

CONSTITUTIONAL INTERPRETATION AND THE POLITICAL PROCESS  
GOVERNMENT 231  
COURSE OUTLINE

- I. Judicial Review: Activism and Restraint
  - The Origins of Judicial Review
    - Concerning Congressional Acts
    - Lower State Courts
  - Limitation of Judicial Review
    - Case or Controversy:
      - Declaratory Judgments
      - Advisory Opinions
      - Mootness and Collusiveness
      - Ripeness
    - Political Questions
    - Stare Decisis
    - Avoiding the Constitutional Issue
    - Presumption of Constitutionality
    - Standing to Sue
    - Adequate State Grounds
- II. Intergovernmental Relations: Federalism
  - The limits of federal power vis-a-vis the states
  - Intergovernmental Tax Immunities
  - Control of Economic Regulations in the States
  - The States and Commerce Power
  - Nationalization of the Bill of Rights
  - Interstate Relations
    - Interstate Obligations
    - Interstate Collaboration
  - Federal Supremacy: Uniformity of national policy within the States through expenditures for the general welfare
- III. Representation in Legislative Bodies: Distribution of Political Power
  - Political Questions: Guarantee of a Republican Form of Government
  - Malapportionment as a Violation of Civil Liberties
    - Reapportionment in Lower House of State Legislatures
    - Reapportionment in Upper House of State Legislatures
    - Reapportionment of Congressional Districts
    - One-man, one-vote Formula: Rural vs. Urban
    - Reapportionment of Local Voting Precincts
- IV. Restraining Political Parties
  - Election Fraud and Malfunctions
  - Qualifications of Right to Vote
    - Grandfather Clause
    - White Supremacy
    - Poll Tax
    - Literacy Test
  - Racial Discrimination in Elections
  - Supervising Election Contest
  - The Rights of Minor Parties
- V. Restraining the Executive Branch of Government
  - President's Powers as Commander-in-Chief
  - Chief of Foreign Relations
  - Protector of the Peace
  - Political Control over Administration
  - Executive - Legislative Relations
  - Limitations on Discretion of Governors



## VI. Restraining the Legislative Branch of Government

The Scope of Granted Powers: Implied Powers and the Necessary and Proper Clause

Congressional Investigatory Power  
 State Legislative Investigatory Power  
 Control Over Internal Affairs of Legislatures  
 Interpretation of Statutes  
 Delegation of Legislative Power  
 War Powers  
 Treaty Powers  
 Taxation and Fiscal Powers  
 Interstate Commerce Powers

## VII. Restraining the Bureaucracy

Supplementary Relation Between Courts and Agencies  
 The Doctrine of Primary Jurisdiction  
 Exhaustion of Administrative Remedies, "Ripeness," and Standing  
 Distinguishing Questions of Fact and Questions of Law  
 Clearly Erroneous and Substantial Evidence Rules  
 The Politics of Remand  
 Estoppel, Stare Decisis, and Res Judicata  
 Administrative Procedures Act of 1946  
   Hearings  
   Hearing Officers  
   Admissibility of Evidence and Official Notice  
   Rules, Rule-Making, and Delegation

## VIII. Regulating Church-State Relations

Establishment of Religion: Separation of Church and State  
   Aid to Parochial Schools  
   Released-Time Religious Instruction Programs  
   Proscription of Bible Reading and Prayer  
   Sunday Closing Laws  
 The "Free Exercise" of Religion  
   Limitations on Proselytizing  
   Exemptions from Patriotic Ceremonies  
   Military Service and the Conscientious Objector

## IX. Regulating Communication Networks and Interest Group Activity: Speech, Press, Assembly

The Scope of Constitutionally Protected Expression  
   Advocacy of Crime or Revolution  
   Interference with the Administration of Justice  
   Obscenity and Immorality  
   Libel  
   Lay Group Intervention in Lawyer-Client Relation  
   Interference with Business Through Picketing  
   Offending Religious Sensibilities  
   Control of the Place and Manner of Expression  
   Public Demands for Information and Advantages  
     Interest Groups and Government Employees  
     State Efforts to Control Interest Group Activity  
     Freedom from Coerced Association  
 Limitation of Governmental Methods:  
   Prior versus Subsequent Restraint  
   Motion Picture Censorship  
   Procedural Safeguards

## X. The Role of the Judiciary in American Democracy