#### McGILL UNIVERSITY

#### DEPARTMENT OF POLITICAL SCIENCE

### **POLITICAL SCIENCE 425**

# SELECTED TOPICS IN AMERICAN POLITICS: THE SUPREME COURT AND CONSTITUTIONAL LAW

Prof. Harold M. Waller Leacock 423, 398-4400 Ext. 094369

harold.waller@mcgill.ca

Office Hours MW 11:45 – 12:15 and M 4:15 – 5:15

Fall 2015

MW 10:05-11:25

Strathcona Anatomy 1/12

## Textbooks Available in Bookstore

David O'Brien, *Storm Center*, 10<sup>th</sup> Edition. David O'Brien, *Constitutional Law and Politics*, 9<sup>th</sup> Ed., Vol. 2 Course Pack (Print and electronic versions are available.)

Note: The two books are available in the Bookstore as a bundle. Assigned Readings in the textbooks are required. Other readings are denoted R (required) or S (supplementary). Generally the R readings are in the Course Pack.

Sept. 4-9 The Judiciary in the Constitutional System

O'Brien, S.C., R: Ch. 1-2 O'Brien, C.L.P., Ch. 2A Silverstein, R: Ch. 5-6 Murphy, S: Ch. 1

Sept. 14-16 The Supreme Court

O'Brien, C.L.P., Ch. 2B-2H O'Brien, S.C., R: Ch. 3-5 Cooper and Ball, R: Ch. 3 Stevens, S: Ch. VII

Sept. 21-23 Interpreting the Constitution

O'Brien, C.L.P., Ch. 1B

Ely, R: Ch. 1-2

Epstein and Knight, R: Ch. 3-4

Tribe, R: Part I

Murphy, S: Ch. 3-4, 8.

Sept. 28-30	The Evolution of Judicial Review O'Brien, C.L.P., Ch. 1A Ely, R: Ch. 3-4 Tribe, R: Part II Sunstein, R: Ch. 1. Sullivan and Gunther, S: Ch. 1.
Oct. 5-14	Government Powers: War Power & National Security O'Brien, C.L.P., R: Vol. 1, Ch. 3D and 4A Vol. 2, pp. 435-446 and 1038-1042 Fisher, R: Ch. 6-7. Breyer, R: Ch. 15.
Oct. 19	Government Powers: Private Property and the "Takings Clause" O'Brien, C.L.P., Ch. 3C Sullivan and Gunther, S.: Ch. 8, Sec. 1-2
Oct. 21-26	Relationships in the Federal System O'Brien, C.L.P., Vol. 1, R: Ch. 6C and 7A & B Tushnet, R: Ch. 10. Tribe and Matz, R: Ch. 2.
Oct. 28-Nov. 2	Procedural Due Process and the Rights of Accused Persons O'Brien, C.L.P., Ch. 4A, 8A, 9A & D, 10B Abraham and Perry, R: Ch. 4
Nov. 4-9	Substantive Due Process and the Right to Privacy O'Brien, C.L.P., Ch. 11 and pp. 407-415 and 431-434
Nov. 11-16	Freedom of Expression O'Brien, C.L.P., Ch. 5A, B, E, F, H, and I. Domino, R: Ch. 2
Nov. 18-23	Religion and the State O'Brien, C.L.P., Ch. 6 Tushnet, R: Ch. 7
Nov. 25-30	Equal Protection and Affirmative Action O'Brien, C.L.P., Ch. 12B and C.
Dec. 2-7	The Supreme Court and Policy Making O'Brien, CLP, Ch. 2I O'Brien, S.C., R: Ch. 6 Epstein and Knight, R: Ch. 1-2 Cooper and Ball, R: Ch. 12-13

Baum, R: Ch. 5-6 Domino, R: Ch. 8 Fisher, R: Ch. 7

### **BOOKS ON RESERVE**

.

Henry J. Abraham and Freedom and the Court, 7<sup>th</sup> Ed.

Barbara Perry

Lawrence Baum The Supreme Court, 9<sup>th</sup> Ed.

Stephen Breyer Making Our Democracy Work

Philip Cooper and The U.S. Supreme Court

**Howard Ball** 

John C. Domino Civil Rights and Liberties

in the 21st Century, 3rd Ed.

John Hart Ely Democracy and Distrust

Lee Epstein & Jack Knight The Choices Justices Make

Louis Fisher The Constitution and 9/11

Walter Murphy et al. *American Constitutional Interpretation*, 4<sup>th</sup> Ed.

David M. O'Brien Constitutional Law and Politics

9<sup>th</sup> Ed., Volumes 1 and 2

David M. O'Brien Storm Center, 10<sup>th</sup> Ed.

Silverstein, Mark *Judicious Choices*, 2<sup>nd</sup> Ed.

John Paul Stevens Five Chiefs

Kathleen Sullivan and Sullivan and Gunther's
Gerald Gunther
Constitutional Law, 16<sup>th</sup> Ed.

Cass Sunstein Radicals in Robes: The Roberts Court and the

Constitution

Laurence Tribe The Invisible Constitution

Laurence Tribe and Joshua Matz Uncertain Justice: The Roberts Court and the

Constitution

Mark Tushnet A Court Divided

## **COURSE REQUIREMENTS**

Term Paper (about 15 pages, submitted as hard copy on Dec. 2) 50% Final Examination 50%

In addition, each student will be required to submit a brief of one Supreme Court case. Although submission is a requirement, the brief will not be graded.

The option of additional work is not available. There will be a supplemental examination. According to Senate regulations, instructors are not permitted to make special arrangements for final examinations. Please consult the Calendar, section 4.7.2.1, General University Information and Regulations at www.mcgill.ca.

### LECTURE SCHEDULE

The class will meet from 10:05 to 11:25 on Mondays and Wednesdays. The University will operate on a Monday schedule on Friday, September 4. Our first lecture will be on that date.

There will be no lectures on three Mondays, September 14 and 28 and October 5, and one Wednesday, September 23. Arrangements will be announced during September regarding how those classes will be made up.

There are no conference sections in this course.

### POLICY STATEMENTS

McGill University values academic integrity. Therefore all students must understand the meaning and consequences of cheating, plagiarism and other academic offenses under the Code of Student Conduct and Disciplinary Procedures. (See <a href="http://www.mcgill.ca/integrity">http://www.mcgill.ca/integrity</a> for more information.)

In accord with McGill University's Charter of Students' Rights, students in this course have the right to submit in English or French any written work that is to be graded.

In the event of extraordinary circumstances beyond the University's control, the content and/or evaluation scheme in this course is subject to change.