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### PSC 370.01: Courts and Judicial Politics

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Political Science 370  
Courts and Judicial Politics  
Spring 2001

Instructor: Jim Lopach, LA 348, 243-4829

Text

Walter F. Murphy and C. Herman Pritchett, Court, Judges, and Politics,  
4<sup>th</sup> ed., 1986

Course Overview

The purposes of this course are to provide an introduction to the workings of the judicial branch of government and to explore the role of the federal judiciary in the American political system. Students will be expected to read approximately 10 pages in the text for each class meeting and be prepared to participate in discussion. The class format will be discussion rather than lecture, with the instructor acting as discussion leader. The learning goals are student understanding of the judiciary's procedural and structural features, accurate analysis of course readings, and effective oral and written expression of this understanding and analytical ability.

Term Paper

Each student is required to write a term paper of no more than seven double-spaced pages of actual text. Suggestions for term paper topics are attached; the instructor must approve each student's selection. The introductory paragraph of the paper, a topical outline of the paper, and a list of sources to be used are due on March 9. The introductory paragraph should include a statement of your purpose, an overview of the paper's organization and contents, a brief discussion of the topic's importance, and your likely conclusions. Because PSc 370 is a "writing" course, the instructor will correct the introductory paragraph and return it for revision and inclusion in the final paper, which is due on April 27. Documentation of sources used can be included in parenthetical text notes tied to the bibliography, footnotes and a bibliography, or end notes and a bibliography. Grading criteria will be accuracy of content, coherence of argument, and correctness of writing.

Examination

There will be two examinations, a midterm and a final. The final examination will cover course material from the midterm examination to the end of the quarter. Both examinations will use definition and short-essay questions. The midterm examination will be held on March 16, and the final examination is scheduled for Thursday, May 17, at 10:10.

Grading

Class attendance and recitation	- 10% (20 points)	A = 180-200 points
Term paper	- 30% (60 points)	B = 160-179 points
Midterm examination	- 30% (60 points)	C = 140-159 points
Final examination	- 30% (60 points)	D = 120-139 points
		F = -119 points

SUGGESTIONS FOR TERM PAPERS

1. Plea bargaining - roles of various actors and arguments for and against
2. Pre-trial suppression hearing - features, purpose, results, exclusionary rule
3. Sentencing - legislative control and judicial discretion; U.S. Sentencing Commission; Mistretta v. U.S (488 U.S. 361); Wash. Post, 10/96

4. Juvenile justice system - tradition, criticisms, jurisdiction, functions, procedures, and case load, appeal, reform alternatives
5. Judicial review - its justification in a representative democracy and criticisms; use two of the following: Robert H. Bork, The Tempting of America; Jesse H. Choper, Judicial Review and the National Political Process; John Hart Ely, Democracy and Distrust; Alexander M. Bickel, The Least Dangerous Branch; David M. O'Brien, Storm Center; Lawrence H. Tribe, God Save This Honorable Court
6. Judicial contempt power - powers of civil contempt and criminal contempt and a comparison of the two
7. Judicial selection - comparison of the elective system and the appointive system with emphasis on the judiciary article in the Montana Constitution and the 1972 debate in the Montana Constitutional Convention
8. Decisionmaking on the U.S. Supreme Court - use two of the following: Walter Murphy, Elements of Judicial Strategy; Bob Woodward, The Brethren; David O'Brien, Storm Center; Edward Lazarus, Closed Chambers; Phillip Cooper, Battles on the Bench
9. Office of Montana Attorney General - organization, duties, workload, budget, governmental relationships, staffing, achievements, problems
10. Office of Missoula City Attorney - same sub-topics as for #9
11. Office of Missoula County Attorney - same sub-topics as for #9
12. Public defender - in Missoula County and Missoula federal district court: funding, duties, pay, staffing, workload, examples of cases, clients, record in court, alternatives, comparison of the two offices
13. ASUM Legal Services - same sub-topics as for #12
14. Legal education - history and traditions, alternatives, recent innovations, Montana Law School curriculum reform project
15. Montana Judicial Standards Commission - authorization in law, organization, purpose, duties, principles of judicial ethics, discipline of Montana judges
16. Montana Commission on Practice - authorization in law, organization, purpose, duties, principles of lawyer ethics, discipline of the Montana bar
17. Television and trials - philosophy of open procedures and conflict with judicial efficiency and courtroom decorum; lessons from O.J. Simpson case; court channel
18. Justice of the peace court - authorization in law, tradition, jurisdiction, functions, procedures, case load, decision making, appeal, administration, staffing, budget, criticisms, reform alternatives, observation of a case
19. Montana district court - same as for #18
20. U.S. district court - same as for #18
21. Montana Supreme Court - same as for #18
22. Law firm - comparison of two law firms from perspectives of staffing, clients, organization, specializations, administration, resources, pro bono work
23. Jury - tradition and philosophy, role vis'a vis judges, selection procedure and use of social scientists, behavior of members, developments in size and unanimity requirements, jury nullification, special juries (89 Yale L.J. 1155), reforms

24. Grand jury - purpose and tradition, roles, procedures, alternatives, use by Kenneth Starr in Clinton scandal, reforms
25. Representational litigation - amicus curiae briefs, class action suits, test cases, associational standing, litigating groups such as ACLU, NAACP, Sierra Club
26. Judicial biography - review of judicial behavior literature and comparison of the Supreme Court Justice's background to decisions and opinions on Court:
  - a. William H. Rehnquist
  - b. Thurgood Marshall
  - c. Warren E. Burger
  - d. William J. Brennan
  - e. John Marshall Harlan
  - f. William O. Douglas
  - g. Earl Warren
  - h. Felix Frankfurter
  - i. Hugo Black
  - j. Benjamin Cardozo
  - l. Oliver Wendell Holmes
  - m. Sandra Day O'Connor
  - n. Abe Fortas
  - o. Harry Blackmun
  - p. Louis Brandeis
  - q. John Marshall
  - r. Roger B. Taney
  - s. Clarence Thomas
  - t. Charles E. Hughes
  - u. Ruth Bader Ginsburg
27. Indian courts - description of tribal government courts with respect to their organization, authorization, jurisdiction, conflicts with state courts, staffing, problems, and reform proposals
28. Office of U.S. Solicitor General - role, duties, official relationships, contribution to U.S. Supreme Court, examples
29. Law clerks - purpose, duties, and influence, especially on the U.S. Supreme Court (e.g., see W.O. Douglas, The Court Years; D. O'Brien, Storm Center; Tinsley E. Yarbrough, The Rehnquist Court and the Constitution; John Oakley, Law Clerks and the Judicial Process)
30. Advertising by lawyers - history, 1st amendment issues, modes, ethical issues, effectiveness; ban an attorney solicitation case, 132 L Ed 2d 541
31. U.S. Tax Court - purpose and duties, organization and procedures, critique
32. Child custody proceeding - description and critique of this aspect of family law with reform suggestions (e.g., 1996 Montana Domestic Relations Study Commission)
33. Jurisprudence - analysis of one of the major schools or movements in jurisprudence (e.g., review writings of Roscoe Pound, Benjamin Cardozo, Jerome Frank, Andrea Dworkin, Robert Bork, Catherine MacKinnon):
  - a. original intent
  - b. critical legal theory
  - c. sociological jurisprudence
  - d. feminist jurisprudence
34. Court martial - organization, purpose, and principal features of military courts and their relationship to federal judicial system
35. Selection of U.S. Supreme Court Justices - commentary on the process by a case study of the Robert Bork controversy or the Clarence Thomas controversy
36. U.S. Independent Counsel - reasons for the office, constitutionality upheld (Morrison v. Olson, 487 U.S. 654), criticisms of office, reform options, 1999 Congressional debate, termination of office
37. History of the U.S. Supreme Court - analysis of one era, e.g.: Herman Schwartz, The Burger Years; Bernard Schwartz, The Unpublished Opinions of the Warren Court; E. Vincent Blasi, The Burger Court; C. Herman Pritchett, The Roosevelt Court; Tinsley E. Yarbrough, The Rehnquist Court and the Constitution; Mark Tushnet, The Warren Court; William Leuchtenburg, The Supreme Court Reborn... in the Age of Roosevelt

Political Science 329  
Politics of Japan

Spring 2001  
Office Hours: 10-11 MWF  
LA 349

Text: Curtis, THE LOGIC OF JAPANESE POLITICS

ON RESERVE: Reischauer, THE JAPANESE TODAY

This course is concerned with the organization, structure and operation of the political system of Japan. Apart from exploring the main features of the system, the course addresses those social and cultural factors that give Japan its distinctive character.

Requirements:

There will be two one-hour exams. The first will be on March 5 and the second on April 9. These exams will each count for 20% of the final grade. A comprehensive final exam will count for 40% of the final grade. This exam is scheduled for May 16, 10:10-12:10. Exams will consist of identification, short answer and/or essay questions. (BLUEBOOKS REQUIRED)

Research Paper:

An additional requirement is a 10 page (this is minimum length. there is no maximum) research paper concerning some aspect of contemporary politics or public policy (contemporary being defined as post-World War II). Please submit a 2-3 sentence description of the project no later than February 16. The paper should follow standard manuscript style (Turabian). For references, use either footnotes or endnotes. Bibliographies should include only material not contained in notes. The paper is due no later than April 27. The papers will be returned to allow for corrections on May 7. The corrected version is to be resubmitted on the day of the final exam (May 16). It is strongly recommend that these papers be handed in earlier than the due date. LATE PAPERS WILL NOT BE ACCEPTED. The paper counts for 20% of the final grade.

In order to make the experience of this course as pleasant and rewarding as possible for all concerned, you are asked to observe the following rules. Do not come to class late or depart early. Do not use class time to read the Kaimin, write letters, chat with your neighbors or engage in other activities not related to the course.