

**Exam 1**  
**PS 3255 Development of the American Constitution**  
**Feb. 19, 2015**

**General Instructions**

Answer ANY FOUR of the five numbered questions below. It should be possible, in principle, to answer each question in about four well-formulated sentences. You are free to write more, but avoid irrelevant or extraneous material in your answer.

You have until 4:00 (approximately 80 minutes) to complete your answers. No matter what happens, plan your time so that you don't end up addressing fewer than four.

**Please try to skip lines and write on only one side of each page in your test booklet.** If you notice you've forgotten this, don't worry; just start doing it then. Extra test booklets are freely available.

1. In the case of the Framing, give one example each of (a) a then-existing institution, law, or rule violated by the process; (b) an existing institution, law, or rule whose use helped establish the acceptance or legitimacy of the proposed new Constitution. Explain.
2. Why did Hamilton advocate the creation of the Bank of the United States? How did he justify the constitutionality of doing so? How does all this comport with a "constitutional conservative" view of the Constitution?
3. How does the Chase impeachment illustrate the process of "constitutional construction"? Make reference to as many of the characteristic features of construction as you can apply, and be specific about the results of this construction.
4. The assigned articles by Lessig & Sunstein ("The President and the Administration") and by Rowe ("The Sound of Silence: *United States v. Hudson & Goodwin...*") offer interpretations of what was the Framers' original understanding of, respectively, "the executive Power" (Article II section 1) and "the judicial Power of the United States" (Article III section 1). In each case, describe the main feature of that original understanding, and briefly describe the kind of evidence the article offers.
5. Name one feature of the system of presidential elections in place from 1840 to 1960 that contradicted the expectations or intentions of the Framers, but that was later justified as adhering to American principles of self-government, federalism, separation of powers, or other principles. Explain.

**--author and article list on reverse--**

Our list of articles, for your convenience. You may refer to an article simply by author's last name(s), except, if important, when there are multiple works by the same author. In the order assigned:

B.A. Cyclone, "What does 'Constitutional conservative' mean?" RedState blog.

Edwin Meese et al., "The Mount Vernon Statement."

Dahlia Lithwick, "Read It and Weep: How the Tea Party's fetish for the Constitution as written may get it in trouble." *Slate*.

Geoffrey R. Stone, "Our Fill-in-the-Blank Constitution." *New York Times*.

Thurgood Marshall, "Commentary: Reflections on the Bicentennial of the United States Constitution." *Vanderbilt Law Review*.

William Bradford Reynolds, "Another View: Our Magnificent Constitution." *Vanderbilt Law Review*.

Keith Whittington, *Constitutional Construction*, Chapter 1, "The Political Constitution."

Bruce Ackerman, *We the People. Volume 2: Transformations*, Chapters 1-3.

William M. Wiecek, "The Witch at the Christening: Slavery and the Constitution's Origins." Book chapter.

James Madison, *Notes of Debates in the Federal Convention of 1787*. Constitutional Convention debates of Aug. 22, 1787 on issues related to slavery.

*Annals of Congress*: House debate surrounding the "Quaker petition" of 1790.

Alexander Hamilton, Treasury Secretary's Report on Public Credit (1790).

Alexander Hamilton, Opinion on the Constitutionality of the Bank.

Richard P. McCormick, *The Presidential Game*.

Lawrence Lessig and Cass R. Sunstein, "The President and the Administration." *Columbia Law Review*.

Louis Fisher, *Presidential War Power*, Chapter 2 "Precedents from 1789 to 1900."

Keith E. Whittington, "Reconstructing the Federal Judiciary: The Chase Impeachment and the Constitution." *Studies in American Political Development*.

Gary D. Rowe, "The Sound of Silence: *United States v. Hudson & Goodwin...*" *Yale Law Journal*.