COURSE APPROACH

This course provides an introduction to major theoretical and practical issues in American constitutional law and politics. In particular, the course will focus on the role of the Supreme Court in the American political and legal process – and on the distribution of power among federal-government branches and between the federal government and state governments.

The class is conducted “modified law school” style; sessions will mainly involve class discussion of excerpts from landmark cases, other assigned readings, and discussion questions I have specifically prepared for this course. At times I will provide an overview of key legal doctrines and developments through lecture. At times class members will discuss questions or hypothetical problems in small groups, and student volunteers may play the roles of advocates or judges.

You will get maximum value from the course by doing the assigned reading for each session completely and actively, and coming to class prepared to engage in a lively discussion. (Especially given the class-discussion format and small size of this class, it is always preferable to attend classes in person, rather than rely on notes from others.)

We will have FUN!

READINGS AND SYLLABI

The texts for the class are as follows:

1. O'Brien, CONSTITUTIONAL LAW AND POLITICS, VOLUME ONE (Eighth Ed. 2010 W. W. Norton & Co., Ltd.)¹ (Please note that Volume Two of O'Brien’s book is NOT used.)

2. Smith & Fusco, CONSTITUTIONAL LAW FOR DUMMIES (Wiley & Co. 2012)

¹Students occasionally wonder whether previous editions of the O'Brien book (especially the 7th Edition, which was published in 2008 and may still be found in Used versions can be used instead of the most recent edition. As with most legal issues “it depends.” Most of the readings in the new edition can be found in older ones. However, there are some new materials, and page numbers are different. I make periodic reference to page numbers in class, and will be referring to the new (8th Edition) pages. Students especially motivated by cost-saving concerns may be willing to go to the trouble of comparing older and newer editions and cross-correlating page numbers. To assist students using the 7th Edition, page-number equivalents keyed to this edition will follow (in italics) the assignments given in 8th Edition pages.)
You will also read -- and will probably want to copy onto hard copies, so that you can refer to them in class and during open-book course exams -- (1) past exam questions and (2) extensive case excerpts for the last two or three course weeks. These readings will be available free from an online webpage. (A later section of this document gives instructions for accessing the class webpage…)

Please bring the appropriate text(s) to each class.

There are two Assignment Syllabi for this course. The first Syllabus, distributed in class the first day and available after that on the class webpage, covers Phases I & II of the course -- materials potentially testable on the midterm exam. A second Assignment Syllabus, covering later assignments, will be posted separately on the webpage.

EXAMINATIONS

We will have an **in-class midterm** during the first portion (lasting no longer than 1 hour and 45 minutes) of the sixth-week class on **TUESDAY, NOVEMBER 5**. (The midterm will not be the only class-related activity that day; after the midterm is over and we take a break, we will reconvene for a lecture on next materials.)

As noted earlier, the midterm will cover materials assigned on the first syllabus. The **final examination** will be administered during the designated exam period for the course: **FRIDAY, DECEMBER 13th, from 7 P.M. to 10 P.M.** This final exam will be cumulative -- BUT the emphasis will be on materials studied after the midterm.

**IMPORTANT: PLEASE LOOK AT YOUR SCHEDULE IMMEDIATELY, and ensure that you will be able to take both exams. I REGRET THAT I WILL LIKELY BE UNABLE TO ACCOMMODATE OTHER THAN EMERGENCY CONFLICTS.**

Both examinations will pose short-answer essay questions, in the format illustrated through past exam questions posted on the class webpage. Both exams will be open book / open note. The midterm is worth 40% of course points; the final is worth 60%. (Extra credit will be available to students who participate in in-class simulations.)

More details on examination coverage and format will be given via separate handouts, elaborated through in-class announcements, and illustrated by class discussion of past exam questions.

ADDITIONAL LEARNING OPPORTUNITY

I invite you to take on an additional practice that will significantly enhance your learning in the course: as you interact with general informational media (i.e., newspapers, magazines, newsletters, online databases, etc.) I invite you to notice media reports discussing current controversies relating to the constitutional issues and dynamics we are studying in the course. (Making the connection between class materials and the “real world out there” can be an important learning boost!)
When you identify media reports that you believe would be interesting to the class—ideally, reports that contain enough information to understand the context and legal basis of the constitutional controversy—I would very much appreciate your giving me a hard-copy version (or sending me an email with the text of the media report in the body of the email) so that I can consider sharing it with the class at an appropriate time.

**CLASS WEBPAGE ACCESS INSTRUCTIONS**

Visit my law-school website (“www.cwsl.edu”). (2) Click on “Meet the Faculty”. (3) On the alphabetical list, click on “Glenn C. Smith”. (4) Click on “Class Webpages” (at right of page) or scroll down to find the icon for “Political Science 104A, FALL 2013.”

**MY AVAILABILITY**

***For UCSD office hours:
--I will generally be available a few minutes before and after class.
--In addition, I will be available in person (Room 444, SSB) and by real-time email (gsmith@cwsl.edu) on WEDNESDAYS (except Wed., Oct. 2nd) from 2 PM to 4:30 PM.

***For additional consultations during my California Western School of Law office hours:
You are welcome to call me (at 619-525-1495), email me (gsmith@cwsl.edu) for a real-time reply, or visit me in person (Room 314, 225 Cedar St. (downtown San Diego; entrance at the intersection of Cedar St. and 3rd Ave.)) during these office hours:
 **Tuesdays, 11 A.M. to 2:30 P.M.
 **Thursdays, 11 A.M. to Noon; 4:15 to 5:15 P.M. (by prior arrangement)

[NOTE: Before making a special trip to my office, it is always a good idea to make sure that nothing has happened to displace my normal hours…]

***For “virtual office hours,” or to arrange office hours at a mutually convenient time other than regular office hours, email me at “gsmith@cwsl.edu”. [WHEN YOU EMAIL ME, please INCLUDE A REFERENCE TO “P SC 104A” in the subject line, so that I will know your message is not spam.]

***For law-school-planning questions and recommendations: A number of the students taking this course are planning to attend (or thinking about attending) law school. As a full-time law professor guest teaching this course, I am happy to provide general counseling about law school and legal careers, arranging visits to law-school classes at my home institution, and writing letters of recommendation in appropriate cases. (I am not necessarily recruiting students to law school in general or my law school in particular. In fairness, I simply wish to make sure all potentially interested students know in advance of my policy on being a law-school resource.) Please also note that the one area in which I am NOT a useful resource is questions about the specific procedures and current realities of law-school admission.
***In appropriate cases I am also willing to write recommendation letters for graduate study, internships (e.g., AIP or UCDC), foreign study, or other related opportunities.

Do not hesitate to contact me if I can be of any assistance.
I. INTRODUCTORY MATTERS: THE CONSTITUTION, THE SUPREME COURT, and DIFFERENT APPROACHES TO CONSTITUTIONAL INTERPRETATION

[SUMMARIZED IN CLASS 10/1; ▼▼▼ READ BEFORE THE MIDTERM ▼▼▼]

A. The Background and Central Features of the U.S. Constitution

Smith & Fusco, Chapter 1 (with particular emphasis on pp. 12-24)

B. Key Aspects of “Constitutional Law”

Smith & Fusco, Chapter 2, pp. 33-43

C. The Procedures and Dynamics of Supreme Court Decision-Making: An Overview

1. How Cases Reach, and Are Decided by, the Court

O’Brien, pp. 100-102; Figure 2.1 on p. 103; 172-175; 179-189

1For convenience, here again are the directions (from the course information sheet) for accessing the Class WebPage: (1) Visit my law-school website (“www.cwsl.edu”). (2) Click on “Meet the Faculty”. (3) On the alphabetical list, click on “Glenn C. Smith”. (4) Click on “Class Webpages” (at right of page) or scroll down to find the icon for P Sc 104A, FALL 2013.
II. THE POWER AND ROLE OF THE FEDERAL JUDICIARY -- AND THE SUPREME COURT IN PARTICULAR -- IN THE CONSTITUTIONAL SYSTEM

[NOTE: Especially if this is your first course requiring you to read and analyze judicial opinions, you will gain useful guidance from O'Brien, pp. 1101-1104 ("The How, Why, and What to Briefing and Citing Course Cases")]


1. Establishing and Contesting the Judicial Review Power: An Overview of Major Issues and Disputes

O'Brien, pp. 23-38; 176-177 [pp. 23-38; 178-179] ("In Comparative Perspective: The 'European Model' of Constitutional Courts and Judicial Review")


Smith & Fusco, Chapter 6, pp. 106-110
Smith Materials, pp. SM-3 through SM-8 ("Reading and Discussion Questions on Marbury v. Madison")
O'Brien, pp. 45-55 [same for 7th Edition...]

[▼▼▼ READ FOR 10/15 ▼▼▼]
[▼▼▼ READ FOR 10/15; WILL BE DISCUSSED SOME OF 10/22 ALSO ▼▼▼]

B. The Implications of Judicial Review

1. The Impact on Other Governmental Entities: Do They Still Retain An Independent Constitutional Decision-Making Role?

   Smith & Fusco, Chapter 6, pp. 110-113
   O'Brien, re-read pp. 32-34 (re: presidents claiming independent authority to decide constitutional questions) [same for 7th Edition...]
   O'Brien, read pp. 55-62; 809-812; 189-203; 548-551 [pp. 58-66; 805-809; 191-204; 544-547]

[▼▼▼ READ FOR 10/29 ▼▼▼]

2. The Impact on the Judiciary Itself: Judicial Restraint Doctrines Reflecting Continued Ambivalence about the Legitimacy of Judicial Review

   Smith & Fusco, Chapter 6, pp. 113-117
   Smith, SM-12 through SM-42 (excerpts from portions of recent Supreme Court DOMA and Proposition 8 opinions, re: standing and justiciabiity)

MIDTERM ON PHASE I & ALL PHASE II MATERIALS COVERED BY THE END OF CLASS ON 10/29 = Tuesday, November 5th (starting at 5PM, and continuing for the next 1.75 hours or so)