

**Reading:**

Richards, *Shays’s*, Prologue – Chpt. 4

**Suggested Reading:**

Richards, *Shays’s*, Chpts. 6 - 7

**Additional Reading:**


**Discussion Questions:**

Were the Shaysites American patriots abused by a reactionary class?

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Does Richards offer a coherent explanation for why the Shaysites revolted? What becomes of the Shaysites over time?

Day 3: Tuesday, February 10

Reading:

Beeman, Plain, Honest, Chpts. 1-3

Letter from Thomas Jefferson to James Madison (January 30, 1787) (Blackboard).

Suggested Reading:

Federalist #15, #16

Discussion Questions:

What can we learn from the centrality of Washington to the success of calling the Convention? (A continuing question.)

Day 4: Thursday, February 12

Reading:

Beeman, Plain, Honest, Chpts. 4-7

Additional Reading:


Day 5: Tuesday, February 17

Reading:

Beeman, Plain, Honest, Chpts. 8-10

Day 6: Thursday, February 19

Reading:

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Beeman, *Plain, Honest*, Chpts. 11-15

**Discussion Questions:**

What is the significance of sectional differences in the 1780s and as the Constitution is drafted? Are the larger fault-lines north-south or east-west? Are other members blind to what Madison insists is the central difference among the states?

**Day 7: Tuesday, February 24**

**Reading:**

Beeman, *Plain, Honest*, Chpts. 16-19

**Day 8: Thursday, February 26**

**Reading:**

Maier, *Ratification*, Prologue, Chpts. 1-2

**Discussion Questions:**

What are the primary strengths and weaknesses of the federalists and anti-federalists as the effort for ratification begins?

How significant is the action of the Confederation Congress in that regard? Given the actions of the Convention, should a more negative approach have been expected from Congress?

**Day 9: Tuesday, March 3**

**Reading:**

Maier, *Ratification*, Chpts. 3-4

**Day 10: Thursday, March 5**

**Reading:**

Maier, *Ratification*, Chpt. 5

**Day 11: Tuesday, March 10**

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Reading:

Maier, *Ratification*, Chpts. 6-7

Day 12: Thursday, March 12

Reading:

Maier, *Ratification*, Chpt. 8

Day 13: Tuesday, March 17

Reading:

Maier, *Ratification*, Chpts. 9-10

Discussion Questions:

Evaluate Patrick Henry’s motives before and after the ratification vote in Virginia. George Mason’s.

Day 14: Thursday, March 19

Drafts of papers due

Reading:

Maier, *Ratification*, Chpt. 11

Day 15: Tuesday, March 31

Reading:

Maier, *Ratification*, Chpts. 12-13

Discussion Questions:

Looking at the map of ratification, what factors seem to control support or opposition to the Constitution? Why does Georgia support?

Day 16: Thursday, April 2

Reading:

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Maier, *Ratification*, Chpt. 14 and Epilogue

**Day 17: Tuesday, April 7**

**Reading:**

*Federalist* #s 10, 44, 51, 78, 84

“Essays of Brutus,” II, V, XII, in Storing, *Anti-Federalist* (Blackboard)


**Day 18: Thursday, April 9**

**Reading:**

Labunski, *James Madison*, Chpts. 6-8

**Suggested Reading:**

Relevant portions of Veit, *Creating the Bill of Rights*

**Additional Reading:**


**Day 19: Tuesday, April 14**

**Reading:**

Labunski, *James Madison*, Chpts. 9-11

**Suggested Reading:**

Relevant portions of Veit, *Creating the Bill of Rights*

**Day 20: Thursday, April 16: Student Presentations**

**Day 21: Tuesday, April 21: Student Presentations**

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Day 22: Thursday, April 23: Student Presentations

Day 23: Tuesday, April 28: Student Presentations

Day 24: Thursday, April 30: Originalism

Reading:


Suggested Reading:

Scalia, *Matter of Interpretation*, rest of text

Discussion Question:

Why is the mythology of the Constitution’s history so important in America today?

How much agreement and disagreement is there between Scalia and his protagonists?

Day 25: Tuesday, May 5

Reading:

Breyer, *Active Liberty*, pp. 3-55, 75-84, 109-35

Suggested Reading:

Breyer, *Active Liberty*, rest of text

Day 26: Thursday, May 7: Catch-up, Review

Reading:

Some Additional Sources on the Critical Period, the Convention, and Ratification


I have a number of these materials available in my office. If you cannot locate materials in the library, you might check with me before proceeding to an inter-library loan.
GRADING GUIDELINES

An A or A- paper is one that is good enough to be read aloud in class. It is clearly written and well organized. It demonstrates that the writer has conducted a close and critical reading of the texts, grappled with the issues raised in the course, synthesized the readings, discussions, and lectures, and formulated a perceptive, compelling, independent argument. The argument shows intellectual originality and creativity, is sensitive to historical context, and is supported by a well-chosen variety of specific examples.

A B+ or B paper demonstrates many aspects of A- work but falls short of it in either the organization or clarity of its writing, the formulation and presentation of its argument, the thoroughness of argumentation or factual background, or the quality of research. Some papers or exams in this category show flashes of insight into many of the issues raised in the course. Others give evidence of independent thought, but the argument is not presented clearly or convincingly.

A B- paper demonstrates a command of course or research material and understanding of historical context but provides a less than thorough defense of the writer's independent argument because of weakness in writing, argument, organization, or use of evidence.

A C+, C, or C- paper offers little more than a mere summary of ideas and information covered in the course, is insensitive to historical context, does not respond to the assignment adequately, suffers from frequent factual error, unclear writing, poor organization, or inadequate primary research, or presents some combination of these problems.

Whereas the grading standards for written work between A and C- are concerned with the presentation of argument and evidence, a paper or exam that belongs to the D or F categories demonstrates inadequate command of course material.

A D paper demonstrates serious deficiencies or severe flaws in the student's command of course or research material.

An F paper demonstrates no competence in the course or research materials. It generally indicates a student's neglect or lack of effort in the course.