FALL 2014 -- POLITICAL SCIENCE 104A
The Supreme Court and the Constitution
Visiting Professor Glenn Smith

FIRST SYLLABUS
(covers Parts I & II, materials testable on the midterm)

--References in this font are to "O'Brien" are to the NINTH Edition (2014) of the required text, O'Brien, Constitutional Law and Politics, Volume One (W. W. Norton & Co., Ltd. [References in brackets and in italics are to the closest equivalent assignment in the EIGHTH Edition (2011) of O'Brien].
--References to “Smith & Fusco” are to CONSTITUTIONAL LAW FOR DUMMIES (John Wiley & Sons 2012)
--References to “Smith Materials” are to professor-developed materials and case excerpts posted on the class webpage or passed out in class.

I. INTRODUCTORY MATTERS: THE CONSTITUTION AND THE SUPREME COURT

[SUMMARIZED IN CLASS 10/2; ▼▼▼ PLEASE 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. 107-109; Figure 2.1 on p. 110; 190-193; 197-206
[100-102; Figure 2.1 on p. 103; 172-175; 179-189]

2. Different Approaches to Constitutional Interpretation: Their Strengths and Limits

O'Brien, pp. 68-76 [pp. 63-70]
Smith & Fusco, Chapter 2, pp. 43-48
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 reading and analyzing judicial opinions, you will gain useful guidance from O'Brien, pp. 1109-1112 [pp. 1101-1104] (“The How, Why, and What to Briefing and Citing Course Cases”)

[▼▼▼ READ FOR 10/9; MAY BE DISCUSSED SOME OF 10/16 ALSO ▼▼▼ ]


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

   O’Brien, pp. 23-38; 194-196 (“In Comparative Perspective: The ‘European Model’ of Constitutional Courts and Judicial Review”) [23-38; 176-178]


   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 8th Edition…]

[▼▼▼ READ FOR 10/16 ▼▼▼ ]

   Smith, pp. SM-9 through SM-11 (Alternative Justifications for Judicial Review)

[▼▼▼ READ FOR 10/16; WILL BE DISCUSSED SOME OF 10/23 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 8th Edition…]
O’Brien, read pp. 58-68; 823-826; 207-211; 214-220; 542-545 (sidebars on “Formal Amendments and Methods of Amending the Constitution” and “A Twenty-Seventh Amendment after 203 Years” [pp. 55-62; no equivalent for sidebar on pp. 64-66 in 9th Edition; 809-812; 189-203; 548-551]

[▼▼▼ READ FOR 10/30 ▼▼▼]

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-____ (excerpts from portions of recent Supreme Court DOMA and Proposition 8 opinions, re: standing and justiciability)

✏✏✏MIDTERM ON PHASE I & ALL PHASE II MATERIALS COVERED BY THE END OF CLASS ON 10/30 = Thursday, November 6th (during the first hour and 20 minutes of regular class hours)