As the late Justice Felix Frankfurter once observed, constitutional interpretation “is not at all a science, but applied politics.” The Constitution is itself a political document, shaped by political compromise. Every Supreme Court decision results in a formal legal holding, but more importantly, it results in an important public policy choice that will frame the daily life of every American. This perspective was evident during the most recent Supreme Court terms, when the Court issued landmark decisions on same sex marriage, the death penalty, the constitutionality of the Affordable Care Act, religious freedom, and free speech. Using historical, legal, and analytical materials, this course will focus on the role of the United States Supreme Court as a political institution, on the methods of constitutional interpretation that have enabled the Court and the federal judiciary to influence and shape the American experience, and on various influential constitutional law decisions, most particularly concerning the separation of powers between the branches of the federal government, and federalism, the distribution of power between the national government and the states. Key issues will include the continuing struggle over the power of judicial review, the Court’s role in policing the structural separation of powers between the President and Congress, and the proper role of the states in the federal system. This quarter, given the immediacy of world events, special emphasis will be given to the national security powers of the President, especially with the Muslim travel ban case to be heard by the Supreme Court just as the quarter begins. We will also consider the scope of Congressional power under the taxing and commerce powers to manage the national economy, as well as the power of Congress to investigate Russia in meddling in the 2016 election. With the replacement of Justice Antonin Scalia by recently-confirmed Justice Neil Gorsuch, students will be provided with a unique opportunity to evaluate the way in which the Supreme Court is and has always been a “storm center” of political controversy.

The unusual and unpredictable events of the early months of the Trump Administration have raised a number of important constitutional questions that may or may not be topics covered by this class. Although this course has a specific curriculum that must be covered, your professor will try as much as possible to offer insight and answers as issues arise, or to provide reliable sources of information for students to pursue on their own.
COURSE OVERVIEW

Expectations

This is a challenging course. There is no short cut to reading Supreme Court cases or to learning the sophisticated principles that apply to constitutional interpretation. This is NOT a traditional lecture course. Your participation is essential. You will be expected to contribute to class discussions regularly and you may be called on to share your knowledge, opinions and views. As much as possible, the course will be taught more in the “Socratic” method of questions and answers, as opposed to lectures. Discussion in class will focus on assigned readings and cases. You will be expected to keep up week by week with all of the assigned readings, and to have read them carefully in advance before coming to class. Reading Supreme Court cases requires focus and concentration. You will get out of the class what you put into it. This is NOT a class that you can wait to do the reading and hope to catch up before the exams. You need to be aware that Supreme Court cases are not “light reading” and may require outlining, study and thought. While the work is unquestionably challenging, the payoff is that you will be reading some of the greatest words ever written about American democracy, liberty, and freedom.

Class Participation

Your participation on a regular basis will be an integral part of the course experience. Skipping class and just doing the reading will not provide sufficient preparation for the mid-term and final exams, and you will miss out on much that the course has to offer, as well as much of the substantive content. Attendance is expected. The quality of your participation will be as important as the quantity. You should expect to be called on “involuntarily” from time to time. This is not meant to embarrass you – in many instances, there may be no “right” or “wrong” answer. What will be expected is preparation for class and intellectual engagement. While class participation will not be credited as a particular percentage of your grade, failure to be prepared when called on could be counted against you.

Notetaking and Cell Phones

All students must turn off their cell phones prior to the beginning of class and put them away. If your cell phone should ring during class, you could have points deducted from the next exam. Texting, “tweeting,” and other cell phone distractions will not be permitted. Students may NOT use laptop computers for taking notes. You will have to take notes the old-fashioned way – by hand, in a notebook. Class sessions may NOT be recorded for any reason.

Academic Integrity

All the work you do in this course is expected to be your own. Cheating or plagiarism will not be tolerated. All cases of cheating or plagiarism will be referred for appropriate academic discipline and handled according to University policy.
Reading Materials

You will be required to read the following books and materials, all of which will be on order at the UCLA book store:

1. The Constitution of the United States


4. Cynthia C. Lebow, *Course Reader*: A course reader providing recent Supreme Court opinions and other supplemental materials will be prepared by the Professor.

All Supreme Court cases will be available on-line through the LexisNexis Academic connection (free legal research engine) available at [www.library.ucla.edu](http://www.library.ucla.edu). An overview of how to do basic legal research on LexisNexis will be provided at the first class. For instructions on how to connect to LexisNexis from off campus, call 310-267-HELP or online at [www.bol.ucla.edu](http://www.bol.ucla.edu).

For the first class, you will be expected to have read the U.S. Constitution and Amendments in its entirety, as well as the Glossary of legal terms included at the end of the casebook (Appendix 3).

Legal Research and Terms

During the first class, we will cover how to do basic legal research. All of you have access to LexisNexis Academic, which allows you to research all state and federal cases, as well as news and law review articles. Your assigned casebook has a Glossary that we will review. For questions about legal terms not in the glossary, consult a legal dictionary, such as Black’s Law Dictionary, or Google the term and you will find a definition from the law.com dictionary.

Requirements and Grading

The requirements for the class are an “in class” midterm examination and a “take home” final essay exam. The midterm will consist of 10-12 short answer questions; blue books are required. The mid-term will take place in class on Monday, November 6, 2017, and will count for approximately 40 percent of the grade. The final exam will count for approximately 60 percent of your grade, and will consist of two longer essays that will be
weighted equally. The essays will cover all the material taught throughout the quarter. The final exam questions will handed out on the last day of class (December 6) and your papers will be due by 5:00 PM Friday, December 15. The professor reserves the right to adjust grades upwards for excellence in class participation, or downwards for failure to participate or be prepared. Unless arranged with the professor PRIOR to an exam, there will be no make-up exams in this class. Failure to show up for an exam or to turn in the final exam on time, unless otherwise prearranged with the professor, will result in an automatic F for that test. For anyone who has obtained permission from the professor for a make-up test, those tests will be given per arrangement with the professor. The only acceptable reason for missing the mid-term or turning in the final exam late without prior permission will be a medical excuse, and adequate documentation from a physician will be required.

**Professor Accessibility**

This is a challenging class and it is important that you feel free to check with me and get help if you need it. You are welcome and encouraged to come in during office hours, which are indicated at the top of this syllabus. Because my hours on campus are somewhat limited, drop me an email and we can try to arrange an appointment outside office hours, possibly after a class session. I will be monitoring my UCLA email, which is lebowpolisci@ucla.edu, and will try to get back to you within 24 hours. Please do not contact me at any other email address because I will not respond. I maintain a Twitter account at #TweetTheCon which I recommend that you follow for news of important Supreme Court developments.

**Study Groups (VERY IMPORTANT)**

If possible, each student should join a study group to gain the most out of this class. University rules do not allow for the appointment of a Teaching Assistant or discussion sessions for this class. The next best thing is a study group composed of your fellow students. If possible, form a study group of 4 to 6 students with individuals who you may already know, or ask your classmates if they would like to work with you. Study groups should be in place no later than the end of the second week of the quarter. Each study group should meet at least once a week for a couple of hours to review the reading material and prepare for class discussion.

**Course Schedule**

A detailed course schedule and class-by-class reading list will be posted separately.