McGILL UNIVERSITY

DEPARTMENT OF POLITICAL SCIENCE

POLITICAL SCIENCE 425

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

Prof. Harold M. Waller

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

Textbooks Available in Bookstore

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.

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 Barbara Perry
Freedom and the Court, 7th Ed.

Lawrence Baum
The Supreme Court, 9th Ed.

Stephen Breyer
Making Our Democracy Work

Philip Cooper and Howard Ball
The U.S. Supreme Court

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, 4th Ed.

David M. O’Brien
Constitutional Law and Politics  
9th Ed., Volumes 1 and 2

David M. O’Brien
Storm Center, 10th Ed.

Silverstein, Mark
Judicious Choices, 2nd Ed.

John Paul Stevens
Five Chiefs

Kathleen Sullivan and Gerald Gunther
Sullivan and Gunther’s Constitutional Law, 16th 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 [http://www.mcgill.ca/integrity](http://www.mcgill.ca/integrity) 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.