

THE UNIVERSITY OF TEXAS AT AUSTIN
Department of Government
Fall 2010

GOV 370 - "President, Congress, and Court"
Unique #38700
Tuesday/Thursday 5-6:30pm, UTC 3.112

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Professor Tulis

Office: MEZ 3.152

Office Hours: Tuesdays and Thursdays, 3:30 to 5pm (and also available by appointment at other times on Tuesdays and Thursdays.)

This is a course on the problems and pathologies of American national government. It is commonly thought that national politics has become more prone to institutional and partisan conflict, policy deadlock or "gridlock" and, more generally, that our national institutions do not function as they were designed to perform. We will explore this theme along with two others tied to it. We will seek to discern the design of the constitutional order that modern conflict prone Washington is said to undermine. More importantly, we will study whether, in fact, American politics is better described as conflict avoiding rather than conflict prone. Might it be the case that the Congress defers to the President over the custody of its own powers and responsibilities, and that Congress and the President now increasingly defer to the Court to resolve inter-institutional disputes? In the first part of the course, we introduce these themes and questions through an effort to get clear on the separation of powers design against which we might evaluate contemporary practices. We also discuss the ways the constitutional design affects or does not affect political behavior. In the later parts of the course, we look at specific arenas of conflict and deference, including nominations to the Court, budget making processes, terrorism and war. In light of these problems, we also discuss the ideas of leadership and statesmanship.

Course requirements:

1. Two tests (each counting 25% of the course grade). I will distribute three or four difficult essay questions one week in advance of the test. One of these exact questions will be chosen as the test question. No surprises. Just a lot of very hard thinking. The test will be open book, but you will not be allowed to use notes or outlines. During the last two semesters this course was offered, the average grade on these tests was 78 and 83. I do not use a curve.
2. One short (400 word) diagnostic essay (10% of the course grade). This essay, early in the semester, is an exercise in careful reading and writing and a diagnosis of your skills.
3. One (750 word) analytic paper (25% of the course grade) Topic will be assigned one week prior to due date. Students have the option of proposing a research paper in lieu of this requirement.
4. Class participation (15% of the course grade). You are expected to attend class regularly, to have read the assigned reading before class, and to follow national news regarding relations between the President and Congress. I will call on students to

discuss facts and issues raised in the texts and in current events reported in the news. In addition to the assigned reading, students are expected to regularly read major news accounts of disputes between and among the Congress, President and Court. Major newspapers such as the New York Times and Washington Post are available for free on line. Although failure to answer questions I pose to you about the day's reading or about major current events will hurt your participation grade – questions that you pose, or issues that you raise in class at your own initiative will never hurt your participation grade and may very well enhance it. Your questions, reactions and comments are always welcome.

NOTE WELL:

Except for documented emergencies (a note from the appropriate Dean or medical staff), or for the special circumstances noted below, there will be no make-up tests or extensions on the due dates for the short essay and analytic paper.

Plan now for the due dates: September 7 (Short essay); October 7 (in class test); November 4 (Analytic essay); December 2 (in class test).

NOTE: When planned well in advance, we can sometimes schedule an early exam to accommodate conflicts with extra-curricular activities on the day of the test. These accommodations are not guaranteed – but we will do our best if given ample advance notice.

NOTE: I will always make accommodations for absences due to religious holidays. Please let me know at the outset of the semester if you will need to be absent for religious reasons.

NOTE: Students with disabilities may request appropriate academic accommodations from the Division of Diversity and Community Engagement, Services for students with Disabilities, 471-6259.

Grading: All assignments and class participation will be graded on a 100 point scale. The final course grade will be the weighted average of these grades on the following plus/minus scale:

94-100	A
90-93	A-
87-89	B+
83-86	B
80-82	B-
77-79	C+
73-76	C
70-72	C-
67-69	D+
60-66	D
0-59	F

Texts:

[Required]

*The Federalist*Rudalevige, *The New Imperial Presidency*Fisher, *Constitutional Conflicts Between Congress and the President*Bessette and Tulis, *The Constitutional Presidency*Skowronek, *Presidential Leadership in Political Time*Goldsmith, *The Terror Presidency*Tulis, *The Rhetorical Presidency***Schedule:**

August 26

Introduction

No reading assigned

August 31

The Constitution, politics and the presidency

Bessette and Tulis, Chapter 1 “On the Constitution, Politics and the Presidency” (focus on pages 1-14)

Rudalevige, Chapter 1, “‘Freedom Fries’ and Presidential Power”

September 2 First Writing Assignment

No class meeting today. (I will be attending a professional meeting in Washington, DC). As a make-up for this class, I will be scheduling small tutorials to discuss the results of the writing assignment that you will work on today. We will meet in groups of 4-5 students in my office, during times you will sign up for during the next several weeks.

Assignment. Read *The Federalist* No. 70. Write an essay, no longer than 500 words, explaining the first two paragraphs of that essay. The essay is signed “Publius.” What is Publius saying? Does he think that “a vigorous executive is inconsistent with the genius of republican government?” Restate his argument in your own words. I don’t want you to assess or evaluate his argument. I don’t need to know whether you agree with it or not. I am not looking for a mere paraphrase. What I am looking for is a very clear explanation in your own words of what he is trying to say. Big hint: it is not obvious what Publius is saying. His main point is subtle. Your essay should be typed, double spaced, on two pages or less. Grammar, spelling, style consistency, and formatting should be perfect. It is due at the beginning of class on September 7.

September 7 Constitutional design
 Rudalevige, Chapter 2, “The ‘Foetus of Monarchy’ Grows Up”
 Fisher, Chapter 1, “Constitutional Struggles”
 Mayer, “Executive Orders,” chap 7 in Bessette and Tulis
 Note: Writing assignment due beginning of class

September 9
 No class due to Rosh Hashanah (Jewish Holiday)
 However, we will be having tutorials this week for which you can sign up.

September 14 Separation of powers
The Federalist, Nos. 47-51.

September 16 Executive Privilege
 Fisher, Chap 6, “Power over Knowledge”
 Crockett, “Executive Privilege” in Bessette and Tulis (chap. 9)

September 21 Powers and Duties
 Bessette and Schmitt, “Powers and Duties,” in Bessette and Tulis (chap. 2)

September 23 Impeachment
 Tulis, “Impeachment in the Constitutional Order” in Bessette and Tulis, (chap.10)

September 28 Delegation of power
 Fisher, chap. 4, “Legislative powers”

September 30, Appointment power
 Fisher, chap.2 Appointment powers
 Fisher, chap.3 “Theory in a crucible: the Removal Power”
Essay pool for in class test distributed

October 5
 Review

October 7
In-class examination

October 12 Supreme court appointments
 Tulis “Forbearance” – chapter manuscript posted on Blackboard.

NOTE: Students who wish to write a research paper instead of the analytic paper due November 9 should have paper proposal approved by me by this date. The paper would be due November 9. Students interested in this option should consult with me in office hours in early October.

October 14 Budget
 Fisher chap. 7, "Power of the Purse"
 Farrier, "Budget Power" in Bessette and Tulis, chap. 8

October 19 Emergency
 Locke, "Of Prerogative" - to be posted on Blackboard

October 21, War
 Fisher, chap. 9, "The War Power"
 Rudalevige, "The Old Imperial Presidency," in Rudalevige (chap. 3).
 Goldsmith, *The Terror Presidency*, chap. 1 (pp. 17-42).

October 26 Terrorism
 Goldsmith, *The Terror Presidency*, chaps. 2 and 3 (pp. 43-98)

October 28 Terrorism
 Goldsmith, *The Terror Presidency*, chaps. 4, and 5 (pp. 99-176)

Topics for Analytic Essay distributed

November 2 Terrorism
 Goldsmith, *The Terror Presidency*, chaps 6 and afterward (pp. 177-233).
 Rudalevige, "Tidal Wave," chap. 7

November 4 The Imperial Presidency?
 Rudalevige, "Practical Advantages and Grave Dangers" (chap. 8)

November 9 The Imperial Presidency?
 Skowronek, chap.5 "The Imperial Presidency Thesis Revisited"

Analytic Essay Due, beginning of class

November 11 Leadership
 Tulis, "The Possibility of Statesmanship," – to be posted on Blackboard.

November 16 Leadership
 Skowronek, Chap. 2 "Presidential Leadership in Political Time"
 Skowronek, Chap. 3 "The Politics of Leadership at the end of the 20th Century"

November 18 Dilemmas of Governance
 Tulis, *Rhetorical Presidency*, chaps. 1-3

November 23 Dilemmas of Governance
Tulis, *Rhetorical Presidency*, chaps, 4-5

Essay pool for last in class test distributed

November 25 Thanksgiving Break

November 30 Limits of Leadership
Tulis, *Rhetorical Presidency*, chaps, 6-7
Ceaser, chap. 11 in Bessette and Tulis.

And Review

December 2

In class examination