

LAW, COURTS, AND JUDICIAL PROCESS

SECTION NEWSLETTER

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TABLE OF CONTENTS

Article

- Some Thoughts on Organizing Panels . . .* 1
Gregory Caldeira

Section News 5

Announcements 5

- Correction
- Section News
- Forum on the Status of "Public Law"
- Notice from the Section Chair
- Graduate Student Paper Award
- Forthcoming Symposium

Professional Meetings/Calls for Papers 8

- Northeastern Political Science Assn
- Southern Political Science Assn
- Western Political Science Assn
- Southwestern Political Science Assn
- Midwest Political Science Assn

Data Column 9

Convention Panels 14

- Comparative Judicial Politics
- New England Political Science Assn
- Western Political Science Assn
- Interim Committee of the Research Committee
on Comparative Judicial Studies

Bibliography 21

- Judicature
- Law & Policy
- Justice System Journal

New Books

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Instructions to Contributors

The Newsletter publishes articles, news items, announcements, commentaries, and features of interest to members of the Law, Courts, and Judicial Process Section. The Newsletter is published three times each year in Fall, Spring, and Summer issues. A fourth, Winter issue, is the Section Directory and is published in February. Deadlines for submission of materials for each issue are as follows: Fall (Oct. 15th), Spring, (Feb. 15th), and Summer (June, 15th). Contributions to the Newsletter should be sent to the appropriate editor listed below.

Articles and Commentary

Brief articles and notes describing matters of interest to the field will be published subject to review by Newsletter editors. Authors are encouraged to share research findings, teaching innovations, or commentary on developments in the field which would interest members of the section. Footnote and reference style should follow that of the American Political Science Review. Please send two copies of prospective articles and commentary to:

Professor Elliot Slotnick, Associate Editor
Law, Courts, and Judicial Process Section Newsletter
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223 Derby Hall
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Columbus, OH 43210
615/292-8130

Conventions and Bibliographic Information

The Newsletter attempts to inform members of upcoming and past conferences as well as the publication of judicial articles and books. Organizers of judicial panels at national, regional, state, and other professional meetings are encouraged to inform the Newsletter so that papers and participants may be reported. Authors of judicial books are also encouraged to inform the Newsletter of their manuscript's publication. Suggestions and information concerning conventions or publications in the field should be sent to:

Professor Charles Lamb, Associate Editor
Law, Courts, and Judicial Process Section Newsletter
Department of Political Science
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Buffalo, NY 14260
716/636-2251

Data and Analysis Information

The Newsletter wishes to keep the Section informed regarding availability of data sets of interest to the field. This includes newly archived data sets held by the Consortium as well as non-archived ones, which individual researchers would like to share with colleagues. Special analysis and data problems or queries of interest to the field will also be published. Suggestions and information should be sent to:

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Announcements and Correspondence

Announcements and section news will be included in the newsletter. Developments in the field such as fellowships, grants, etc., will be announced if there is sufficient time for submission of materials to the granting body. Announcements and correspondence concerning the Newsletter should be sent to:

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Editor's Note: In the article that follows Greg Caldeira writes of his experiences in organizing the Judicial Politics panels for the upcoming APSA meetings. In the process he reveals the inherent frustrations that come with the territory. Importantly, however, he offers several observations that unravel the mystery of how and why a set of panels come together at our professional meets and look the way they do. Above all, Professor Caldeira's presentation convincingly demonstrates that there is a great deal that we can do to insure the inclusion of our proposals on a convention's program. His thoughts and suggestions are well taken and can instruct the novitiate as well as the most seasoned political science conventioneer.

Some Thoughts on Organizing the Panels in Public Law and Judicial Politics

Gregory A. Caldeira
The Ohio State University

Last year, I received a call early one morning: "Would you like to put together the panels on 'public law and judicial politics' for the 1990 Meetings of the American Political Science Association in San Francisco?" Absolutely, yes; why not? It should, presumably, take little or no work, minimal paper-shuffling, and what a chance, after all, to talk with all sorts of interesting people who, for whatever reason, you have not met at conventions over the years. All you have to do is to collect all of the requests and then shuffle them into what are likely to be self-evident groupings. And, of course, you receive lunch courtesy of your colleagues' dues. It is flattering, too, to have people in the larger world think of you as someone who can or should do the job.

This is a set of thoughts and reactions I am sure shared by most of those who have performed the role of section head in our part of the discipline -- and probably in others as well. Actually, as those who have put the program together -- for the American Political Science Association or other meetings -- know very well, the job is not really as simple as it looks at first blush. At least for the American Political Science Association, an avalanche of proposals to give papers, serve as discussants or chairs, or to put on an entire panel come in through the mail, via telephone and electronic mail, and over and under the transom. These proposals come in a stream -- sometimes steady, sometimes just a dribble -- from the late Summer of the year before the Convention until mid-April of the year of the Convention. Some people send a brief note; others, an entire paper; some just a rsum. Some give a detailed title and description and an idea of where it might fit. Others do not offer a title or much of anything in the way of hints about what to do with them. Many, perhaps most, count on a place on the program as a means of convincing chairs and deans to pay their way and of building up a scholarly record. So it is an important matter to virtually all of those who send in proposals.

I

Life is a lot more complicated than it once was in public law and judicial politics and, for that matter, political science, or so it seems from the war stories I have heard from more senior colleagues. Once upon a time, a few distinguished scholars made a few calls and rounded up a set of panels and panelists. No one worried much about access, balance, or providing a forum for younger scholars. It was the golden era of the "old boy network." Today, it is a much larger, diverse, and altogether different world. We do worry about questions of access of different people and approaches to the program. Thirty years ago, so far as we can tell from the

program, a small number of approaches dominated the panels in public law and judicial politics. These days, within our part of the discipline, we have all sorts of people to satisfy – behavioralists, jurisprudes, doctrinal analysts, policy analysts, institutionalists, and many I have no doubt forgotten.

The diversity of people and interests has, as everyone knows, led to a proliferation of "organized sections" and "conference groups" of incredible variety. It seems as though just about any set of people who can put together a reasonably long list of interested parties can qualify as a group and so lay claim to panels at the meetings of the American Political Science Association. And people have, in droves. [In this respect, incidentally, we are not alone; the other social scientists have done very much the same thing for a long time.] This is good and bad. It is good because political scientists can readily find a comfortable niche and a set of like-minded people. It is good because it creates more places for political scientists to participate. From the perspective of those who happen to run the "public law" panels for the American Political Science Association in any particular year, it is often a savior; many of the people he or she cannot shoe-horn into a panel find a happy home in a panel sponsored by an organized section or conference group. And it is good because it probably attracts some people to the American Political Science Association who would not otherwise join and deters still others from losing interest.

The rise of these groups nevertheless creates many problems, some of them for organizers of the APSA's panels in public law. There is, first, a significant problem of coordination among those who control the panels related to law and politics in one way or another. To my knowledge, the APSA provides a home for the Conference Group on Jurisprudence and Public Law, the Conference Group on Policy Studies and Public Law, the Organized Section on Law, Courts and Judicial Behavior, and the Center for Judicial Studies; and I have forgotten some. And the organized section and conference groups on legislatures often feature panels of interest to our colleagues. We should moreover, coordinate carefully with Public Administration, Comparative Politics, and Political Theory; after all, we have significant connections to those and other parts of the discipline. If we were to pursue our intellectual interests in a faithful manner, we would ignore all of the staid categories and pay ways of organizing the program. Back in Atlanta, in August of 1989, the heads of the panels on the APSA program, the conference groups, and organized sections sat around a room and promised to do exactly that – coordinate, coordinate, coordinate, and or course, facilitate. We promised to look for papers and panels to bridge the subfields. And, we would all strive to fit at least some panels into the theme of democratization.

Students of organizations would have predicted little coordination as a result of the meeting, and little did happen. As nice as the idea sounds, in practice, the task is much too imposing, probably too imposing, to do in the comprehensive manner for which the Program Chairs normally call. None of us has enough time to make all of the required calls or contacts. Ultimately, most of those who chair the parts of the program care most, if not exclusively, about their part of political science. Do comparativists, to pick one group, really care about public law and judicial politics? Probably not – or at least not enough to give up or share panels or slots.

So, I – and I suppose most of us – quickly dropped back into a more realistic strategy: try to make contact and work closely with those who are creating the parts of the program traditionally related in some respect to public law and judicial politics.

This year, the Program Chair decided to appoint two people to set up the panels on public law. She asked me to organize a set of panels under the rubric of

"public law and judicial politics;" and Sanford Levinson, by virtue of the constitution of the Organized Section on Law, Courts, and Judicial Behavior, has orchestrated its complement of panels. The demarcation between my set and Levinson's was not, and is not, clear. He had a relatively clear agenda and a small number of panels, so he was well set without much help from us. Stuart Scheingold and I decided early on to place our panels in a collective pot and coordinate our decisions about papers and panels. Neither one of us had more than a minimal agenda about what should appear on the program. I know what I like, and so does he, but neither of us wished to re-shape the program in our image and likeness. Moreover, I think both of us felt somewhat constrained by a perception of controversy within the organized section. More than a few people, of diverse approaches, have apparently felt excluded from past programs and related activities. This concern is not anchored in any one subset of people, so we could not simply add a few panels in a targeted manner to resolve the problem. Consequently, we pursued a strategy of maximizing participation and diversity of approaches. Typically, participants on a panel see the world in the same way; the differences among them are small indeed. To the extent that you see anything innovative about the program, it is the admixture of people on panels who take different approaches to the same topics. Thus, in many places, we bring together doctrinal, critical, and behavioral papers. Many political scientists who seldom have occasion to talk with one another, because of significant differences of opinion about how to study law and courts, will have a chance to do so in San Francisco. This, I think, was Stuart's idea, so if it works, he should get the credit; if not, well, then. . . .

Both of us had a few topics in which we took a proprietary interest – for example, the items we mentioned in the announcement in *PS*. But I found that once we satisfied a few personal whims, the degrees of freedom quickly disappeared. Together, we controlled 20 panels (I had 7.5, Stuart Scheingold 12.5, Sanford Levinson 4.5), but, in practice, there are many papers and proposals for which we simply have to make a place because of the breadth of interest in the topic. Thus, for example, many people expressed an interest in recent controversies over nominations to the Supreme Court and in the Supreme Court Base. These and a number of other panels went to the head of the queue. Most of the people who propose papers and panels fit into the time-worn categories. This year's program will, I suspect, not look much different from last year's. We are, in large part, prisoners of the interest of our colleagues. And, once we have satisfied the criterion of maximizing participation, there are few additional places to fill. But, it turns out, few people propose innovative panels. We turned down many good papers and panels; but I think I can safely say that we did not suppress any truly innovative approaches. Seldom are shifts in thinking and research so sudden or pronounced to be missed by the program for very long. It may take a while for the program to absorb new ideas, but eventually we catch up with what scholars are doing.

Actually, one of the most vexing parts of the task consists of the logistics. For one thing, the proposals come in slowly at the beginning, engendering a sense of panic about whether there will be enough papers; at the end, I received an avalanche of material; and then, after the deadline, for several weeks, I continued to receive a dribble of requests. Even during the slowest periods, the panels for the coming year's convention were not long out of mind. For a while, I considered the possibility of seeking proposals. Fortunately, I decided, based on principle and inertia, to wait for proposals, and eventually they did indeed arrive in sufficient numbers and quality. To wait or to pursue is a dilemma, because the chairs of the various groups do not know whether colleagues are taking a pro-active approach to organizing panels. Of course, once Stuart and I accepted a paper, we then had to check to make sure the person had

not made another commitment. We ran into surprisingly few problems here, which I gather is inconsistent with the experience of some others in previous years.

The sheer volume of mail arriving and then the responses soon grew into a molehill, if not a mountain, on my desk. To send out the word of our decisions proved a bigger job than I had anticipated. We asked for a response from each person whose proposal we accepted. Initially, the failure of a lot of people to respond surprised me. But, then, I thought back to the letters from organizers of panels I had put aside for immediate response and found a few weeks later. To complicate matters, I found it nearly impossible to catch anyone by telephone; I am certain others have had the same experience.

II

It is traditional to offer "recommendations" of some sort, and I suppose I have a particular obligation after "bloviated" remarks of this length on a matter of little weight. But, actually, a few thoughts of possible use in the future do occur to me. *First*, send in proposals as early as possible in the process; as other proposals arrive, options begin to close. *Second*, spell out your paper – its argument, evidence, and conclusions – clearly, but briefly, in less than a page. If possible, suggest places your work might fit on the program. *Third*, provide a title; I had to make up a surprising number because the proposer did not provide one. The first three points lead to the *fourth*: provide all relevant information in the first letter to the organizer. He or she does not have the time or a desire to extract information bit by bit out of proposers. *Fifth*, if the organizer does not place your paper or panel, do not despair. There are many reasons for a negative decision, and few of them have anything to do with the quality of the paper or panel. Oftentimes, a paper or panel simply does not "fit," no matter how hard the organizer tries to make a place.

SECTION NEWS

Several people have called my attention to an error in the last issue of the Newsletter. In the report of the Section's Business Meeting in Atlanta last Fall, it was reported that one of the newly elected Executive Committee members was Professor David O'Brien of the University of Virginia. In fact, Professor Gregory Caldeira of The Ohio State University was elected to the Committee. That was a tragic error for which the editor will be burdened forever. With apologies to everyone concerned, I remain...

w.p.m.

ANNOUNCEMENTS

CORRECTION

At the 1989 Business Meeting of the Section, the following three people were elected to two years terms of the Section's Executive Committee:

Gergory Caldeira, The Ohio State University
Lynn Mather, Dartmouth College
Bruce Murphy, Pennsylvania State University

Section News

The Section is seeking a "Managing Editor" for the Newsletter to carry on the work of editing the Section Newsletter. The Newsletter is published 2-3 times a year. Support for publication is provided by the Section, the APSA, and some support will usually be provided by the sponsoring institution. Interested persons should contact:

John Brigham
Dept of Political Science
University of Massachusetts
Amherst, MA 01003
413/545-0450 (Office)
413/549-2775 (Home)

Open Forum on the Status of "Public Law" in Political Science

Members of the Committee on the Status of "Public Law":
Austin Sarat (Chair), Amherst College
Gregory Caldeira, Ohio State University
Timothy J. O'Neill, Southwestern University
Kim Lane Scheppele, University of Michigan

Stuart Scheingold, current chair of the APSA Organized Section on Law, Courts and Judicial Process, has appointed a committee to consider the status of the

subfield within Political Science. This is an open forum to solicit the opinions of public law specialists and others about (1) the way departments around the nation staff the subfield, (2) intellectual conflicts within the subfield, and (3) the responsiveness of professional meetings and journals to the work of specialists from the various orientations within the subfield.

Please contact any of the Committee members if you have any thoughts or points you would like aired in this forum.

NOTICE FROM THE SECTION CHAIR

By now many of you will have gotten your APSA renewal notices and discovered that the Section dues have gone up to \$8. I am sorry that this dues increase was necessary and want to explain why the Executive Committee and I decided that we had no other choice.

Since 1989, the APSA is no longer willing to finance section newsletters, so we (and other sections) were faced with a significant budget crisis. Will McLauchlan, the current editor, estimated that it will cost us \$3860 per year to continue publishing 3 issues each year. That works out to almost \$4.50 per member (based on our current membership total of 874). Since the APSA only rebates \$2 of the \$5 total dues collected from the section, we would have to raise dues to \$7.50 just to cover the cost of the newsletter.

But we do, of course, have other expenses. At the convention we normally provide a breakfast for the executive committee and a reception subsequent to our business meeting, which is likely to cost between \$250 and \$300. In addition, we offer prizes and my expectation is that the committee which I have appointed will recommend additional funds, so I propose budgeting \$200 for these awards. Finally, I think it important that the Section Chair continue to have some modest discretionary funds. Because of the crisis this year I had no such funds and was, therefore, unable to provide any financial assistance to the committee I appointed to look into the circumstances and prospects for our field.

Fortunately, Greg Caldeira was able to secure some funds from Ohio State and so the Committee, chaired by Austin Sarat and including in addition to Greg, Kim Schepple and Tim O'Neil, has been able to proceed with its important work. Its report to the section will be presented at a panel session that will be held just prior to the Business Meeting in San Francisco. I urge you all to attend both the panel and the business meeting. The committee members have done a lot of hard work and their presentation promises to be both controversial and revealing.

To really provide for all of this, it might have been better to increase the dues to \$9 but the incoming Chair John (read his lips) Brigham, felt that through careful budgeting, it would be possible to get by with \$8. He plans to seek some institutional subsidy for the newsletter. He will also try to explore the possibility, in cooperation with other sections, of persuading the APSA to allow us to retain a larger share of your \$8 section dues. Perhaps I should also note that this increase will bring our dues in line with what seems to be developing as the new norm for organized sections.

I hope you will agree with me and the Executive Committee that this increase was unavoidable. I look forward to seeing you in San Francisco.

Stuart

The 1989-90 academic year is rapidly coming to a close. Therefore, it is a good time to consider which conference, seminar, or course papers, **completed by a graduate student between January 1, 1989 and July 1, 1990**, is of high quality and warrants recognition by the Law, Courts, and Judicial Process Section of the American Political Science Association. Any of the various forms of inquiry and subject matters traditional to the study of law, courts, and judicial process, broadly defined, is eligible for consideration.

Papers nominated may be written by graduate students in your Department or presented on panels at professional meetings in which you participated. They may also be nominated as a result of your use of them in research or teaching. You may nominate more than one paper. We seek to spread the net as widely as possible in our search to identify research and scholarship that is worthy of national recognition. The recipient(s) of the award will be announced at the Annual Meetings of the American Political Science Association in late August, 1990.

Please send three copies of each nominated paper by July 1, 1990 to:
Professor Ronald Kahn, Chair
Selection Committee
Department of Government, Rice Hall - Room 232
Oberlin College
Oberlin, OH 44074

If you have any questions or wish further information, please call me at my office, (216) 775-8495, the Government Department office (216) 775-8487, or at home (216) 774-1670. The selection committee includes:

Kristin Bumiller, Amherst College
Jeffrey Segal, SUNY - Stony Brook.

Forthcoming Symposium

The Politics of Abortion Rights

The *American Politics Quarterly* invites submissions for its upcoming symposium issue on *The Politics of Abortion Rights* to be published in 1992. The debate over abortion has had an impact on many elements of American politics at all levels of government, including voting behavior, interest group and party activity, legislative and judicial behavior, and executive action. Any of these aspects, and others related to abortion politics and policy, would be appropriate subjects for the symposium we are planning. Papers comparing the U.S. to other nations are appropriate as long as the U.S. is a major focus. By sponsoring a symposium on this controversial issue, the editors of *APQ* hope to draw together the diverse literature on the politics of abortion policy, stimulate new research, and in so doing to shed light on several aspects of American Politics.

The deadline for submission of manuscripts in **November 1, 1990**. Obviously, we are looking for scholarly manuscripts, not advocacy tracts. All papers will be sent for anonymous review to three referees, *APQ*'s regular review process.

PROFESSIONAL MEETINGS/CALLS FOR PAPERS

The **Northeast Political Science Association** annual meeting for 1990 will be held in November in Providence, Rhode Island. Proposals for panels and papers should be sent to:

Professor Thomas Baldino
Department of Political Science
Juniata College
Huntington, PA 16652
Ph: 814-643-4310

The **Southern Political Science Association** annual meeting for 1990 will be held on November 8-10 in Atlanta, Georgia. Proposals for panels and papers should be sent to:

Professor Melinda Gann Hall
Department of Political Science
University of North Texas
Denton, TX 76203-5338
817-565-2276

The **Western Political Science Association** annual meeting for 1991 will be held on March 21-23, 1991, at the Seattle Sheraton in Seattle, Washington. Proposals for papers and panels should be sent to:

Prof. Martin Shapiro
School of Law
University of California
Berkeley, CA 94720

Deadline for submission of panel or paper proposals is September 30, 1990.

Anyone interested in participating in a panel on judicial politics and public law at the 1991 annual meeting of the **Southwestern Political Science Association** should contact:

Prof. Edward V. Heck
Department of Political Science
San Diego State University
San Diego, CA

Deadline for submission of panel or paper proposals is October 15, 1990.

The **Midwest Political Science Association** Meeting for 1991 will be held on April 18-20, 1991 at the Palmer House in Chicago. Anyone interested in participating in a panel on judicial politics and public law should contact:

Gregory Caldeira
 Dept of Political Science
 The Ohio State University
 Columbus, OH 43210-1373
 (614)292-4476/2880
 Bitnet: TS6532@OHSMVSA

DATA COLUMN

TO: Wayne McIntosh, Law, Courts, & Judicial Process
 Section Newsletter,
 FROM: John Brigham, UMass, Amherst
 RE: Data You Don't (Necessarily) Count

Many of the ideas wielded in the academy today talk about social research, particularly regarding law and courts, evokes a world in opposition to data. Whether it be the economic models of public choice theory or the phenomenology of the French academy, at least some of what is happening is not "data driven." In one sense, of course, this cannot be. We all use data of some sort. It is difficult to imagine not looking to something, texts, philosophers, colleagues, as a basis for work. The impression given is, more accurately, one of opposition to a traditional perspective on data, a perspective that sees data as stuff you count. This short note offers another perspective, data as stuff you look at whether or not you count it. My purpose is to explore the utility of some materials we ought to think of as data but generally don't.

The conventional misperception about data has its partisans on both sides of the positivist divide. We hear a lot about "counters" who can't imagine anything other than formally constituted, mathematically manipulated objects of research. But, theorists too see data in much the same way. Their conceit is that they don't do that sort of thing. Ideas about interpretation, culture, "rich description" seem to be carried along by the fear of numbers. The horror of a world quantified beyond meaning (and ambiguity) is the theorists nightmare. The phobia becomes a way to hold at bay the muse that rallied behaviorialists over a decade ago. The talk of aesthetics and music, language and myth, run away from those who believe you have to be able to count in order to prove a proposition.

My initial research looked to language as a way of showing that there was more to the law in judicial brains than rules or precedents. My position was that judges had acquired a language. I suggested that the constraints on their judgment, how they knew whether sodomy laws were a violation of constitutional privacy, for instance, was a matter of sense rather than formal rules. This was a jurisprudential point picked up by some colleagues and I was interested to read Justice White's reference to "constitutional language" in *Bowers*, a few years ago. One of the insights here is about making sense in communication as a source of data. The work led me to linguistics where the most fascinating thing about what linguists did was not the findings, but the conception of data. In linguistics one can sit around a room, preferably with a variety of languages represented and build a description of language based on "what you can say." For instance, the question might be posed as to whether there are any constraints at all in the use of "I have a right to..." in ordinary English.

While we seem capable of using it all the time, some constraints and patterns (like the linkage between right and want) may be found by analyzing "what makes sense."

A little circumspection and some examples from the world of cultural studies suggests the shallowness of some of our debates over what counts as data. The world of law is not divided between numbers and ideas. Our students soon learn that the facts are adjusted in appellate opinions to make a convincing argument and that the characteristic of certain groups may become an issue when juries are selected. Ordinary people know a world without the divisions of positive science. Sometimes they calculate and sometimes they just know. And even when they don't count, what they think may reflect standards of truth widely shared. What a judge is, or a court, or a vote may be the most important data of all. "The science of sings" has to have data. But, how do we collect that sort of information?

For one thing, in considering our data "sets" we can not afford categories too dominated by the institutions we are studying. The more we become interested in the way institutions constitute political power, the more we must be careful to investigate fully how we come to name our institutions and processes. We need to collect the ways we refer to lawyers practicing, eating and shooting up. We need to expand our files on judges from their opining to their getting impeached, reading jurisprudence, and playing golf. I began my book *The Cult of the Court* with close attention to the Supreme Court's newsletter. It seemed to epitomize the small community of workers who made the institution so different from Congress or the Executive. Similarly, the budget presentation by the Court to Congress told more about the nature of the institution than many opinions.

My suggestion is for a conception of what needs to be collected, archived and, of course, ultimately studied, that incorporates the richest conception of law and of data. Archivists are already doing what they can to collect the material we will need to do our research even as that material is being transformed, but political scientists who can identify what they are going to need may well influence the decisions by broadening the sense of what data is important. Not too many years ago, my university threw out *U. S. Law Week* at the end of the year. To them, this was a report whose primary purpose was getting the cases published fast and they had other reporters for later. But *Law Week* carries a sense of the pace of the Supreme Court's work that other reporters often miss. We keep the volumes now, as I'm sure most libraries do, but it only happened because there was a change in the conception of what was relevant for the study of law. Here is a list, roughly divided between non-traditional materials from traditional sites and non-traditional material, period.

From courts and around them:

- 1) Oral arguments, case notes, conference files. Little has been done with oral arguments by political science although they are gaining increasing attention from journalists. Yet the arguments are a rare indicator that the justices actually engage in the discourse of law. Some transcripts are collected in P. Kurland and G. Casper, *Landmark Briefs and Arguments of the Supreme Court of the United States* and although they are hard to work with, the tapes themselves are also available some time after the arguments from the National Archives. Of course, the debate about televising appellate arguments is in full swing at the moment.

- 2) Personnel records, including data on clerks and interns. It is difficult to get information on the clerks. Law schools dismiss this material as if it were simply gossip. By doing so I think they try and put us off the track. We know from the way

they organize their worlds that who has clerked and where is very important. The records of these participants in the process and their careers before and after going to the bench are a very instructive body of material for the study of interpretive communities. I collect it from the *National Law Journal* which reports on the new clerks to the Supreme Court each term and where the old clerks have gone. For life at law school, the front pages of law reviews are a good source, but social scientists who study the courts should have an archive including law school catalogues, yearbooks, and all the other material that reflects the life of those institutions.

3) Land titles, zoning variances and building permits are a body of material at the other end of the legal culture. For generations it has been courts that sanctify and record many of the most important events and relationships in our lives. We have the good fortune that the institutions many of us are closest to are themselves very close to this archival material. Every day, however, archivists are debating what to keep and what to toss and as the electronic age has its effect those decisions appear likely to be even more monumental. Although deference to the participants leaves most of this for the historians, some of the major breakthroughs in political science have been changes in how we think about what goes on at the courts brought by archival data. Thus, the research needs of political scientists needs to be heard in the debate over records.

4) Photographs of court practices. While we haven't gotten the Supreme Court to let the cameras in, various aspects of the legal process are captured on C-SPAN from speeches off the bench to testimony before Congress mentioned above. It only takes payment of one parking ticket in a mall court to indicate that things have changed around these institutions. In New York City I became fascinated with the collection of refrigerator box shacks around Housing Court and the extent to which the waiting room of that court resembled a day care center. Perhaps it is true that the only justice may be in the halls, but the halls were certainly full of life.

Outside of courts:

Here the effort may be one of finding our way through the maze of material collected by others for different reasons, and appropriating it for the study of law and courts.

1) Diaries, popular writing. A theoretically inclined graduate student, Bill Rose, got me thinking about what judges read in indicating that a judge before whom he had practiced was an avid reader of Ronald Dworkin. This is not a total surprise, yet neither is it quite the image we have of the local judiciary. Can we learn more about what they read, what clubs they belong to, how they see themselves? It seems to me that this sort of information would not be too hard to acquire if we went after it. My favorite part of Barbara Craig's excellent book on *Chada* is her sketches of the activist lawyers who comprise the constitutional bar. These sketches draw heavily on the cultural materials (events, ideas, movements) that motivate lawyers like Alan Morrison, Eugene Gressman and Antonin Scalia.

2) Organizational Records. Whether they be traditional political movements or professional organizations, we can do a great deal to understand the nature of law and politics with the materials that are generated. In movement papers we can see the relationship between interests and strategies. A jurisprudence has been built from the deliberations of the Constitutional Convention in 1787 and among the most famous, subsequently, the meetings at Seneca Falls which launched the women's movement reveal a reliance on the Declaration of Independence as a model for feminists. Too

little is done with the organizations of the law -- the gatherings of judges or the gatherings where judges appear. We know that the matter of influence is more complex than a vote or a conversation, the development of lines of thought, of particular kinds of ideas are crucial to understanding the development of law and the nature of court processes. This sort of material is not just for historians. The meetings of The Federalist Society in the last few years, and its sources of support, are certainly as important as any strategy sessions we have seen for some time. I have been fascinated by the efforts of conservatives to try and iron out the differences between Burkeians and Libertarians. Differences already patched are reported with this sort of material in Donald Downs, *The New Politics of Pornography*.

3) Syllabi and old case books. Ira Strauber recently studied the way constitutional law had been taught at Grinnell College over the last few generations. He used an 1898 copy of Boyd's Cases On American Constitutional Law (about to be removed from the library) noting the author's connections with influential scholars like James Bradley Thayer and Ernst Freund and went on to describe the changes that had taken place in how law is taught. The result pictured the rise of academic legal education wrapped in the new science of case law. The impact of this movement on constitutional law in the liberal arts curriculum is reflected in the sorts of materials political science scholars find useful. Lawyers wielded science as their entree into the academy. Altering our conception of how law was to be studied, they have been feasting ever since. Curricular materials (as well as personnel decisions) are the stuff of the politics of law here.

In working on this list it is evident that some of the richest sources of data about the ideas at work in the legal process are already collected. They simply need to be put to use. These are the on-line services of LEXUS, NEXUS, et al and such bibliographic resources as "Legal Infotrac" with which one might easily find out what extra curricular commentary the justices have been up to. Of course it would help if they were not so expensive.

Some research projects that occur to me:

1) The intellectual and social world of judging--the relation of ideas about law and social life to judicial thinking, including the role of clerks in law production and where do they come from. In an interview with Frank O'Connor of our state supreme court he surprised me by contending that state judges were less political than the federal judges. His claim revealed that he did not consider bar association or local politics "political." In comparison he seemed to imply that the old adage that a federal judge is a lawyer who knows a senator. Sheldon Goldman of the University of Massachusetts has been collecting his own data on judicial selection for years by going to the judiciary committee at the end of each legislative session and getting the data on the candidates before it disappears. The results have been widely disseminated in *Judicature*. It would be fascinating to have more data available on activities of this sort.

2) Styles of dispute resolution. Two of my colleagues have been collecting data of a different sort. Marie Provine of Syracuse University has been recording settlement conferences in the federal courts for the last few years in an effort to find out how the authority of the judge is wielded in reaching settlement. Austin Sarat of Amherst College has recorded conversations between lawyers and clients in divorce cases and written a number of articles on the authority of lawyers. We need to learn from them about where the data is to be found but we also need to make sure their

data is made available. Attention to having the stuff available for other researchers should be part of any large grant given for data collection.

3) Formation of a practice. Christine Harrington of New York University has established a large set of data files on lawyers practicing before administrative agencies. She used LEXUS, various legal directories and a team of researchers to compile her data. This material combines ideas about law, doctrinal practices, and the backgrounds of participants, their legal education, their clients, etc., in a fashion that goes deeper than party identification. Her files should allow her to chronicle the role of the bar in transforming administrative law practice.

4) The evolution of constitutional language inside and outside of practice. We are getting increasing amounts of material on the communities that share a reverence for the texts and practices of the law. In fields of particular interest to political scientists, like constitutional law, we should be able to approach the rigor of the linguists in delineating the constraints and opportunities that exist in the law. My own work looks for cultural forms which carry the practices of the law, testimony before Congress, advertising copy, discussion in the media and among professional communities. These should provide a foundation not only as new forms of data, but also as a more complete picture of the law outside of the courts.

These are a few suggestions for where we might be looking and what we could be collecting.

Additions to ICPSR Holdings (as of December 1989)

1. Charging and Sentencing of Murder and Voluntary Manslaughter Cases in Georgia, 1973-1979 (ICPSR 9264)
2. Expenditure and Employment Data for the Criminal Justice System [United States]: Extract Files, 1984 (ICPSR 9162)
3. National Survey of Law Enforcement Agencies, 1987 (ICPSR 9222)
4. Procedural Reform of Jury Murder Convictions in Georgia, 1970-1978 (ICPSR 9265)
5. Sex Discrimination as perceived by Adult Males and Females, 1985: [New Jersey] (ICPSR 9250)

Revision/Updates

1. Prosecution of Felony Arrests, 1986: Indianapolis, Los Angeles, New Orleans, Portland, St. Louis, and Washington, DC (ICPSR 9094)
2. Recidivism among Released Prisoners, 1983: [United States] (ICPSR 8875)
3. Uniform Crime Reporting Program Data: [United States] (ICPSR 9028)

Forthcoming

1. National Jail Census, 1988: [United States]

2. National Crime Surveys: National Sample, 1986-1988 [Near-Term Data]
3. Historical Race Statistics on Prisoners Admitted to State and Federal Institutions, 1926-1983

I have available several paperback two-volume sets of my work, **POLITICAL CULTURE AND JUDICIAL BEHAVIOR** (University Press of America, Lanham MD, 1985). It was reviewed in (inter alia) **POLITICS AND THE LIFE SCIENCES** 5:162-169 (August, 1986), and the **JOURNAL OF SOCIAL AND BIOLOGICAL STRUCTURES** 9:393-395 (October, 1986). Complete data on which both volumes are based were archived in 1977 as Inter-university Consortium for Political and Social Research Study #7365, available from ICPSR together with an extensive codebook, to any user who wishes to verify or transcend the analyses reported in the two volumes that I authored. I will send a set of both Volumes 1 & 2 gratis (including handling and shipping) to each of the first (up to) fifty persons who, after having read at least one of the above reviews, requests a set by writing to me as follows:

Glendon Schubert
218 Lanipo Drive
Kailua, HI 96734-3230.

CONVENTION PANELS

COMPARATIVE JUDICIAL POLITICS

The International Political Science Association's Research Committee on Comparative Judicial Politics plans a conference in London in August, 1990.

The Conference would be a forum for the presentation of research employing the theories, concepts, and methods of the social and behavioral sciences to explore and analyze legal institutions, courts or judges from a comparative perspective. The organizers welcome analyses of national or subnational units which explore cross-national judicial politics.

Proposals should be addressed to:

C. Neal Tate
Dept. of Political Science
University of North Texas
Denton, TX 76203

New England Political Science Association

1990 Annual Meeting

April 20 and 21, 1990

Portland, Maine

PANELS

The Rehnquist Court, Civil Rights, and Civil Liberties

Panel Chair: Richard E. Morgan, Dept. of Government,
Bowdoin College

Papers are invited that explore the political, legal, and public policy implications of the recent Supreme Court cases in the area of civil rights and liberties. The focus will be on cases decided in the 1988-89 term.

Participants: Adrienne Fulco, Trinity College
Richard Maiman, Univ. of So. Maine

Constitutional Issues Roundtable

Panel Chair: Frederick P. Lewis, Univ. of Lowell

Seeking suggestions of a recent book or article (either the proposer's own or that of a colleague) to serve as the focus for the roundtable.

**PRELIMINARY PROGRAM
WESTERN POLITICAL SCIENCE ASSN.
MARCH 22-24, 1990**

Courts and the Political Process: Selecting and Deselecting the Judiciary

CHAIR: Howard Ball

PAPERS: Dishonor Among Judges: Federal Impeachment
Trials, 1986-1990
Eleanore Bushnell

Sealing Judge Bork's Doom: The Role of the
Usual Suspects
William Haltom & Patti Watson

Financing Partisan Campaigns for Judicial
Office: The Election of the Chief Justice
of the Texas Supreme Court
Donald Jackson & Jim Riddlesperger

DISCUSSANTS: Michael Bowers
Christopher MaMahon

Privacy Rights in the 90's

- CHAIR:** Don Crowley
- PAPERS:** Webster Versus Reproductive Health
Services: Redefining the Nature of
Constitutional Rights
Gayle Binion
- From Roe to Webster: The Evisceration
of a Woman's Right to Privacy
Jeff Johnson
- The Media, the Right to Privacy and the
Judicial Process
Dean Alger
- Creating the Traditional Family: Family
Privacy in Judicial Doctrine
Alice Hearst

- DISCUSSANTS:** Beverly Blair Cook
Kenneth Nuger

Criminal Justice Issues in State Courts

- CHAIR:** John Culver
- PAPERS:** Balancing Fair Trial, Free Press and
Privacy Values
Nicholas Lovrich, Jr., Charles Sheldon
Dennis Soden Michael Stohr-Gilmore, Glen
Sussman, Byron Daynes, & David Mann
- Race and Social Context as Factors in
Capital Sentencing
Donald Davison & Michael Krassa
- Criminal Courts and AIDS: Discomforting
Decision Factors
Peter Gregware
- Aspects of Voting Behavior in Death Penalty Cases:
The California Supreme Court, 1977-1989
David Allen
- DISCUSSANTS:** Larry Berg
Anthony Champagne

Comparative Law and Judicial Processes

CHAIR: Ed Goldberg

PAPERS: Legal Imperialism: Its Enduring Impact on
Colonial and Post-Colonial Judicial Systems
John Schmidhauser

Prisoners' Rights in England and the United States
Jean B. White

Judicial Attitudes Toward the Cultural Defense
Alison Renteln

DISCUSSANTS: Donald Kommers
Ed Goldberg

Principles of Equality: Past, Present, and Future

CHAIR: Harry Stumpf

PAPERS: The Muslim as 'Other Asian' and Rules for
Citizenship in Turn-of-the-Century United States
and Canada
Kathleen M. Moore

Constitutional Interpretation and a Court in
Transition: Strict Scrutiny from Shapiro Versus
Thompson to Dunn Versus Blumstein--and Beyond
Ed Heck

Free Speech Versus Non-Discrimination in
University Policy
Keith Boyum

'Reverse Discrimination': The Politics of
Language
Phillip L. Fetzer

DISCUSSANTS: Susan Olson
Michael McCann

Trends in Executive-Judicial Branch Relations: Institutional or Partisan Conflict?

CHAIR: Cornell Clayton

PAPERS: The Supreme Court and Presidential Power in
Foreign Affairs
David Adler

Politics and Institutions: The Executive Branch
 Response to an Energetic Judiciary
 Cornell Clayton

Courts, Policy-making and Government: A
 Comparative Perspective on Contemporary Trends
 Gillian R. Peele

Separate Powers - Separate Politics
 Jeremy A. Rabkin

DISCUSSANTS: H. W. Perry

**FINAL PROGRAM OF THE 1989 INTERIM MEETING
 OF THE RESEARCH COMMITTEE ON COMPARATIVE JUDICIAL STUDIES
 DEPARTMENT OF POLITICAL SCIENCE
 UNIVERSITY OF LUND, SWEDEN,
 20-23 AUGUST, 1989**

LECTURE: "Judicial Review in Sweden"
 Nils Stjernquist,
 Professor Emeritus of Political Science
 and former Rector Magnificus, Univ. of Lund

Discussant/Commentator: Dr. Christine Landfried, Univ. of Heidelberg, West
 Germany

**PANEL 1: Roundtable on the Comparative Study of
 Judicial Review**

CONVENORS: Donald Jackson, TCU,
 C. Neal Tate, Univ of North Texas, USA

PAPERS

The Supreme Court of India as a Guardian of Civil Liberties with Special Reference
 to Article 21

Vandana Asthana, Christ Church College, Kanpur Univ. India

Social Action Litigation in India: The Operation and Limits of the World's Most
 Active Judiciary

Professor Carl Baar, Univ. of Toronto

The Origins of Judicial Review in the United States and Japan
 Professor David Danelski, Stanford Univ.

Judicial Review in Australia

Professor Brian Galligan, Australian National Univ.

Judicial Review in the U.S. and India: A Comparative Study
Professor Donald W. Jackson, TCU

A Framework for the Comparative Analysis of Judicial Review
Dr. Asha Gupta, Bharti Mahila College, Univ. of Delhi, India

The Implications for Judicial Review of the Current Legal Reforms in the Soviet Union
Professor William Kitchin, Loyola College, Baltimore

Bills of Rights in Parliamentary Settings: New Zealand and Israeli Experience
Dr. Stephen Levine, Victoria Univ. of New Zealand
Dr. Levine's paper was presented in his absence by Professor Martin Edelman.

The Rule of Law and Military Regimes in Africa: Some Experiences of Judicial Review in Nigeria and Ghana
Professor Robert F. Ola, Univ. of Benin, NIGERIA
Dr. Ola's paper was presented in his absence by Professor Neal Tate

The Diffusion of Judicial Review: The Canadian Case
Professor Peter Russell, Univ. of Toronto

Where Judicial Politics are Legislative Politics: The Birth and Development of Abstract Review in Western Europe
Mr. Alec Stone, Univ of Washington

Judicial Review and the Italian Constitutional Court: A Reflection of the U.S.?
Professor Mary Volcansek, Florida International Univ

Judicial Review that Affects Competitive Politics in German Speaking Nations
Professor Peter Wallach, Central Connecticut State Univ

PANEL 2: Political Behavior and the Judiciary

CONVENOR: Professor Takeo Hayakawa, Senshu Univ. (retired)

PAPERS

Do the 'Haves' Come Out Ahead? A Cross-National View of the Structure of Judicial Outcomes
Professor Burton Atkins, FSU

The Error-Correcting and Prediction Strategies in Certiorari Voting on the United States Supreme Court: A Reexamination
Professors Saul Brenner & John Krol, Univ. of North Carolina at Charlotte

Public Attitudes towards a Case of Controversial Judicial Recruitment: The Bork-Ginsburg-Kennedy Case
Professors Greg Casey, Univ of Missouri-Columbia, & Barabara Luck Graham, Univ of Missouri-St. Louis

The Dutch Supreme Court: Some Aspects of Its Recruitment
Dr. Jan ten Kate, Erasmus Univ. the Netherlands

The Policy Agenda of Supreme Courts: A Comparative and Diachronic Analysis
Professor C. Neal Tate, Univ. of North Texas

Discussant/Commentator: Dr. Barry Holmstrom, Univ. of
Uppsala, Sweden

PANEL 3: Race, Gender and the Judiciary

CONVENOR: Dr. Sven-Ola Lindeberg, Orebro, Sweden

PAPERS

The Limits of Constitutional Doctrine in Women's Rights
Professor Judith A. Baer, Texas A & M Univ.

Feminism and Law: Toward an Integration of Theory and Experience
Professor Gayle Binion, Univ. of California, Santa Barbara

Judicial Responses to Women's Questions in India
Dr. Pam Rajput, Panjab University, India

Reflections on South Africa: The Role of Courts in Social Change
Mr. Michael C. Tolley, The Johns Hopkins Univ.

Discussant/Commentator: Professor Margareta Bertilsson, University of Lund,
Sweden

PANEL 4: Judges and Their Legal Systems

CONVENOR: Professor Joseph Board, Union College

PAPERS

Evolution of the Tenure of Administrative Tribunal Members in Canada
Professor Jacques Bourgault, Universite Du Quebec a Montreal, Canada,
Professor Stephane Dion, Universite de Montreal, Canada

Selecting Judges in France: Theory and Practice
Professor Jacqueline L. LaFon, Universite de Peris-Sud, France

Discussant/Commentator: Bjorn Beckman, University of Lund, Sweden

PANEL 5: Militaries, Courts, and Legal Systems in Latin America, Africa, and Asia

CONVENOR: Professor Kjell A. Modeer, University of Lund, Sweden

PAPERS

Military Courts and the Rule of Law: The Case of Israel

Professor Martin Edelman, State University of New York at Albany, USA

The Impact on the Legal Systems of Selected Asian Countries of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI)

Professor Kenneth M. Holland, University of Vermont, USA

Judicial Power, Due Process of Law, Military Courts and Human Rights in the Third World Countries

Dr. Salvador Maria Lozada, International Association of Constitutional Law, Argentina

*Dr. Lozada's paper was made available to interested participants in his absence.

The Longterm Consequences of Legal Imperialism: A Cross-National Investigation

Professor John R. Schmidhauser, University of Southern California, USA

BIBLIOGRAPHY

Judicature, 1988, Vol. 72

C.C. Torbert, Jr. The State Justice Institute: New Opportunities for the Courts	5
Norval Morris & Michael Tonry Presiding in Criminal Court: An Introduction	7
Critical Issues in the Courtroom: Exploring a Hypothetical Case	12
John M. Greacen What Standards Should we Use to Judge Our Courts?	23
Barry Mahoney & Dale Anne Sipes Toward Better Management of Criminal Litigation	29
Sally T. Hillsman & Judith A. Greene Tailoring Criminal Fines to the Financial Means of the Offender	38
Kay A. Knapp Structured Sentencing: Building on Experience	46
Roger A. Hanson & Joy Chapper What Does Sentencing Reform do to Criminal Appeals?	50
Frank J. Remington Post-Conviction Review—What State Trial Courts can do to Reduce Problems	53

Stephen Margolis The AIDS Epidemic: Reality Versus Myth	58
Thomas A. Coughlin III AIDS in Prisons: One Correctional Administrator's Recommended Policies and Procedures	63
Candidates State Positions on Federal Judicial Selection	77
Michael R. Belknap From Pound to Harley: The Founding of AJS	78
The American Judicature Society and Court Reform: A Brief Chronology	91
Glenn R. Winters A Half Century in Retrospect	92
Thea F. Rubin & Albert P. Melone Justice Antonin Scalia: A First-Year Freshman Effect?	98
Robert L. Stern Remedies for Appellate Overloads: The Ultimate Solution	103
Norval Morris Race and Crime: What Evidence is There That Race Influences Results in the Criminal Justice System?	111
Charles H. Sheldon, Nicholas P. Lovrich, Val Limburg & Erik Wasmann The Effect of Voluntary Bench-Bar-Press Guidelines on Professional Attitudes Towards Free Press, Privacy, and Fair Trial Values	114
Robert W. Kastenmeier Let Ideas Flourish: How We Can Improve our Justice System	122
The changing face of America--how will demographic trends affect the courts?	125
Focus	136
Paul Nejelski Technology Comes to the Courts	
Lynn Weisberg New Law Eliminates Supreme Court's Mandatory Jurisdiction	
Edward J. Bloustein Query Did the "Bork Case" Change the Meaning of our Constitution?	145
Anthony Champagne Judicial Reform in Texas	146

Roy A. Schotland Statement Before the Joint Select Committee on the Judiciary of the Texas Legislature	154
Cynthia Kelly Testimony before the Joint Select Committee on the Judiciary of the Texas Legislature	158
Ralph Frasca Estimating the Occurrence of Trials Prejudiced by Press Coverage	162
X John M. Scheb, II State Appellate Judges' Attitudes Toward Judicial Merit Selection and Retention: Results of a National Survey	170
Dale E. Rude & James A. Wall, Jr. Judicial Involvement in Settlement: How Judges and Lawyers View It	175
X Saul Brenner & Jan Palmer The Time Taken to Write Opinions as a Determinant of Opinion Assignments	179
Focus Sheila Macmanus Changes in Code of Judicial Conduct, judicial Campaigns and Alcohol Abuse Among Topics Debated at 11th National Conference	185
Peter J. Messitte AIDS: A Judicial Perspective	204
Anne Rankin Mahoney Citizen Evaluation of Judicial Performance: The Colorado Experience	210
Raymond J. Broderick Court-Annexed Compulsory Arbitration: It Works	217
Judges, Critics and The Public Interest: Balancing Competing Values An Edited Transcript of the Panel Discussion at the 1988 Mid-Year Meeting of AJS	226
David I. Levine Northern District of California Adopts Early Neutral Evaluation to Expedite Dispute Resolution	235
Roger A. Hanson & Joy A. Chapper Organizing the Criminal Appeals Process: The Views of Judges, Government Attorneys and Defense Counsel	239
X David W. Rohde & Harold J. Spaeth Ideology, Strategy and Supreme Court Decisions: William Rehnquist as Chief Justice	247
Focus Sidney C. Snellenburg The Lima Rehab Project: A Program That Benefits All	251

Judith Haydel The Impact of Section 2 of the Voting Rights Act on State Judicial Election Systems	
Robert P. Schifferman Query Does Justice Require a Career Judiciary?	265
Susan E. Lawrence Legal Services Before the Supreme Court	266
Harold J. Spaeth Consensus in the Unanimous Decisions of the U.S. Supreme Court	274
Thomas B. Marvell State Appellate Court to Responses to Caseload Growth	282
Dan Drazan The Case for Special Juries in Toxic Tort Litigation	292
Jerry E. Norton Government Attorneys' Ethics in Transition	299
Focus Sheila Macmanus AJS Holds First Judicial Ethics Forum	304
Sheldon Goldman Reagan's Judicial Legacy: Completing The Puzzle and Summing Up	318
Richard J. Wilson & Robert L. Spangenberg State Post-Conviction Representation of Defendants Sentenced to Death	331
John Anthony Maltese The Selling of Clement Haynsworth: Politics and The Confirmation of Supreme Court Justices	338
Gary Feinberg Restructuring Justice in the Shadow of the Kremlin: A Journey From Rhetoric to Reason	348
Impeaching Federal Judges: Where Are We and Where Are We Going? An Edited Transcript of the Panel Discussion at the Mid-Year Meeting of AJS in Denver, February 4, 1989	359

Law & Policy Vol 10, 1988

Coercion and Consent: A Tale of Two Court Reforms Craig A. McEwen & Richard J. Maiman	3
--	---

Judicial Reform and Rationalization: The Diffusion of Court Reform Policies Among the American States John M. Scheb, II & Albert R. Matheny	25
Minority Voting Equality: The 65 Percent Rule in Theory and Practice Kimball Brace, Bernard N. Grofman, Lisa R. Handley, & Richard G. Niemi	43
Plant Closings and Public Policy: Achieving an Optimal Level of Plant Closings Dennis R. Kuhn & Charles E. Zech	63
Socio-Legal Research and Policy Studies: A Review of the Issues Volkmar Gessner & John M. Thomas	85
The Pull of the Policy Audience Austin Sarat & Susan Silbey	97
Between Cup and Lip: Social Science Influences on Law and Policy Richard Lempert	167
Empirical Legal Sociology and Political Process —A Case History and Some General Remarks Gunter Hormann	201
Rationalities and Experts in the Making of Criminal Law Against Economic Crime Joachim J. Savelsberg	215
The Law and Science: Dialectics Between the Prince and the Maidservant Jacques Commaille	253
Policy, Research and Funding: Socio-Legal Studies in a Changed Political Climate Keith Hawkins & Donald Harris	267
Regulatory Reform: Creating Gaps and Making Markets Christine B. Harrington	293
The Ideologies of Mediation: The Movement's Own Story Peter Adler, Karen Lovaas, & Neal Milner	317
Families and The State: An Historical Perspective on the Public Regulation of Private Conduct R. Dingwall & J. M. Eekelaar	341

The Denial of Visitation Rights: A Preliminary Look at its Incidence, Correlates, Antecedents and Consequences Jessica Pearson & Nancy Thoennes	363
--	-----

The Justice System Journal Vol 13, 1988

Fines and Fine Administration

Sally T. Hillsman The Growing Challenge of Fine Administration to Court Managers	5
Sally T. Hillsman & Barry Mahoney Collecting and Enforcing Criminal Fines: A Review of Court Processes, Practices, and Problems	17
Judith A. Greene Structuring Criminal Fines: Making an "Intermediate Penalty" More Useful and Equitable	37
Barry Mahoney & Marlene Thornton Means-Based Fining: Views of American Trial Court Judges	51

Management Notes

Karen A. Wick Evaluating Three Notification Strategies for Collecting Delinquent Traffic Fines	64
Jan Tait A Court-Based Notification System for Traffic Defendants	73
Laird Cummings Developing a Microcomputer-Based Management Information System for Fines Administration	80
Consolidated References	90
The Justice System Journal Cumulative Index	93

Reviews

Review Essay on Judicial Recruitment and Selection Elliot E. Slotnick	109
Necessary But Not Sufficient: Science and Sentencing Reform Susette M. Talarico	125

Preappeals Programs in American Courts John W. Winkle, III	142
---	-----

International Perspectives on Civil Court Reform



Marie Provine & Carroll Seron, Guest Editors

Marie Provine & Carroll Seron Innovation and Reform in Courts: A Cross-Cultural Perspective	158
---	-----

Maria Rosaria Ferrarese Civil Justice and the Judicial Role in Italy	168
---	-----

Konstanze Plett Civil Justice and Its Reform in West Germany and the United States	186
--	-----

Joyce Plotnikoff The Quiet Revolution: English Civil Court Reform and the Introduction of Case Management	202
---	-----

Herbert M. Kritzer Public Notification Campaigns in Mass Litigation: The Dalkon Shield Case	220
---	-----

Research Note

Mary Lee Luskin Making Sense of Calendaring System: A Reconsideration of Concept and Measurement	240
--	-----

Reviews

The Relationship of Social Science and the Justice System: Views from Social Psychology Linda L. Marshall	252
--	-----

Other Reviews and Notes	258
-------------------------	-----

Greg Casey Public Perceptions of Judicial Scandal: The 284 Missouri Supreme Court 1982-88	284
---	-----

Robert E. Drechsel Dealing With Bad News: How Trial Judges Respond to Inaccurate and Critical Publicity	308
---	-----

✓ Sue Davis & Donald R. Songer The Changing Role of the United States Courts of Appeals: The Flow of Litigation Revisited	323
---	-----

Susan M. Olson 341
Federal Multidistrict Litigation: Its Impact on Litigants

Robert W. Gillespie 365
Criminal Fines: Do They Pay?

Management Note

Steven Stentz 379
Improving Weighted Caseload Studies in Limited
Jurisdiction Courts

Reviews

Proverbs and Performance in Court Reform: 387
Some Preliminary Evidence

Ronald B. Hoskins

Other Reviews and Notes 394

BIBLIOGRAPHIC INFORMATION

For the fifth year, the *Newsletter* is providing a listing of newly published books in the field. This includes a number of volumes published in 1989 and early 1990. Most are specialized, although some are texts. This listing is not exhaustive. It was developed by relying on such sources as *Choice* and the *Library Journal*, correspondence from authors, and advertisements. If you have published a recent book in the subfield and it is not included, we apologize for the omission. If you want it to be listed in the 1991 summer issue of the *Newsletter*, please contact Charles M. Lamb, LaFollette Institute of Public Affairs, University of Wisconsin, Madison, WI 53706.

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