

LAW, COURTS, AND JUDICIAL PROCESS

SECTION NEWSLETTER

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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. 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:

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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: The nomination of Judge Robert Bork to the United States Supreme Court raised a number of critical political questions. With the permission of Professor Sanford Levinson, we reprint a letter endorsed by 21 members of the University of Texas Law School Faculty that addresses

such issues. This letter, and the Bork nomination, also raise the following questions for members of our section: How effectively or ineffectively does the "normal science" of public law scholarship in the social sciences generate information and theory that helps address the issues this letter raises?]

Dear Senators Biden and Thurmond:

Perhaps the single most important task of the Committee on the Judiciary in this session will be to consider the fitness of Robert H. Bork to ascend to lifetime tenure on the United States Supreme Court. The Constitution places upon the Senate the solemn duty of giving or withholding its consent to this nomination. The Senate can withhold its consent, as it has done throughout our history, if in its independent judgment it finds the nominee unfit for the office. We call upon the Senate to withhold its consent to this nomination.

Judge Bork is a man of great intellectual ability. We have no reason to challenge his personal integrity. These are not the issues on which we base our criticisms or to which we call the Senate's attention. Rather, we are concerned with, and ask the Senate to consider, the merits of Judge Bork's views of the Constitution and of the role of the Supreme Court in enforcing the Constitution. As members of an independent branch of government, judges do not work for the President any more than they work for the Senate. Thus, the Senate's voice in their selection is properly equal to the President's. The Senate can legitimately insist that the nominee's general understanding of the Constitution and the role of the judiciary be consistent with the Senate's general understanding. If Judge Bork's views are unacceptable, it is entirely legitimate for the Senate to so advise the President and to withhold its consent.

The notion that the Senate may not directly consider the nominee's views of the Constitution is of recent and uncertain vintage. It may be an overreaction to the risk that the Senate may abuse its power to withhold consent. The Senate cannot insist that the nominee agree with a majority of the Senate on every issue. Nor could the Senate legitimately insist that nominees promise never to hold laws unconstitutional, or never to enforce some unpopular provision of the Bill of Rights. The consent power should not be used to undermine the constitutional role of an independent judiciary as a check on the other two branches.

But it is equally improper for the President to use his power of nomination in such a fashion. If the Senate determines that the President has nominated someone uncommitted to the judiciary's special responsibility for the rights of individuals and minorities, it is entitled -- indeed obligated -- to withhold its consent. The constitutional preventive for abuse of the nomination and consent powers is that each checks the other. The constitutional system works so long as either the President or the Senate insists on judges who will protect civil liberties against occasional majoritarian excesses. If the President nominates such judges,

and if the Senate acquiesces, the constitutional mechanism for protecting individual rights breaks down. Indeed, the very act of confirmation is a form of "consent" to the jurisprudential views of the nominee and therefore a powerful legitimation of the broad approach later taken by the judge. The Senate will not be able to disclaim responsibility for the career of a Justice Bork. As President Reagan recently put it in regard to a different important issue, the Bork nomination is occurring on the Senate's "watch," and each Senator will be properly assessed on how vigilantly he or she lives up to the oath of constitutional fidelity.

There is, of course, a legitimate range of opinion both about the meaning of the Constitution and about the role of the Supreme Court in articulating the constitutional vision. His supporters are presenting Judge Bork as the heir of Justices Frankfurter, Harlan, and other generally admired Justices who endorsed "judicial restraint" and consequent deference to other agencies of government. Yet it is vital to note that these Justices wrote or joined in many of the decisions he has publicly criticized. Judge Bork represents not what might be called a "decent respect for the opinions" of other governmental institutions, but rather a wholesale abdication of the traditional judicial duty to be the special guardians of individual and minority rights.

Much of the press commentary has focused on his strong opposition to the Supreme Court's decisions allowing affirmative action and invalidating restrictions on abortion. These issues have been singled out because they are important to well organized political groups; moreover, the Court has been so closely divided that one vote could change the course of decision. But it would be misleading for debate to be dominated by these especially controversial issues. Judge Bork is also strongly opposed to many decisions that are not controversial, that protect isolated individuals and small or diffuse minorities who are not represented by well organized political groups, and that are essential to any reasonable understanding of constitutional rights.

Perhaps most striking is his extraordinarily narrow notion of what speech is protected by the First Amendment. Although he claims to have recanted some of the most startling aspects of a 1971 article in the *Indiana Law Review* [sic] -- for example the notion that "non-political speech" is entitled to no protection whatever -- he appeared to reaffirm those views as late as his 1982 confirmation hearings. At that time he conceded only that while on the Courts of Appeals, he would be bound by contrary Supreme Court precedent. He does appear to have conceded that moral discourses and at least some novels can sufficiently relate to politics to be protected. But there is no reason to believe that he would give any protection to all the speech to which he, for whatever reason, denies "political" status.

Moreover, he has not retreated one inch from perhaps the most troubling assertion of that article: He argued that speech advocating civil disobedience is not "political" and therefore is entitled to no protection. Thus, he would apparently allow the jailing of Martin Luther King for merely *advocating* civil disobedience. This pernicious doctrine has received no serious support from a Justice of the Supreme Court for half a century. Judge Bork admitted as much even as he derided the seminal civil liberties opinions of Justices Holmes and Brandeis, opinions that are the foundation of modern free speech law. Putting fidelity to doctrine to one side, we also

note the obvious fact that the inspiring success of the civil rights movement – an example of fundamental political reform achieved basically within the structures of the American political system – depended in significant measure on the effective use of what is now constitutionally protected speech, including calls for civil disobedience. A view of the free speech clause that would blithely tolerate the jailing of Dr. King is itself subversive of the central purpose of the clause.

Some of Judge Bork's most severe criticism has been reserved for the "privacy" decisions. It is absolutely crucial to recognize that his antagonism to these decisions goes well beyond questioning *Roe v. Wade*, the 1973 abortion decision. He denounces them all, including *Griswold v. Connecticut*, the 1965 decision that invalidated a state law prohibiting married couples from using contraceptives. Justice Harlan joined in *Griswold*. *Roe* is obviously controversial; indeed, we are divided in our assessment of that decision. But none of us believes for a moment that opposition to *Roe* entails a belief that the majority may authorize limitless incursions into the most intimate aspects of personal life, as Judge Bork seems to argue. We doubt that the Senate holds that view either.

Also revealing of Judge Bork's views of judicial role is his attack on the Court's invalidation of grossly unbalanced legislative districts and the subsequent adoption of the "one person-one vote" standard. These cases are classic illustrations of the structural necessity for judicial review. Before these decisions, a majority of the legislature in many states represented only twenty percent of the population. The favored twenty percent could never be expected to relinquish control through voluntary redistricting. Incumbents do not vote themselves out of office in such large numbers. The remedy for such a wrong had to come from the courts or it would not have come at all. Yet in the name of deference to popular rule, Judge Bork would have deferred to perpetual rule by small minorities.

Judge Bork's theory of the equal protection clause is revealing in several ways. First, it is extraordinarily narrow. He believes that the clause protects only against racial discrimination. In Judge Bork's Constitution, there would be no constitutional remedy for sex discrimination or any other form of discrimination, however arbitrary. And even with respect to race, Judge Bork takes a narrow view of the equal protection clause. For example, he would permit judicial enforcement of restrictive racial covenants, a practice unanimously held unconstitutional forty years ago.

There is no textual warrant for the view that "equal protection of the laws" refers only to racial discrimination. The clause is written in general terms and does not mention race. Nor is there much historical warrant for that view. We know that discrimination against blacks was a central target of the clause, but we also know that discrimination against white abolitionists, Republicans, and carpet baggers were important targets of the clause. Thus, there is ample historical evidence that the general language of the equal protection clause was quite deliberate, and that any form of arbitrary discrimination may be examined under the clause.

Judge Bork attempts to justify his judicial views by saying that he merely defers to legislatures and never imposes views of his own. But his views on equal protection impeach that claim. He would apparently strike down all forms of affirmative action for racial minorities, on the ground that affirmative action discriminates against whites. he would also strike

down Congressional attempts to expand the protections of the fourteenth amendment by legislation. Thus, he would strike down the Voting Rights Act of 1965, perhaps the most important and successful civil rights act ever passed. These views cannot be explained in terms of judicial restraint or deference to the legislature. Rather, Judge Bork appears far more deferential to the political branches when they discriminate against minorities, and less deferential to the political branches when they act to protect minorities.

Opinions obviously differ both about the merits and the constitutionality of affirmative action. But whatever one thinks of affirmative action, it cannot be that affirmative action is the one significant violation of individual rights in our time. A judge who would reject nearly all individual rights claims except those of whites challenging affirmative action should not be entrusted with final authority to enforce the Constitution.

Other issues also reveal Judge Bork's unwillingness to defer to Congress when he disagrees. He takes an extraordinarily narrow view of Congressional powers and a correspondingly broad view of executive powers. He would apparently strike down the War Powers Act and any effective form of independent prosecutor law. He would not allow Senators or Representatives to challenge executive action in court, even to test purely legislative powers such as the opportunity to override a pocket veto. He takes an extraordinarily expansive view of the executive's power to withhold information from Congress and the public.

Yet another example is Judge Bork's hostility to Congressional understanding of the antitrust laws. He would construe the Clayton Act and all other twentieth century antitrust laws as narrowly as possible, because he believes Congress was mistaken when it enacted them. He would construe the Sherman Act to serve the single goal of economic efficiency, because he believes that Congressional desire to protect small businesses was mistaken. Whatever the merits of his antitrust theories, they are not consistent with his pose of deferring to Congress and insulating judicial decisions from his personal views.

We have summarized views that Judge Bork has expressed in print, and we have so far assumed that he will act on those views if he becomes a member of the Supreme Court. He will act on these and similar views with respect to all new issues before the Court, and he will construe very narrowly those precedents with which he disagrees. He may follow precedent on some settled issues; we do not know whether he will seek to overrule all past decisions with which he disagrees. But Judge Bork will surely attempt to overturn those decisions that he considers gravely in error; it would be naive to assume otherwise.

There is nothing objectionable in principle about overruling seriously erroneous precedents. A judge would be remiss to his own oath if he adhered to decisions that he considers important departures from the Constitution. We are not committed in this country to a doctrine that precedent controls in constitutional cases even when clearly wrong. Our tradition is one of overruling past errors, and it is not a legitimate criticism of Judge Bork simply that he would deviate from precedent.

Rather, the Supreme Court's power to remake constitutional law is precisely why the Senate must examine with care the particulars of Judge

Bork's constitutional views and come to its own conclusion about their merits. This Senatorial duty is even more important when, as at present, the Court is closely divided in many important areas of the law. If Judge Bork is confirmed, his vote could prove determinative in limiting or overruling many of the protections that the Supreme Court has deemed necessary to achievement of the basic constitutional vision over the past several decades. His voting record is extreme even on the Court of Appeals, where he was bound by Supreme Court precedent. To elevate this judge to the Supreme Court, where the constraints of precedent will be far weaker, is in effect to endorse future attempts to overrule the scores of decisions he has criticized.

Professor Philip Kurland, a noted proponent of judicial restraint, has nonetheless written that it is not too much "to ask of a member of the high court that he be more than a technically well-equipped lawyer, that he also display the qualities of humility and compassion and understanding -- of statesmanship[.]" Professor Kurland's mentor, Justice Frankfurter, himself once noted that "the process of constitutional interpretation compels the translation of policy into judgment, and the controlling conceptions of the Justices are their 'idealized political picture' of the existing social order." Judge Bork has portrayed an "idealized political picture" that would lead to further aggrandizement of governmental (and especially executive) power and leave unpopular individuals and minorities without any significant recourse to the federal judiciary. He has a right to hold those views. What he does not have a right to is automatic elevation to the Supreme Court.

We would be pleased, both as professors of law and as concerned citizens, to elaborate further on these points should that be deemed helpful to the Committee in its important deliberations. It should be clear, of course, that our opinions are only personal and in no way imply any official endorsement of our views by the University of Texas.

Respectfully,

Douglas Laycock
Robert Hamilton
Michael E. Tigar
Harold H. Bruff
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[Editor's Note. This was submitted by Professor Jane Elza. It may be of value in your teaching. If you have any results or comments or reactions, please write her at:

*Dept of Political Science;
Valdosta State College; Valdosta,
Georgia, 31698. Obviously, you should report your score on the test as well as those of your students.]*

KNOWLEDGE OF THE CONSTITUTION

In this Bicentennial year, students are being subjected to tests of their knowledge of the U.S. Constitution. The results are not encouraging in this era of "cultural illiteracy." Yet we may be lamenting too soon.

I recently gave my two Introductory American Government classes a test that appeared in the Atlanta Constitution on September 17, 1987. This test had been given to students in private colleges in Atlanta. I wanted to compare the performance of my students. My students come primarily from rural south Georgia and public school backgrounds. The scores were essentially the same for both sets of students.

While 77% of my students knew the Bill of Rights was the first ten amendments to the Constitution, they were unclear about what rights were protected. Forty-two per cent believed that the Constitution guarantees them a free public education and 19% believed that a job and adequate health care for the indigent were guaranteed.

Forty-three per cent of my students and 44% of the Atlanta students knew the Constitution allowed the preaching of Communism and racism. While 43% of my students knew one could deny the existence of God under the Constitution, only 29% of the Atlanta students did. It is not encouraging that 5% in Atlanta and 6% in Valdosta thought the Constitution permits shouting "Fire" in a crowded theater.

What is encouraging is the large percentage that recognized their procedural rights. Sixty-eight per cent of my students and 66% of the Atlanta students knew they had a right to an attorney, could not be tried twice for the same crime, and are entitled to a jury trial. The impact of television cannot be underestimated. It raises the interesting question of whether more entertainment programming emphasizing First Amendment rights might increase students' knowledge.

The question about the President's powers was unclear. A student might think that to "conclude" a treaty is the same as negotiating a treaty. If one understands implied powers, one could say that the Constitution does not prevent military aid to Central America. Yet, 32% of my students answered the question correctly. Unfortunately, 20 of the 78 students think the President can suspend the Constitution in time of war. Approximately the same per cent in Atlanta agreed.

The Supreme Court is clearly not well understood. Forty-one per cent of my students (48% in Atlanta) knew the Supreme Court interprets the Constitution by deciding cases. However, more than a quarter of both sets of students believed the Supreme Court makes general policy announcements.

In an interesting sidelight, only 15.3% of the students who correctly understood the Supreme Court's role could identify *Roe v. Wade*. Of my students only 23% knew *Roe* involved abortion rights. Thirty-five per cent in Atlanta recognized the case.

These tests tell us what we already knew. Students remember specific factual information, but do not understand the broader concepts. This may be the result of multiple choice tests or simply classroom emphasis. Obviously, more time must be spent teaching the meaning behind the words students are memorizing.

There is something else that needs to be said, however. The better students understand the complex concepts inherent in the Constitution, the worse they are going to do on over simplified multiple choice tests. No one would put as an answer to a multiple choice question about the Supreme Court's role that the Supreme Court makes law. Nonetheless, anyone who has discussed the Court's choice of precedents, interpretation of laws, and adjustment to changing conditions will have mentioned that Legal Realist concept. It takes a very test-wise student to recognize the difference between an essay test's evaluative answer and a multiple choice test's conditioned response.

It is true students may confuse the Constitution and the Declaration of Independence, saying that the Constitution protects "the pursuit of happiness." If Mortimer Adler is correct that the Declaration is a part of our informal Constitution, is the students' belief totally wrong? I don't wish to minimize the need to distinguish between the documents or to know the specifics in each. I merely point out that multiple choice short hand questions may not be the way to find out what we want to know.

1. What was the purpose of the U.S. Constitution?
 - a. to create a federal government and define its powers
 - b. to declare Independence from England
 - c. to create the 13 original states
 - d. to make George Washington the first president
2. Where and when was the Constitution adopted?
 - a. Washington in 1776
 - b. Philadelphia in 1776
 - c. Philadelphia in 1787
 - d. Valley Forge in 1787
3. Which of the following phrases are found in the U.S. Constitution?
 - a. "from each according to his ability, to each according to his need"
 - b. "provide for the common defense, promote the general welfare"
 - c. "life, liberty and the pursuit of happiness"
 - d. "all men are created equal"

4. Which of the following best describes the Bill of Rights?
 - a. the first ten amendments to the Constitution
 - b. a preamble to the Constitution
 - c. any bill involving personal rights that passes through Congress
 - d. a message of secession from the Founding Fathers to the British monarchy
5. The Constitution:
 - a. establishes English as the national language, requiring that it be used in schools and government
 - b. can be amended by a two-thirds vote of both houses of Congress, provided that three-quarters of the states approve
 - c. says only a person born in the U.S. can be elected the country's president
 - d. permits a state to require its citizens to pass a literacy test before they become registered voters
6. According to the Constitution, the president, acting alone, may:
 - a. conclude treaties with the Soviet Union
 - b. declare war on Libya
 - c. send military aid to Central America
 - d. suspend the Constitution in time of war or national emergency
 - e. none of the above
7. Who is the final authority on the interpretation of the Constitution?
 - a. the Supreme Court, by ruling on individual court cases
 - b. the Supreme Court, by issuing general proclamations on important issues
 - c. the Congress, by voting new legislation
 - d. the president, by issuing executive orders
8. *Roe v. Wade* was a landmark Supreme Court case which dealt with:
 - a. racial segregation in schools
 - b. abortion rights
 - c. the rights of a person accused of a crime
 - d. military draft card burning

9. Which of the following is/are granted by the Constitution?
- a. guarantee of a free public education through high school
 - b. right to adequate health care if you cannot pay
 - c. right of all citizens to a job
 - d. right to advocate revolution
 - e. none of the above
10. You must have which of the following rights:
- a. you must be provided with a lawyer if you cannot afford to pay
 - b. you must be provided with a trial by jury
 - c. you cannot be tried a second time for a crime for which you were found innocent, even if new evidence in the case is found
 - d. none of the above
 - e. all of the above
11. Which of the following does the Constitution permit you to do?
- a. publish and distribute hard-core pornography without restriction
 - b. preach Communism and racism
 - c. deny the existence of God
 - d. shout "Fire!" in a crowded theater
 - e. you may do none of the above

Answers to the Constitution quiz:

- | | | | | | |
|-----|---|-----|---------|----|---|
| 1. | a | 2. | c | 3. | b |
| 4. | a | 5. | b, c, d | 6. | e |
| 7. | a | 8. | b | 9. | d |
| 10. | e | 11. | b, c | | |

A Professor Suspicious of Survey Research
Comments on the Atlanta Constitution's
Constitution Test

Professor Elza rightly notes that the score a respondent receives indicates more about the respondent's test-taking than about his or her constitutional knowledge. I believe the test is even more pernicious, that it misrepresents the interpretive and dialogic essence of the constitutional enterprise. Here are some specific comments:

Question 1: One deduces the correct answer, (a), only by process of elimination. Even our personal daily choices have multiple purposes or goals, and it is silly to think that the Constitution had one purpose. The question nevertheless refers to "the" purpose, so we are led to think (a) is the Constitution's purpose. But of course (a) isn't a purpose at all, it is only a means to the end (purpose) of improving commercial conditions and strengthening the territory's military capacity.

Question 2: None of these responses is unambiguously correct except for those who construct a clear distinction between adoption and ratification. The Constitution proper does not refer to "adoption" at all.

Question 3: The Preamble, from which the correct quote comes, is not consistently recognized as legally binding.

Question 4: I was taught that the Bill of Rights consisted of the first eight amendments, not the first ten.

Question 5: The Constitution does not say that only a person born in the U.S. can be elected president. Also it "permits" literacy tests, but only in the same sense that it "permits" wealth or property criteria for exercising the franchise.

Question 6: De facto the President has suspended the Constitution in wartime, and the Constitution has been interpreted to permit de facto suspension (*Korematsu*).

Question 7: None of the responses is correct. (a) certainly is not a correct answer, as the agreement between Edwin Meese and Sanford Levinson attests.

Question 8: Is (c) not also correct, at least regarding Dr. Halliford, whose case was joined with Roe's and Doe's?

Question 9: The right to advocate revolution is not explicitly granted by the Constitution.

Question 10: The question uses the imperative word "must," but the listed responses apply only to criminal cases. Therefore, "none of the above" (d) is the correct answer.

Question 11: One cannot preach communism and racism in any and all circumstances -- (*Feiner v. New York*). And the Constitution does leave us free to shout "Fire" in a crowded theater if we have reason to believe there is a fire.

Leif H. Carter
University of Georgia
December 17, 1987

[Editor's Note: Charles A. Johnson, former editor of this Newsletter, chaired a Panel on An Overview of Contemporary Judicial Research at the 1987 APSA Convention. He posed three questions to each of the panelists: (1) What areas of study in the judicial subfield have yielded significant theoretical and/or empirical constitutions in the past decade? (2) What areas of study in the judicial subfield have yielded little or no contribution and, thus, need little or no additional study? kinds of research are no longer necessary to invest our efforts at doing?

(3) What areas of study in the judicial subfield should be the subject of more study than is presently occurring, and how might one approach these areas theoretically and empirically? These are responses of Professor Marie Provine, the Section Chair. These remarks are provided for your consideration, and I would be happy to include the comments of other people on these three questions in subsequent Newsletters.]

MY VIEWS ON CHARLIE'S THREE QUESTIONS

by
Marie Provine

All of us who teach and conduct research in the field of law and politics have implicit answers for these questions. We differentiate work according to its significance when we design courses and plan research. The difficulty lies in being explicit about these judgments. One problem is inadvertent sins of exclusion and an unwarranted bias toward current fashion. More troubling, however, is the sense that one's intellectual predilections and preferences cannot withstand critical scrutiny and that the same may be true of our loose-knit field. We may lack enough common points of reference to carry on an extensive or far-reaching dialogue about the directions law-related studies in political science should take.

Powerful centrifugal tendencies are clearly at work in this area of political science. Academic lawyers challenge us to define our work in terms they can appreciate and understand – through when we do, we risk appropriation without attribution. No other sub-field of political science must deal with competition from a large, self-confident, highly-paid graduate faculty that seeks hegemony in a shared field of endeavor. This is not to deny that scholarship produced in law schools has important benefits for political scientists. The law schools have encouraged and nurtured law and economics research, critical legal studies, legal history, jurisprudence, and well-honed techniques for analyzing texts. The infusion of ideas and approaches simultaneously enriches and complicates the efforts of political scientists interested in

law to respond to the fundamental concerns with democratic governance, political legitimacy, and the meanings of state and citizenship that animate political science.

Even within political science departments, scholars who concentrate on law-related phenomena sometimes feel isolated. Some of us sense that colleagues in other specialties have bought the legal profession's argument that law is in a fundamental sense separate from politics, and perhaps some of us have internalized that perspective ourselves. This feeling is reinforced by recent developments. Departments at some universities have decided that they don't really need scholars in our field -- they can hire a law professor or practitioner as an adjunct to teach the masses of undergraduates that demand law-related courses. It's hard to avoid the conclusion that as an area of scholarly endeavor in political science, the sub-field is widely regarded as marginal.

Of course, political science as currently practices in the United States is hardly a model of coherence in its own purposes or procedures. This is a period of fundamental reassessment in various fields in the social sciences. Lack of confidence in earlier approaches and the information explosion have contributed to a wide-spread sense of scholarly isolation. In a recent survey conducted by the American Council of Learned Societies, for example, over half of the respondents in every field surveyed agreed that "it is virtually impossible to keep up even minimally with the literature in my field." Less than half in most fields found the materials they need in their institution's library, and about a third say they rarely find articles of interest in their discipline's primary journal.

With so much evidence of scholarly disarray, does it make sense to speak of significance and insignificance in our sub-field? The current confusion suggests to me the importance of beginning a dialogue on our approaches and directions. As an opening gambit in what I hope will be a lengthy and wide-ranging conversation, I offer my thoughts about areas of promising growth and welcome decline, and about overall integration and synthesis in law-related political science.

Significant Contributions

I would group these contributions into four categories, each defined by a key, but underdeveloped, insight about law and the judicial process. The first is based on the realization, now thoroughly absorbed in our field, that all state-sponsored fora for the resolution of disputes deserve attention from political scientists. Small claims court, justices of the peace, neighborhood justice centers, administrative courts and other specialized-jurisdiction agencies are all within our purview. Along with this expansion of concern has come refinement and creativity in the analysis of dispute-resolving processes. Scholars are beginning to analyze decision-making processes under varying procedural regimes. There is also more sensitivity to the interconnectedness of the disputing process, from the role of lawyers

and other professionals in screening and shaping conflict to the role of courts in defining their own agendas.

A second welcome "growth area" in our (expanding) field relates to the most traditional of our concerns: the policy-making role of courts. Critical inquiry into this role, long a staple in American political discourse, has taken an empirical turn in the past decade. Donald Horowitz's *The Courts and Social Policy* may have started this dialogue. The rights and remedies dialogue has taken a new turn with the rise of critical legal studies scholarship, which poses fundamental questions about the capacity of courts to protect the interests of citizens.

A third area in which insight and research have combined in fruitful directions concerns the relationship between litigation and social, economic, and structural change. The emphasis to date has been on macro-level investigations of changes in court dockets over time in American jurisdictions and the relationship of these trends to changing economic and social realities. But political scientists have also usefully focused on internal developments of American legal institutions, such as the U.S. Supreme Court and the bar, and on shifts in legal ideology over time.

Finally, scholars in our field have built upon the insight that courts and other dispute-resolving agencies can fruitfully be studied from the bottom-up perspective of the person or organization who uses these institutions. This "bottom up" perspective encourages research into the generation of disputes bound for social resolution, into relationships between lawyers and clients, into issues of access and remedy, in the organization and survival of groups that litigate to achieve policy goals, into the institutional hurdles that litigants face in courts, and into the way dispute processes shape life in the institutions that get sued. The Civil Litigation Research Project has been both a source of data for the investigation of some of these issues and a source of inspiration for further large-scale research.

Less significant

I'm uncomfortable with this question, not so much because answering it involves stepping on toes, but because it avoids the more problematic issue: deciding when to stop cultivating a particular approach or issue. The temptation to keep at a project, filling ever-smaller gaps in our understanding, is especially strong for those whose model of social inquiry borrows heavily from the physical sciences and experimentation. My own view is that gaps appear faster than we can fill them if we remain alert to the shifting sands of political conflict, institutional organization, and social resources. If our research is to be noticed by anyone besides ourselves, we must speak to the pressing questions of our time, even if that forces us to provisional and incomplete answers.

This criterion suggests that it is important that we find a way to incorporate and finally move beyond the methods and preoccupations of that first wave of behavioralism that so dramatically re-shaped our

field a generation ago. In moving toward a more complicate and nuanced agenda, we need to be clear about what insights ultimately we hope our research will contribute. Consider, for example, studies of the relationship between judicial background and behavior and survey research designed to establish how much the public knows about courts law, or candidates for judicial office. In each instance, the primary insight to be derived from the research is well established: that background and behavior *are* connected and that the public knows little about its court system. Limitations in data available to explore these issues from new angles suggests that we not invest too many resources in these areas, and that we design those investigations we do undertake to contribute to live policy debates, e.g. over alternative methods of selecting judges.

What We Need To Know

It's easier to suggest what our field needs than what it needs to know. If we are ever to assume again the central position law-oriented scholars once had in the larger domain of political science, we must find ways to participate in and foment debates that cut across political science, politics, and the social science. We must convince ourselves and others that we have a distinctive contribution to make to political understanding. We can offer insights into social mechanisms for resolving conflict, constitutionalism, the relationship between law and social change, federalism, litigiousness, and institutional development. If political science is indeed moving toward a "new institutionalism," we have the advantage of never having abandoned that perspective!

The short list of research areas that follows is not meant to be exhaustive. These are simply some suggestions of areas broad and basic and fresh enough to be of interest to both judicial and non-judicial scholars. One is the response of courts to rising expectations and demands placed upon them. Changes in the organization of legal services, the appearance of mega-cases like Agent Orange and the asbestos litigation, the rise of paraprofessionals and case-management thinking in the courts -- all are signs of massive changes in the administration of justice that deserve attention. These developments have parallels in other advanced industrial systems that bear study. A second area that is only beginning to get the attention it deserves concerns systematic analysis of how political disputes are transformed -- through the mediating offices of lawyers and other legal professionals -- into legal issues. A third area concerns the citizen's eye-view of alternative dispute-resolving institutions, a perspective on legal processes noted above. We need to go further in exploring the routes citizens take to resolve disputes, the impact of these choices, and sources of satisfaction and dissatisfaction in current legal arrangements, an issue currently under investigation by psychologists, anthropologists and sociologists. Here, as in so many areas involving issues of procedural and distributive justice, political scientists interested in law can make a distinctive contribution.

SECTION NEWS

Editor's Note.

To the readers of fine print, the submission dates for material for issues of the Newsletter have been changed. That occurred because of several late submissions for the Fall, 1987 issue that should have been included. Some of those were included in the Fall issue at the very last minute, but several could not be. After discussing this with the Section Chair, Marie Provine, we have decided to publish the Newsletter in late November, mid-March, and early August.

Hopefully, this will not inconvenience anyone, and we feel it will permit the inclusion of a number of timely items that are very important, but just not available by the earlier deadlines.

Unfortunately, for those of you who wait for this newsletter, it is quite late. I certainly regret this, since even the delayed deadlines, some very important deadlines were missed. This is entirely my fault, I certainly hope it will not happen again, but I can only hope that will be the case. Contingencies develop more frequently than I would like, and this set of hurdles was inordinate and quite disastrous for this project.

W.P.M.

DATA COLUMN

As of February 1, 1988, the LCJP Section Data Library has three data sets that are available for public use. In addition, several colleagues, including one non-political scientist, have indicated their intentions to make donations in the next few weeks. When they arrive in College Park, I will catalog them and make them available on a request basis. The library can receive and deliver material via BITNET or by conventional mail on either 3.5 or 5.25 disk. Moreover, tape is an acceptable form for delivery, as I will convert all incoming data collections into a common form (3.5 disk), in order to facilitate record keeping and other procedural matters. When making a contribution to the Library, please include all pertinent information, such as codebook and the program language in which it is written. also note any publications based upon the data. This will allow useful annotations to Library listings.

In the future, I plan to contact authors of journal articles, where a set of data is analyzed and which would be of probable interest to members of the Section. The purpose of my letter will be to ask whether the author(s) would like to place the associated information set in the Section Data Library, if it has not already been archived elsewhere. For a variety of reasons, many of our colleagues might find this to be a useful exercise. I welcome your thoughts and ideas about this and any other issues you think important.

Existing Data Archives and Information Systems

You can generally obtain a current data set directory and/or information packet upon your request. I will add to this list as I become aware of others.

ICPSR, The Institute for Social Research, P.O. Box 1248, Ann Arbor, MI 48106, 313/764-2570

Individuals can send messages to ICPSR via BITNET using the following address:

ICPSR NETMAIL@UM.CC.UMICH.EDU

The Criminal Justice Archive and Information Network (CJAIN), The University of Michigan, P.O. Box 1248, Ann Arbor, MI 48106, 313/764-2570

The Bureau of Justice Statistics issues frequent reports based upon the data it sponsors. Contact:

National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, 301/251-5550

The Federal Justice Center offers a Catalog of Publications.

Contact:

Federal Judicial Center, Information Services, 1520 H Street, N.W., Washington, DC 20005, 202/633-6365

ANNOUNCEMENTS

SOUTHERN POLITICAL SCIENCE ASSOCIATION (1988)

The Southern Political Science Association annual meeting for 1988 will be November 3-5 in Atlanta. Proposals for panels and papers should be sent to Professor Charles Johnson, Department of Political Science, Texas A&M University, College Station, TX 77843 (409/845-2141). BITNET at H553CJ @ TAMVM1.

NORTHEASTERN POLITICAL SCIENCE ASSOCIATION (1988)

The Northeastern Political Science Association annual meeting for 1988 will be November 11-13 in Providence, RI. Proposals for panels and for papers should be sent to Professor John White, Department of Political Science, SUNY at Potsdam, Potsdam, NY 13676 (315/267-2551 or 315/267-2556).

ABA MINI-GRANT PROGRAM

The American Bar Association's Commission on College and University Nonprofessional Legal Studies announces a mini-grant program for 1988-89, designed to stimulate campus projects to enhance

undergraduate *liberal arts* education about law and the legal process (pre-law projects *not* eligible).

Among the types of activities eligible for funding are: workshops, faculty seminars, campus symposia, new unit or course development, program planning or evaluation, experiential learning, student projects, or any other activity fulfilling the mini-grant program's purpose.

Grants of up to \$1,200 will be awarded. Full or part-time faculty at colleges granting a baccalaureate degree are eligible to apply. *Application deadline is April 25, 1988.* For full announcement including application procedures, write:

John Paul Ryan, Staff Director
American Bar Association
Commission on College and University
Nonprofessional Legal Studies
750 N. Lake Shore Drive
Chicago, IL 60611

KRISLOV TO LEAD
APSA SHORT COURSE ON
INTEGRATING CROSS-NATIONAL PERSPECTIVES
INTO PUBLIC LAW COURSES

The APSA, its section on Law, Courts, & the Judicial Process and the ABA's Commission on College and University Nonprofessional Legal Studies will jointly sponsor a three-hour short course at the APSA meetings in Washington, D.C. next August 31.

Smauel Krislov will lead the workshop, which is especially designed for faculty teaching American-based public law courses as well as introductory courses in American government and political science. In light of the conjunction of IPSA and APSA at the 1988 meetings, it is anticipated that a panel of foreign scholars of comparative law will also participate and comment. Bibliographies and other materials will be provided.

Make your plans early to attend this unique short course. For further information or to pre-register, contact:

J. Brinton Rowdybush
American Political Science Assn
1527 New Hampshire Ave., N.W.
Washington, D.C. 20036

APPEALS COURT DATA BASE

Planning is currently underway to create an extensive data set on the decisions of the U.S. Courts of Appeals and the votes of their judges. Funding will be sought from the National Science Foundation to collect data on a wide array of variables to make the data base appropriate for use by multiple users with diverse theoretical interests. In order to facilitate planning for this project, input from a broad spectrum of the potential user community is desired. All persons who have ideas about the desirability or the potential uses for such a data base project are requested to send their ideas to:

Professor Donald R. Songer
 Appeals Court Data Project
 Department of Government and
 International Studies
 University of South Carolina
 Columbia, SC 29208

Particular interest exists in receiving letters which identify potential users of the proposed data set and which describe a project which would benefit from such a data set (e.g., which variables would need to be coded and which years and circuits would need to be covered). More general letters from scholars interested in the study of the courts which address the theoretical needs which might be served by such a data base or which suggest specific data to collect would also be appreciated. A basic choice to be made will be whether to code a significant number of the unpublished opinions of the courts of appeals. Thoughts on this question would be of interest. Finally, the principal investigator would be interested in receiving the codebooks of others who have collected empirical data on the courts of appeals along with their ideas on lessons learned from their coding experiences, problems to avoid, things they would do differently, etc.

CONFERENCES

WESTERN POLITICAL SCIENCE ASSOCIATION (1988)

The following papers were presented at the annual meeting of the Western Political Science Association, March 9-11, in San Francisco:

Separation of Powers and the Constitution

Chair: David Adler, Idaho State University

"Constitutional Principles and Governmental Practice in Foreign Affairs," David Adler, Idaho State University.

"Separation of Powers: Empirical Natural Law and the Practices of Politics," Michael Leiserson, Gonzaga University.

"Separating Powers: Dialectical Sense and Positive Nonsense," William Haltom, University of Puget Sound.

Discussant: Michael McCann, University of Washington.

Constitutional Interpretation: Into the Third Century

Chair: Judith Baer, California Polytechnic State, Pomona.

"How Indeterminate is the Constitutional Text and Does It Matter?" Leslie F. Goldstein, University of Delaware.

"Title To Be Announced" Jules Gleicher, Rockford College.

"Reading the Fourteenth Amendment: The Inevitability of Noninterpretivism," Judith A. Baer, California State Polytechnic University, Pomona.

Discussants: Stuart Scheingold, University of Washington.
Lief Carter, University of Georgia.

The Rehnquist Court

Chair: Sue Davis, University of Delaware.

"Justices Brennan and Marshall," Edward Heck, San Diego State University.

"The Constitutional Philosophy of John Paul Stevens," Paula Arledge, Idaho State University.

"The Rehnquist Court and References to the Framers," Arthur Svenson & Gordon Lloyd, University of Redlands.

"Sandra Day O'Connor, Antonin Scalia, and the Inauguration of the Rehnquist Court," Richard A. Brisbin, Jr. West Virginia University.

Discussants: Sue Davis, University of Delaware.
Kenneth Lehrman, Ithaca College.

Perspectives and Policies in Criminal Justice

Chair, Liane Kosaki, Washington University.

"Victims' Compensation, Victims' Bills of Rights, and their Impact on Criminal Justice Administration," Liane C. Kosaki, Washington University.

"The Fourth Amendment and Defendant's Rights," Priscilla Machado, University of Vermont.

"Prisoners' Rights in the United States," Jean B. White, Weber State College.

Discussants: Robert Clinton, Southern Illinois University.
Kenneth Nuger, San Jose State University.

Judicial Politics in State and Community

Chair: Harry P. Stumpf, University of New Mexico.

"The Impact of Bates v. State Bar of Arizona: Responses of the Interpreting Population," Laura Bowen, University of Kentucky, and Mitzi Mahoney, Emory University.

"Institutional Arrangements and Dissent in the State Supreme Courts: A Time Series Analysis," Paul Brace, New York University and Melinda Gann Hall, North Texas State University.

"Soft on Crime' as an Issue in the 1986 California Supreme Court Elections," Heyward Moore, California State University.

Discussants: Bernadyne Weatherford, Glassboro St.
University.
Douglas Hobbs, Univ. of California,
Los Angeles.

Constitutional Civil Liberties

Chair: Walfred Peterson, Washington State University.

"Religious Disputation and Civil Courts: Quasi-Establishment and Secular Principle," Frank Way, University of California, Riverside.

"The Meaning of the Free Exercise of Religion," Bette Novit Evans, Creighton University.

"Case and Individual Background Characteristics for Predicting Supreme Court Establishment Clause Decisions," Jilda M. Aliotta, Miami University.

"Liberalism and the Courts: An Investigation of Interest Group Litigation," John Gates, University of California, Davis, and Wayne V. MacIntosh, University of Maryland.

Discussants: Donald Crowley, University of Idaho.
JeDon Emenhiser, California St. Univ.,
Humboldt.

Judicial Selection and Un-Selection

Chair: John Culver, California State Polytechnic, San Louis Obispo.

"Choosing the Judges: Bar Attitudes on Judicial Selection in Nevada," Michael Bowers, University of Nevada.

"The Environment for Judicial Elections," Nicholas Lovrich, Charles Sheldon, and John Pierce, Washington State University.

"Judicial Attitudes Towards Judicial Selection," James W. Riddlesperger, Jr., Texas Christian University, and Donald W. Jackson, Texas Christian University.

"From Bork to Kennedy: A Changing Role for the U.S. Senate in Selecting U.S. Supreme Court Justices?" Roy Young, San Jose State University.

Discussants: John Culver, California Polytechnic State Univ.
Patrick McBride, California State University.

SOUTHWESTERN POLITICAL SCIENCE ASSOCIATION (1988)

The following papers were presented at the annual meeting of the Southwestern Political Science Association, March 23-26, in Houston:

Roundtable: Nomination and Appointment Politics after Bork
Chair, Art English, University of Arkansas at Little Rock.

Participants:

Samuel Krislov, University of Minnesota.

David Neubauer, University of New Orleans.

Albert P. Melone, Southern Illinois University.

Richard B. Riley, Baylor University.

Critical Legal Studies: Emancipation or Resignation?

Chair: Tom Denyer, University of Texas at San Antonio.

"Critical Legal Studies: Leftism or Nihilism?" Steve Mansfield, Augusta College.

"Freud and Critical Legal Studies," David S. Caudill, University of Texas Law School.

"Legal Development and Political Economy: The Enigmatic Du Pont-G.M. Case," Tom Denyer, University of Texas at San Antonio.

Discussant: Mark Simba, Clarion University.

Research Roundtable: The Use of Legal Information Systems in Social
Science Research

Chair, Martha Swann, Catawba College.

Participants:

Lee Epstein, Southern Methodist University.

Pete Rowland, University of Kansas.

Thomas Stelle, Wake Forest University School of Law.

Marsha A. Diamond, National Law School Manager, Mead Data Central.

Judicial Selection in the States

Chair, Michael W. Bowers, University of Nevada, Las Vegas

"Judicial Reform in Louisiana," Judith Haydel, McNeese State Univ.

"Judicial Selection and Behavior: DWI Cases in Two Counties," Jerry O'Callaghan, Texas Tech University.

"Judicial Reform in Texas," Anthony Champagne, Univ. of Texas @ Dallas.

"Judicial Selection in Nevada," Michael W. Bowers, Univ. of Nevada, Las Vegas.

Discussant: Byron G. Lander, Kent State University.

Judicial Personality and Leadership

Chair: Mary R. Mattingly, Texas A&I University.

"Chief Justice Arthur T. Vanderbilt's Leadership of the New Jersey Supreme Court, 1948-1957," Voorhees E. Dunn, Jr. University of Texas at Dallas.

"Justice Jackson and Segregation: A Reassessment of Rehnquist's Claims," Jeffrey D. Hockett, The University of Tulsa.

"The Jurisprudence of Mr. Justice Powell," Jerold Waltman, The University of Southern Mississippi.

"Leadership on the United States Supreme Court: The Burger-O'Connor Years," C. Jeddy LeVar, Henderson State University.

Discussant: Mary P. Beeman, University of Texas at Austin.

The Courts and the Bill of Rights

Chair: John J. Carroll, Southeastern Massachusetts University.

"Creationism, the Courts, and the First Amendment," Rodney A. Grunes, Centenary College.

"The Second Amendment: Current Constitutional Interpretation," Joseph L. Ross, Murray State University.

"Church-State Relations: A Current Controversy," J.R. Aicher, Jr. North Carolina Central University.

"Modelling the Supreme Court's Eighth Amendment Review: An Exploration," Douglas B. Hart and Lilliard Richardson, University of Texas at Austin.

Discussant: Timothy J. O'Neill, Southwestern University.

Constitutional Interpretation and Structure

Chair: Art English, University of Arkansas at Little Rock.

"Commentaries on the Laws of England on the Constitution of the United States," William A. Carroll, Guilford College.

"American Judicial Review: A View From the Founding," Dennis W. Gleiber, University of New Orleans.

"Presidential Power in Foreign Affairs After Chadha--An Appraisal," John L. Carmichael, Jr. University of Alabama at Birmingham.

"The Rhetoric and Reality of Separation of Powers," Jonathan L. Entin, Case Western Reserve University.

"Toward a Jurisprudence of Metaphors," Timothy J. O'Neill, Southwestern University.

Discussant: Cal Jillian, University of Colorado-Boulder.

Judicial Environment and Behavior

Chair

"Judicial Role Orientation: Social Background Variables Revisited," James P. Wenzel, University of Houston.

"The Distribution of Black Judges in State Judiciaries," Nicholas O. Alozie, The University of Texas at Dallas.

"Party Affiliation and State Appeals Court Decisions: A Study of Judicial Decision Behavior in Texas," Donald R. Dixon, The University of Texas at Dallas.

Discussant: Charles A. Johnson, Texas A&M University.

Courts and the Criminal Justice Process

Chair: Wilbourn Benton, Texas A&M University.

"The Public Defender System in Texas," Melvin P. Straus, The University of Texas at El Paso.

"Managing Inmate Population in the El Paso County Detention Facility," Joseph B. Graves, The University of Texas at El Paso.

"Judicial Respect and Sentencing: A Q-Study," Tom McInnis, University of Missouri at Columbia.

Discussant: David E. England, Arkansas State University.

Current Issues in Judicial Politics and Constitutional Law.

Chair: Byron G. Lander, Kent State University

"The Presidency and the Supreme Court: Lame Duck Appointments," Mary P. Freeman, The University of Texas at Austin.

"The Institutional Perspective on Affirmative Action: The Perils of Judicial Statecraft," Bert Buzan, California State University, Fullerton.

"Grants, Due Process, and the Administration Procedure Act," David E. England and F. David Levenbach, Arkansas State University.

"Judicial Independence in the Italian Ordinary Courts," Mary L. Volcansek, Florida International University.

Discussant: Mary R. Mattingly, Texas A&I University.

MIDWEST POLITICAL SCIENCE ASSOCIATION (1988)

The following papers will be presented at the annual meeting of the Midwest Political Science Association, April 14-16, in Chicago:

Panel 8-1--U.S. Supreme Court Decisionmaking

Chair: Henry Glick, Florida State University

"Unanimity on the Supreme Court"

Harold Spaeth, Michigan State University

"Success and Failure: Explaining When the Supreme Court Prevails"

Thomas Marshall, University of Texas, Arlington

"The Supreme Court, Constitutional Agenda Setting and Reappointment"

John M. Dister, University of Chicago

Discussants: Lee Epstein, Southern Methodist University
Burton Atkins, Florida State University

Panel 8-2--Decision-Making In State Supreme Courts

Chair: Victor E. Flango, National Center for State Courts

"Changing Levels of Dissent in State Supreme Courts: A Neo-Institutional Perspective"

Melinda G. Hall, North Texas State University

Paul Brace, New York University

"Separating the Women from the Men? State Capital Punishment Cases"

Diane Wall, Mississippi State University

David Allen, Colorado State University

"Correlates of Appellate court Discretionary Jurisdiction"

Robert Roper, National Center for State Courts

"Judicial Review Activism in State Supreme Courts"

Craig F. Emmert, University of Alabama

Discussants: Robert C. Bradley, Illinois State University
Robert Dudley, George Mason University

Panel 8-3--Leadership In The United States Supreme Court

Chair: Robert J. Steamer, University of Massachusetts, Boston

"Chief Justice Warren's Leadership"

David Danelski, Stanford University

"Chief Justice Burger's Leadership"

Jeffrey Morris, University of Pennsylvania

"Personnel Changes on the Supreme Court and the Structure of Judicial Opportunities; The Case of Justice William J. Brennan"

Elliot Slotnick, Ohio State University

Discussants: Richard Mainan, University of Maine, Portland
Robert Scigliano, Boston College

Panel 8-4--Constitutional Interpretation: Justices Of The Burger Court

Chair: Craig Ducat, Northern Illinois University

"Constitutional Philosophy and Contributions of Chief Justice Burger"

Charles M. Lamb, SUNY, Buffalo

"Justice Thurgood Marshall; Inside the Burger Court"

William J. Daniels, Union College

"Justice Rehnquist's Jurisprudence"

Alan I. Bigel, University of Wisconsin-La Crosse

Discussants: Nancy Maveety, Tulane University
Mary Cornelia Porter, Northern Illinois University

Panel 8-5--The Study Of Courts And Judges At The End Of

The Century And Beyond: A Roundtable On Changing
Trends In Empirical Research

Moderator: Bradley Canon, University of Kentucky

Participants: Gregory Caldeira, Ohio State University
James Gibson, University of Houston
Jerry Goldman, Northwestern University
Karen O'Connor, Emory University

Panel 8-6A--Race And Gender In The Law And The Courts:
The Affirmative Action Controversy

Chair: Barbara Luck Graham, University of Missouri, St. Louis

"The Politics of Affirmative Action: A Comparative Case Study
of Two Southern Communities' Efforts to
Implement Their Affirmative Action
Programs"

Augustus Jones, Miami University

"The Future of Affirmative Action: Target Groups and
Beneficiaries of Preference"

Robert M. Kaufman, Pennsylvania State University,
Harrisburg

Discussants: Georgia Duerst-Lahte, Beloit College
William McLauchlan, Purdue University

Panel 8-6B--Judicial Selection: The Confirmation Role Of The U.S.
Senate

Chair: Lucius J. Barker, Washington University

"Senate Voting on Confirmation of Supreme Court Justices, 1953-
1986"

Herbert Weisberg, Ohio State University

John D. Felice, Ohio State University

"Senate Confirmation of Supreme Court Justices: The Role of
Ideology, Issues, and Politics in Postwar Nominations"

Jeffrey A. Segal, SUNY, Stony Brook

Discussants: R. Christopher Perry, Indiana State University
Michael Coombs, University of Nebraska-Lincoln

Panel 8-7--The Policy Making Role Of The Federal Courts

Chair: Sheldon Goldman, University of Massachusetts-Amherst

- "Lower Federal Court Rulings as Predictors of Upper Court
Decisions in Presidential Power Controversies"
Craig Ducat, Northern Illinois University
Robert Dudley, George Mason University
- "Altering the Balance: The Impact of Membership Change Upon
Coalitions on the Supreme Court, 1965-1984"
Roberta Herzberg, Indiana University
Richard Pacelle, Indiana University
- "Supreme Court Voting and Realignment Issues"
John B. Gates, University of California-Davis

Discussants: Lawrence Baum, The Ohio State University
Lettie Wenner, University of Illinois at Chicago

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December/January 1987 Vol. 70/No. 4

- Richard A. Enslen, Query: Should judges manage their own caseloads?
- William F. McDonald, Judicial supervision of guilty plea process: a study of six jurisdictions.
- Amiel T. Sharon and Craig B. Pettibone, Merit selection of federal administrative law judges.
- Roger A. Hanson, What should be done when prisoners want to take the state to court?
- Henry R. Glick and Craig F. Emmert, Selection systems and judicial characteristics: the recruitment of state supreme court judges.
- David I. Levine, Early neutral evaluation: a follow-up report.
- "Ten years is a nice round figure:" an interview with George H. Williams

Focus

- David Burnham, Confidentiality, public access to records examined at judicial conduct conference.
- Roy A. Schotland, 1986-a historic year for judicial elections.
- Kathleen Sampson, Voters decide on judicial selection, discipline and

compensation issues.

Books

Roy B. Flemming, *Judging Credentials: Nonlawyer Judges and the Politics of Professionalism*, by Doris Marie Provine

Carl McGowan, *Modern Appellate Practice: Federal and State Civil Appeals*, by Robert J. Martineau

Judicature

February/March 1987 Vol. 70/No. 5

Stuart S. Nagel, Query: Should court cases be systematically sequenced?

Robert E. Drechsel, Uncertain dancers: judges and the news media.

Steven Flanders, Court executives and decentralization of the federal judiciary.

Lynn Hecht Schafran, Documenting gender bias in the courts: the task force approach

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Lee Epstein and Karen O'Connor. States before the U.S. Supreme Court: direct representation in cases involving criminal rights, 1969-1984.

Books

Carrie Menkel-Meadow, *Shadow Justice: The Ideology and Institutionalization of Alternatives to Court* by Christine Harrington

David Burnham, *Total Justice* by Lawrence M. Friedman

The Justice System Journal

Volume 11 -- Spring 1986

Research on Juries

A Typology of Jury Research and Discussion of the
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Robert T. Roper

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Marilyn Chandler Ford

The Conduct of Voir Dire: A Psychological Analysis
Valerie P. Hans

The Search for Jury Representativeness
G. Thomas Munsterman and Janice T. Munsterman

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Roger G. Dunham, Geoffrey P. Alpert,
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Merle P. Martin and William L. Fuerst

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Steven Puro

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Ronald M. Stout, Jr.

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Paternity Cases -- Who May Do What to Whom?
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The Justice System Journal

Volume 11 -- Fall 1986

Bail Bonds and Cash Alternatives: The Influence of
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Michele Sviridoff

Measuring Financial Support for State Courts: Lessons from the
LEAA Experience
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Perceptions About the Poor, Their Legal Needs, and Legal Services

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Foreign Trade and Foreign Capital: A Rejoinder

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Law & Policy

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