

SUMMER COURSES, Summer 2017
LANDMARK SUPREME COURT CASES:
Scalia and the Last Half-Century of Constitutional Law
Instructor: Adam J. White
Washington, D.C.

The seminar will focus on five landmark Supreme Court cases from the past 50 years with a view to exploring how politics and law interact, the different approaches to constitutional judgment and rhetoric, and the impact of the Court's decisions on American lives. We will find the late Justice Antonin Scalia at the center of this discussion throughout the week, as we consider how his focus on constitutional "originalism" and the Constitution's structural checks and balances, both rooted in his view of the courts' properly limited role in republican government, profoundly changed the way in which Americans view the Constitution and constitutional law.

Resources: To learn more about other important figures in constitutional law, we encourage you to visit ContemporaryThinkers.org, a website covering the ideas and influence of pioneering intellectuals of the 20th and 21st centuries.

Sponsored by the Hertog Foundation, ContemporaryThinkers.org includes sites devoted to Walter Berns, Martin Diamond, Herbert Storing, and many others.

Monday, July 24, 2017, 9:00 am to Noon

***Griswold*: The Return of Judge-Made Liberties**

Readings:

- *Federalist* No. 78 (1788)
- Brutus, No. 15 (1788)
- *Griswold v. Connecticut* (1965)
- Holmes's Dissent in *Lochner v. New York* (1905)
- Alexander Bickel, "The Heavenly City of the Twentieth-Century Justices," in *The Supreme Court and the Idea of Progress* (1970)

Tuesday, July 25, 2017, 9:00 am to Noon

Heller: The Triumph of Justice Scalia's Originalist Jurisprudence

Readings:

- *D.C. v. Heller* (2008)
- Antonin Scalia, "Originalism: The Lesser Evil," *University of Cincinnati Law Review* 57:849 (1988)
- J. Harvie Wilkinson, "Originalism: Activism Masquerading as Restraint," in *Cosmic Constitutional Theory* (2012)

Wednesday, July 26, 2017, 9:00 am to Noon

Noel Canning: Tradition versus originalism

Readings:

- *Federalist* No. 37 (1788)
- Office of Legal Counsel Opinion on Recess Appointments, January 6, 2012
- *NLRB v. Noel Canning* (2014)
- Thomas Merrill, "Bork vs. Burke," *Harvard Journal of Law and Public Policy* 19:2 (1995)

Thursday, July 27, 2017, 9:00 am to Noon

Morrison: Taking structure seriously

Readings:

- *Federalist* No. 51 (1788)
- *Federalist* No. 70 (1788)
- *Morrison v. Olson* (1988)
- Adam White, "The American Constitutionalist," *Weekly Standard*, February 29, 2016

Friday, July 28, 2017

Smith: Rights and Republicanism

Readings:

- *Employment Division v. Smith* (1990)
- Michael McConnell, "Taking Religious Freedom Seriously," *First Things*, May 1990
- Yuval Levin, "The Perils of Religious Liberty," *First Things*, February 2016
- Antonin Scalia, "Teaching About The Law," *Christian Legal Society Quarterly*, Fall 1987