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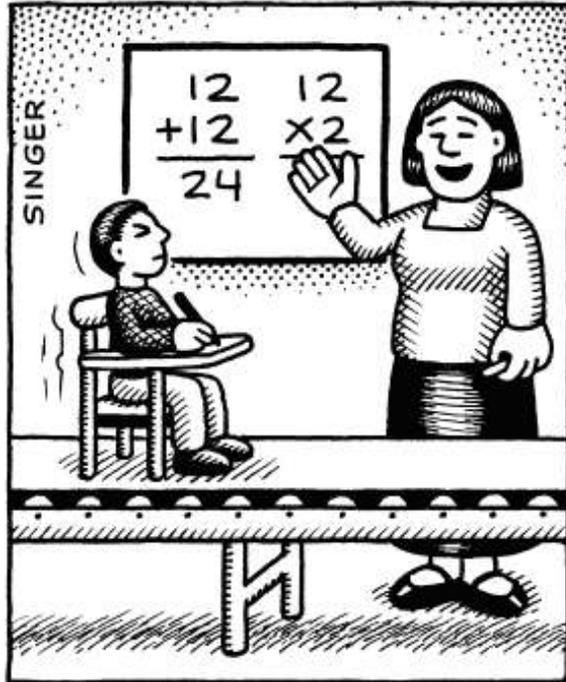
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## From the PSO President

### *Journals and Good Teaching*

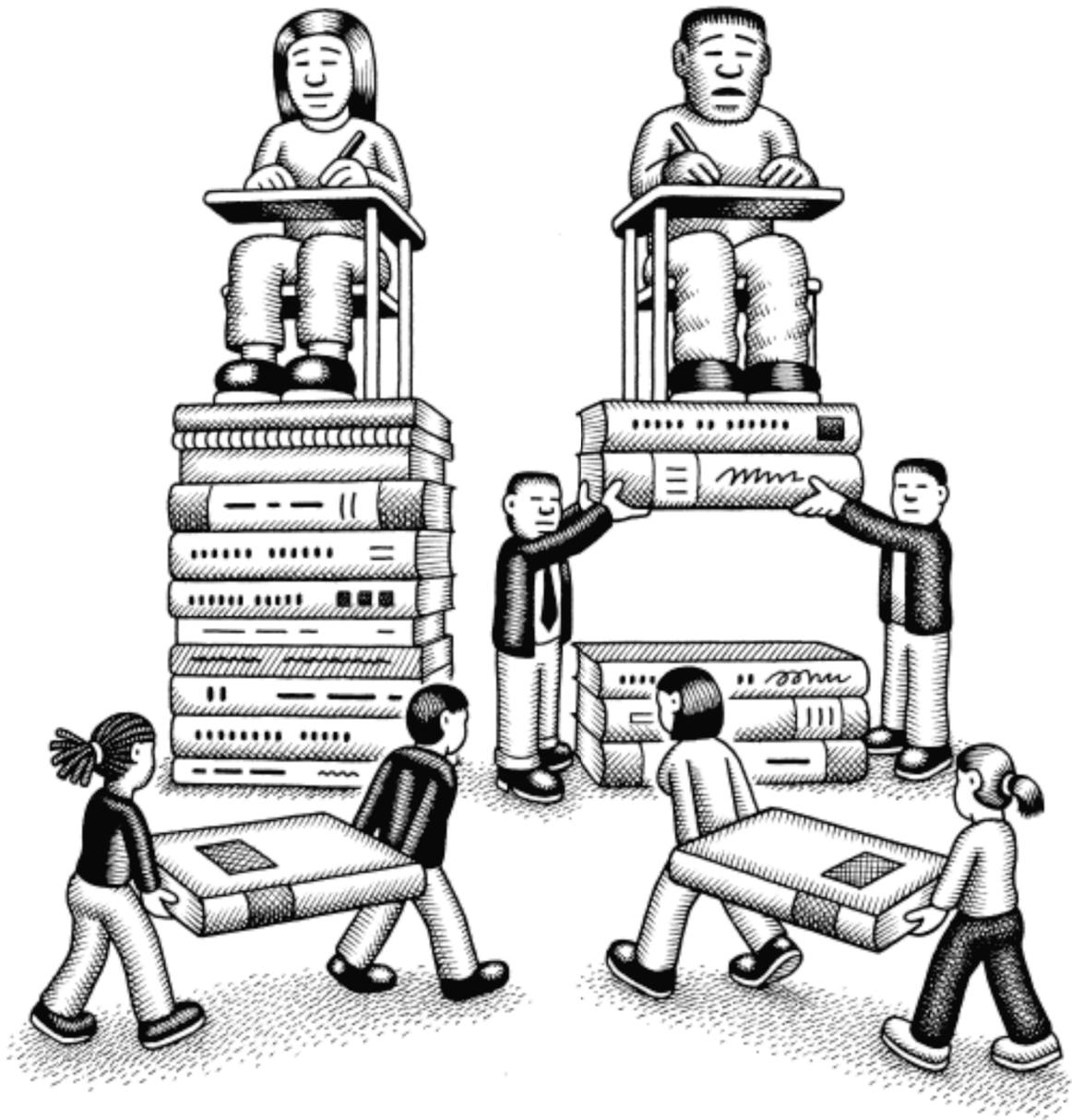
Without getting into the minefield of hoary discussion about the balance in an institution or in a professional life between teaching and research, a word about the place of journals in teaching is in order. No matter how much breast-beating goes on, we still have a chasm that separates what we do with students and what we do in our scholarship. When I speak to classes at universities, I am struck by how few students understand anything about academic publishing, its history, and its place in the academy. I asked for a show of hands at one seminar last year, and probably should not have been surprised that not a single student knew what peer review was about. Professors know better, but I would not like to have a show of hands from faculty about how useful they find the academic press to their teaching!

A modest suggestion is that journals can be or even should be relevant to teaching and if they are used can impart to a course a level of freshness and relevance that sometimes textbooks cannot. We have launched the *Proceedings* as an adjunct to the Policy Studies Organization journals in order to give more than lip service to the idea that we do feel that teaching is important, and plan along with other subjects to include syllabi, reviews of useful classroom items, and of course the announcements of our consortium associations and affiliates. If you have news or comments useful to your colleagues, we invite you to share with us. Just contact Daniel Gutierrez at [dgutierrez@ipsonet.org](mailto:dgutierrez@ipsonet.org). We particularly appreciate having syllabi and had an enthusiastic response to our initial request for some to share. We have enough to publish in several forthcoming issues but we want more. A look at how contemporaries approach a subject in the classroom can prompt attention to the postponed updating of one's own syllabi.

In policy studies there is a lot of good teaching going on, and we are lucky because our field often touches on issues that students have an interest in learning about. Nevertheless, for all the lip service given to the teaching mission, much education is deadly dull, cookie cutter routine, pedestrian and a bore. Classrooms take the life out of vital issues and teachers preside over captive audiences riding buses to oblivion. Surely Emerson was right when he remarked that a ship was safe in the harbor but that is not what a ship is for.

The current economic crunch is impacting most of us, but it shouldn't be an excuse for finding a hammock and sitting out the next decade. Policy studies is an active and dynamic discipline, and as it has developed over the last fifty or more years, it is a bit of Peck's Bad Boy in the academy. A classicist discusses the Trojan Wars, but if a policy savant discusses the Trojan Wars it is in connection with contemporary wars. This is not new news, but it is important. In sum, we have more tools than ever for enhancing academic publication, and even less excuse for putting people to sleep.

Paul Rich  
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## From the *Proceedings* Editor

### *Share your syllabi with the world!*

When we requested syllabi for publication in the *Proceedings* I didn't know what to expect. I was however amazed at seeing the wide variety of approaches, reading lists, sources and topics that professors proudly put together as a guide for their classes –at times a contract– that may serve as a guide for the entire semester. And not only the vastly different approaches to somewhat similar courses were immediately apparent, but also the particular idiosyncrasies of different professors as to how they handle students and themselves within their classrooms, and the different kinds of protocols that they choose to implement. Syllabi came to us as varied as their authors.

The purpose of course in publishing such documents is to help in the growth of policy studies by disseminating these hitherto unpublished pieces of work that are highly valuable for curriculum development. For some reason they often exert no influence beyond the classroom despite the hard work and dedication put into them. This is perhaps for the lack of a pertinent channel to share them. We intend the *Proceedings* to function as such a channel, and we are sure that the syllabi that will be shared and disseminated along with our journals will be helpful in providing different ideas and perspectives to academics working on designing courses or updating their already existing ones.

There is no doubt about the usefulness and importance of sharing syllabi in improving the quality of teaching. When I was in college, the syllabi calmed down an anxiety about what the class was going to be like. It also helped form a first impression about professors. I would be grateful when they would hand long and detailed documents and I appreciated the insight showed. A dedicated professor is always something to be grateful for! A syllabus will always tell you much, no matter how short or long.

So we hope these documents will be of use. We will be publishing more of them and will also be adding other features to the *Proceedings* focused specifically on pedagogy, in our intention to do something constructive about the teaching of policy studies and curriculum development.

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# *Syllabi*

*The following syllabi were sent to us per our invitation to share them in our journals. We received many more and they will be published in future Proceedings. As we hope these documents will be of use to the teaching of policy studies and curriculum development, we would like to encourage professors to send us their material for consideration.*

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## **I. National Policy Making**

### **Dr. James R. Alexander**

*James R. Alexander is a Professor of Political Science at the University of Pittsburgh at Johnstown and holds a Ph.D. from the University of Colorado. He teaches courses in American politics and policymaking, and constitutional law, is a former member of ASPA (and its section on Budgeting and Financial Management), and has published articles on constitutional federalism in Publius and Policy Studies Journal.*

#### **Introduction -The National Policymaking Climate**

Until the mid-1990s, the federal budget deficit in some form dominated the political debate in election campaigns and in Congress. The debate was largely ideological, e.g. government is *too big* or *too intrusive* or programmatic, e.g. programs were either meeting *critical needs* or were simply dismissed as *blatant and wasteful pork barrel projects*). Whether the debate focused on the need for cuts in social spending or increases in defense spending, or achieving tax equity for the middle class or simply cutting taxes overall, the common reference was always budgetary. This was not by accident. All national policy, and virtually all national politics, is played out through the federal budget. Clearly how the federal government taxes and spends reveals not only our political priorities (or lack thereof) but also the political dynamics of our national policymaking process. Contrary to the popular view, the federal budget is more than a compilation of numbers; it constitutes the tune and the tempo by which the dance of national politics (not to mention electoral campaigns) is conducted. This became very clear when the Republican Party used budgetary politics as the focus of its campaigning in capturing majorities in the Congress in 1994 and, in an ironic turn, it became one of the factors that contributed to Clinton's reelection in 1996. Even in times when politics becomes absorbed elsewhere, such as during investigations into political corruption or involvement in extensive foreign/military engagements as Iraq, we can be sure that basic policy will soon return to the budgetary realm. Not incidentally, the fixation on the federal budget is also politically convenient - it neutralizes and impersonalizes the policy debate by shifting any argument to one focused on "the numbers" or "the actions of Congress" and diminishes the public's ability to affix political credit or blame for any particular federal policy or program. The American public has always presumed its prerogative to complain about federal spending ("government is wasting our money") or taxes ("government is stealing our money"), and in the past four decades we have focused more intently on pork-barrel programs which direct millions and often billions of dollars toward what are considered by observers to be wasteful or unneeded projects that only benefit one particular Congressman's district and only serve to get him/her re-elected. In the mid-1990s, the policy debate shifted noticeably in two rather unusual directions, each in its unique way into unfamiliar and relatively uncharted waters.

#### **I. The Surplus Economy**

The first change in the policy debate was precipitated by the emergence of a real budget surplus at the mid-point of the Clinton Presidency. In the 1950s, both national parties had cut their ideological teeth on the relation of federal spending to the federal debt, with the policy debate focusing on the large size of the recurring federal debt and the continuous pattern of deficit spending, complicated by slowing economic growth, changing commitments for military preparedness, and an emerging national commitment to

permanent social spending initiatives. In the late 1970s, Republican Presidential candidate Ronald Reagan criticized the size of the mounting federal debt and the inability of Democratic incumbent Jimmy Carter and the Democratic Congress to "live within their means".

The Reagan presidency (1981-1989) presided over eight straight annual budget deficits, often four times higher than any previous annual deficit (including Carter's) and more than doubling the federal debt. During the Presidential election campaign of 1988, Republican candidate and incumbent Vice President George H. W. Bush campaigned on the promise to sustain defense spending, increase spending in some social areas, and no new taxes - a clear prescription for continued deficit spending at high levels. While proposing modest increases spending in several social areas (such as education and drug enforcement), newly-elected President Bush in 1989 repeated his now-infamous "read my lips" pledge to not raise taxes. However, Bush ultimately agreed to increased taxes to maintain budget stability in 1990, a position he found difficult to defend either politically or ideologically within his own party during the 1992 election campaign. Ironically, the federal debt had quadrupled in the twelve years of Reagan and Bush Presidencies, awkward for a political party known ideologically for its fiscally conservatism, but Republicans continued to successfully deflect responsibility for these maladies onto the "tax-and-spend liberal Democrats" controlling the Congress.

In the 1992 Presidential campaign, Bill Clinton, campaigning as a 'new Democrat' promised reallocation of existing spending into investment areas and promotion of free trade to stimulate economic growth, increased taxes on "the rich", a modest tax break for the middle class, and reduction in the size of the federal bureaucracy. In a slow-growth economy, this would have again been a clear prescription for continued high levels of deficit spending. But if the economy were to exhibit real economic growth, as forecasts indicated, the deficit could actually be reduced. Independent Ross Perot countered with a more populist position - that government spending ought to be cut drastically across-the-board (without specifying which programs would be eliminated) and ultimately garnered 21% of the popular vote running as a Third party candidate in 1992. In his first term (1993-1997), President Clinton completed two international free trade agreements, achieved some tax increase on upper incomes and very modest tax equity for middle income groups, reduced the size of the annual deficit by 15-20% in each year, and reduced the size of the federal bureaucracy by over 250,000 employees. He also tried (unsuccessfully) to press for a national health insurance program.

In the 1994 midterm elections, Republicans under House Minority Leader Newt Gingrich campaigned strongly against Clinton and the "tax-and-spend liberal Democrats in Congress" and swept to majorities in both Houses of Congress for the first time in four decades. Claiming a mandate for a "real revolution", the new Republican Congressional leadership pressed for a statutory commitment to balanced budgets (and failing that, proposed a balanced budget amendment) and radical down-sizing of non-defense programs. They attempted to press their advantage by forcing a budget stalemate when Clinton vetoed several appropriations bills, leaving some agencies without funding (resulting symbolically in the 'closing down of the government'). Interestingly, the American public in turn attributed the stalemate to Congressional partisanship and reaffirmed their high approval ratings for President Clinton. To the American public, the

budget seemed to be creeping toward balance on its own. The budgetary deficits seemed to be self-healing and more radical measures seemed unneeded, and Clinton was somewhat easily re-elected to a second term in 1996.

In Clinton's second term, the economy exhibited steady and unprecedented growth, creating federal budget surpluses and pushing Clinton's job performance rating to unprecedented heights. In response, the Republican majority in Congress had to shelve its traditional policy posture against deficit spending and reorient its position toward what to do with the surplus, somewhat uncharted ground since (in effect) the Jacksonian period of the 1830s. While Republicans pondered their position, the focus of the policy agenda was immediately co-opted by Clinton's fixed position that the recurring surplus should be invested in education, stimulating more growth, and shoring up Social Security. The high public approval rating of Clinton's policies, at the expense of Republican-controlled Congress, was not materially challenged by the lengthy impeachment hearings in 1998.

The economic growth of the 1990s had already begun to slow dramatically by the time that Texas Governor George W. Bush beat Vice President Al Gore in the contested Presidential election of 2000, a defeat attributed more to Clinton's personal scandals and Gore's bland personality than to weakening economic indicators. By 2002 however, after the stock market was shaken by scandals of over-reporting corporate income and with the dual complications of extended military participation in Afghanistan and Iraq, federal revenues began to lag behind already-approved spending levels and deficits again appeared. These became dramatically worsened when very few allies stepped up to assist the United States in bearing the costs of military intervention and the Republican Congress pushed through a major tax cut package in hopes of stimulating the flat private economy. By 2003, annual deficits were projected in the \$400 billion range. In 2004, George Bush ran successfully for re-election on a national security ("9/11") platform that included traditional accusations about the "tax-and-spend liberal Democrats" - perhaps less technically accurate since the Republicans held majorities in both houses. From 2000 to 2005, the federal deficit averaged \$575 billion, and during the 2006 midterm elections, conservative Republicans became more vocal in their dissent from their own Administration's continued deficit spending, above and beyond the escalating costs of involvement in Iraq, and waffled on support of making earlier tax cuts permanent.

## **II. The Acrid Partisan Atmosphere**

The second directional change in the national policy debate was the (re)surfacing of several recurring ideological issues (e.g. flag burning, school prayer, abortion) such that the debate itself (and particularly in Congress) became more partisan with factions hardening rigidly even within each party and personalized, especially through the increased use of investigation and litigation as a tactic for attacking one's policy opponents outside the electoral process. In the accusatory climate that emerged, fed by an increasing tabloidization of the media, the debate over policy was in effect subsumed for over two years (1996-1998) while the Republican Congress, the Independent Prosecutor, attorneys on all sides, and the media wallowed in the investigation of various Clinton scandals, the most serious and most absorbing being the impeachment hearings in the House and trial in the Senate.

When President Bush took office in 2001, the Congressional Republican leadership moved immediately to bring forward the conservative economic and social legislation that had been suppressed by threats of a Clinton veto for eight years. Some

Republicans clamored for ‘political payback’ for their years of minority status in the Congress, especially pressing for the nomination of very conservative jurists for federal bench. But just as that legislative agenda emerged in both houses, spawning even more bitter partisan wrangling, the hot war in Iraq took center stage and an uneasy (and uneven) facade of bipartisan climate emerged, jarred only slightly by the Presidential election campaign of 2004, which returned Bush and the Republican majorities in both houses. Two years later, however, the bi-election of 2006 major voter swings returned slight Democratic majorities in both house of Congress, largely due to swelling dissatisfaction by the moderate middle about the intransigent war posture of the Bush administration. With leadership positions in both houses shifting to the Democrats, the last two years of the Bush Presidency have become decidedly "lame-duck", as would be expected of any two-term President, with the proviso that the Iraq commitment has – with current spending apace in domestic and other budget categories (including earmarks) – pushed the Bush administration to propose large deficit budgets every year.

### **III. The Current Condition**

With the Election of 2008, one could easily argue that "everything has changed", though few observers are confident enough to predict what the result will be. Clearly, the incumbent President and the Congressional Republican leadership were vulnerable to claims of mismanagement of both the Iraq War and several other international and domestic issues, a vulnerability that alone would have presaged Democratic advantage in the Election of 2008. The meltdown of credit institutions and the stock market accentuated the trends of what became a strong Democratic victory. The budget parameters for 2009 are hardly optimistic – economic slowdown that will produce significant unemployment levels and vastly reduced revenues, increased costs of basic safety net programs that will be strained, the continued drain from foreign engagements, and the new "bailout provisions" exceeding \$1 trillion. How does a Congress ‘budget’ in such circumstances? It is tempting to say "as usual" at least procedurally.

Objectives of the course:

As political science analysts, we should not abandon our critical interest in **substantive** discussion of national policy, even if we are in a time of intense foreign military engagement when other policy considerations seem to be suspended. The question before us is whether **constructive and thoughtful analysis** of national policy and the policymaking process is possible even when the Congress seems to not be seriously engaged in developing, marking up, executing, or overseeing any substantive federal policy. The answer is **yes**, since (a) the level of our military engagement in Iraq will eventually subside, leaving us with significant budgetary consequences over the next 10-15 years, and (b) federal policy and the process by which it is considered are continuous. That type of thoughtful analysis will provide us with a firm foundation for evaluating policy and politics in future Congresses.

The focus of this course will therefore be the **policymaking process** itself. We will explore both the technical and the political dynamics of the policy and budgetary processes, particularly the roles played by the President, the Treasury, the Office of Management and Budget (OMB), federal agencies (like the Pentagon), the Congress, and the Congressional Budget Office (CBO). We will also discuss these processes in historical context, and consider the more recent calls for reforming the political process. This is a background course, pure and simple. Its lectures and readings presume you have

a general familiarity with the processes and structures of American national government, but little or no particular understanding of policy issues or the current debate.

**Relevance of the Course:** The background perspective provided by this course is important for the study of any aspect of the national policymaking process, including the Presidency, the Congress, the federal administration, or American foreign policy. It is also critical background for any student interested in pursuing graduate study in American politics, American political history, public law, public administration, or policy analysis, or wishing to enter the public sector.

**Examinations and Paper Assignments:** There will be three *examinations* during the term: one on statutory terminology and concepts and two on executive and legislative roles involving short analytical essays. Each exam counts for 25% of the final course grade and study guides will be distributed before each. Students will also be required to write a one-page *summary essay* related to the required reading (counting 5%), and to complete a *legislative tracking assignment* (worth 20%). Instructions will be handed out in class for each of these writing assignments.

Required Readings: (copies on reserve at Central Desk in Owen Library)

Allen Schick, The Federal Budget; Politics, Policy, Process 3rd edition (paperback) James Savage, Balanced Budgets and American Politics (paperback)

### **Course outline**

**Section I.** The Role of the Executive Branch in the Federal Policy Process. The terminology and patterns of federal budget cycles, budget roles played by the President, the Treasury, federal agencies, and the Office of Management and Budget (OMB) will be examined in this section. Understanding of the structural and procedural dynamics of the budget process will be emphasized.

### **Required Reading:**

Schick, The Federal Budget (entire)

Moe, "The Politicized Presidency"

Starobin, "The Daddy States"

Maggs, "Sorry States"

Hegland, "Learning Subtraction"

**Section II.** Congressional Responsibility in the Policy Process. An ideological and political examination of the various legislative roles played in the budgetary process, including those of Congressional committees, the Congressional Budget Office (CBO), and the General Accounting Office (GAO). Also examined will be questions of "uncontrollable" spending, spending ceilings, "balanced budget" reforms, and the rhetoric that surrounds each. Historical perspective and the dynamics of balanced budget negotiations will be emphasized.

### **Required Readings:**

Savage, Balanced Budgets and American Politics

Ornstein, "The Politics of the Deficit"  
Schick, "Budgeting for Growth"  
Samuelson, "The Good Life and Its Discontents"

Useful links for federal budget data:

[Office of Management and Budget \(OMB\)](http://www.whitehouse.gov/omb)

[www.whitehouse.gov/omb](http://www.whitehouse.gov/omb)

[Government Accountability Office \(GAO\)](http://www.gao.gov)

[www.gao.gov](http://www.gao.gov)

[Center on Budget and Policy Priorities](http://www.cbpp.org)

[www.cbpp.org](http://www.cbpp.org)

[OMB Watch](http://www.ombwatch.org)

[www.ombwatch.org](http://www.ombwatch.org)

## II. The Benefits & Dangers of Federalism

### Jameson W. Doig

*Professor Doig is a faculty member at Princeton University, 1961-2007; visiting professor at Dartmouth College, 2008-2009. Publications include New York:the Politics of Urban Regional Development, with Michael Danielson (U California Press, 1982); Leadership and Innovation, with Erwin Hargrove and others (Johns Hopkins University Press, 1987); Empire on the Hudson (Columbia University Press, 2001); articles on Canadian and American politics. Main teaching interests -- American public policy; public administration; comparative federalism.*

While it is doubtful that any State...would argue that it is wise policy to allow students to carry guns on school premises, ... the theory and utility of our federalism are [here] revealed, for the States may perform their role as laboratories for experimentation to devise various solutions.--Justice Anthony Kennedy, concurring in United States v. Lopez (1995)

Federalism is the most important political device for the regulation and accommodation of the world's most burning and devastating conflicts. Without some form of federalism, the conflicts in Northern Ireland, in the Middle East ... [and elsewhere] will not go away.--Thomas Hueglin, in Rethinking Federalism (1995)

This seminar will examine federalism as a system of governance, with particular attention to the United States and Canada -- including protections for indigenous peoples. In the final weeks we will turn to recent experience in Europe and beyond. As the quotations above suggest, the benefits of federalism might seem to apply rather widely across human societies; however, the limits of these benefits and their costs also deserve careful analysis.

In our exploration, we begin with a widely accepted definition: Federalism is the form of governance in which (1) two levels of government rule the same land and people; (2) each level has at least one area of action in which it is autonomous; and (3) there is some guarantee (even though merely a statement in the constitution) of the autonomy of each government in its own sphere. For those governmental systems, which profess to be democratic, one might add another point: (4) each level of government has powers, which are delegated directly to it by the people.<sup>1</sup> The study of federalism excludes "loose associations" of governments, such as NATO, and such "unitary governments" as France.

However, we will explore some intergovernmental patterns that lie at the border of federalism -- in particular, the relationships between Native American tribes and other US governments; and the patterns that have evolved between First Nations, the provinces, and the central government in Canada. In the final four meetings of the course, we will take the principles and cautions derived from experience in these two federal nations and explore their relevance in other regions. Depending on your interests, these might include

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<sup>1</sup> The three-part definition is found, for example, in William Riker, Development of American Federalism, 1987, p. 13; the fourth is added by others, such as Daniel Elazar; see his Exploring Federalism, 1987, ch.1.

the evolving “federalist system” of the European Union and regions with significant internal tensions – such as Northern Ireland, China/Hong Kong, Mexico/Chiapas, Afghanistan, and Iraq – where federal systems, carefully designed, might be a route to reducing suspicion & violence, encouraging economic growth, and perhaps enhancing liberty.

### **Federalism and the Purposes (and Dangers) of Government**

A "government" is usually defined as the institution that holds a monopoly of legitimate coercive force within a defined territory. Such an agency of human power offers great potential advantages to its citizens, and great dangers too. Those who prefer a federal system of governance (in contrast to a unitary government) generally argue that this plan reduces the dangers while increasing the benefits. Thus a federal system may be helpful in encouraging and preserving **individual liberty**, since citizens who feel aggrieved can appeal to more than one "final" authority, and they may also be able to move to a different state or province. Federalism may also provide a route to **community autonomy**, a value emphasized by groups of native peoples in the US and Canada, by the leaders of francophone Québec, by Sri Lankan dissidents, and elsewhere; and thereby it may help a strife-ridden nation become a **peaceful society**. Moreover, a federal system may encourage active involvement by citizens, thus nourishing **participatory democracy**.

Federalism also encourages each state or province to devise its own strategies for **economic development** -- strategies which may be more effective (because they are based on a closer understanding of local culture, resources and skills), and which, through the variety of different strategies tried by different states and provinces, may produce innovative programs whose success can then be emulated by other regions & nations.

A federal system may have a similar advantage in other fields -- for example in trying distinctive strategies to undertake stem-cell research, to obtain prescription drugs, to treat those who are dying, and generally in the field of **social services**. As Justice Kennedy suggests in the quotation above (he is borrowing from Woodrow Wilson and Justice Brandeis decades earlier), states may serve as important "laboratories for experimentation".

Yet perhaps the benefits are overstated, and some disadvantages may be lost to sight. For example, will the devolution of responsibilities in a federal system sacrifice values of **equality** and **social justice**, because of differences between rich and poor regions? Will those values and others be diminished when states and provinces are given more power, because citizens of these limited regions may be less tolerant of minorities in their midst? (The history of the U.S. South and the treatment of native peoples by Canadian provinces offer sobering examples.) Will states and provinces compete against each other in destructive ways, undermining the economic-development strategies of all?

Moreover, it might be argued that states and provinces often lose their capacity to take a broad view of social issues because individual industries and groups have undue influence there (influence that is lessened when action is pushed up to the national level); those who study the role of tobacco in North Carolina, or mining interests in Montana and British Columbia, may wonder if devolution and deference to localized sentiment will be mainly a route to warped social values and diminished democratic vitality. So James Madison's concerns in *The Federalist* -- about the dangers of narrow interests controlling policies in small republics -- may still apply.

An alternative approach is provided by those who prefer loose confederation or complete separation, who find the benefits of federalism too modest, when applied to their distinctive polities. In Québec, and Northern Ireland, and some of the original 13 American colonies, would loose confederation or independence be preferable, they ask, so each geographic area can develop its own trade policy, its own language and schooling requirements, its own racial or race-neutral laws?

In the seminar, we will want to match reality against the rhetoric from these several sides. So we should ask: Under what conditions can a federal system better achieve one or all of the broad goals listed above (and others we might add), if certain services and regulations are shifted downward to the provinces, states, and other subdivisions? What are the alternative forms and strategies of devolution that might be used, and what are the benefits and problems of each, as we look closely at various fields (education, health and welfare, for example; highway safety; water pollution & wetlands; economic-development strategies by states, either going it alone and through inter-state cooperation)? What trade-offs should be considered, and how can we identify and then act strategically to achieve acceptable compromises among such contending deeply held values as individual self-interest, community cohesion, and equal opportunity? Under what conditions is a unitary government, or a loose confederation, likely to provide a higher level of net benefits, measured by the values listed above, than a federal system?

### **Readings:**

Hamilton, Madison and Jay, The Federalist Papers (Rossiter, ed.: 1961 or later edition). You need not purchase, since the required essays from this book are in the course packet; but in book form this is a valuable source, especially for those who will do future work in law or political theory.

Michael Whittington and G. Williams, eds., Canadian Politics in the 21st Century (2008) – you should purchase; copies will be on the Gov 81.24 shelf.

### **Weekly Schedule**

- Overview, with two court cases -- on gun control & medical marijuana -- and several newspaper articles
- Federation or confederation? – battles at the Founding
- The victory of “centralized federalism” & recent conflicts in the courts
- Fighting the Feds and reaching beyond: tensions and opportunities in welfare, health and education
- State innovation, economic development, & ethical conflicts
- Canadian federalism: early hopes & evolving tensions
- Canada & Québec: federalism with special status? or 1 of 10 equal provinces? or an independent nation?
- Community traditions, individualism, & capitalism: conflicts and strategies in Native-American nations
- The rights of Aboriginal Peoples: the Canadian case

### **Organization of the Seminar & Requirements**

1. Seminar meetings will include some chunks of lecturing (15-20 minutes) by the instructor, but most of each session will be devoted to discussion, framed by student oral reports and papers. Personal computers may not be used during class meetings.

2. Members of the seminar will write eight brief papers. Each paper should be on a topic related to the week's reading; you may respond to one of the syllabus questions or construct your own argument. Maximum length for each paper is 250 words (*not more than one page*): double-spaced, using type size and margins approximately like those in this syllabus (not this size—or this size!). If you have an oral report or a debate in any week, you may write your paper on the same topic (though you need not do so). Send your paper via email. I will review the papers before class, and they will help to shape seminar discussion. The essays will not be given precise letter grades, but they will be returned within a few days with comments. (Late papers will be noted, & they may have to be disregarded in planning for the week's discussion.)

3. Each member of the seminar will give two oral presentations (8-10 minutes in length), usually on the topics noted in the syllabus below. Some reading beyond the required materials may be needed in preparing these reports. In preparing these reports, you should assume that all of us have read the assigned materials; do not devote much of your 8-10 minutes to restating what is in the week's readings. You should consider the oral reports as opportunities to sharpen your skill in making verbal presentations: **practice beforehand, and refer only modestly to your notes while giving your report.** These presentations will be evaluated (though not precisely graded), and I will send you written comments. *Clarity and pace of presentation, eye contact, strategies of emphasis and humor and irony, as well as analytical content,* should all be kept in mind as you prepare and give your report (based on past experience, it is clear that your audience will find it **very helpful if you provide 1-3 pages of handouts**; these might include an outline of your talk, and perhaps one or two charts, or quotations from the documents or people you are discussing).

4. On occasion, we will use role-playing and debates, in order to explore important issues and to capture some interpersonal aspects of policy conflict and innovative strategies. I will attempt to balance the number of debates and oral reports assigned so there is rough equity in the demands on the time of all seminar members -- across the semester as a whole. I have no objection if any pair of class members wish to exchange debate or oral-report dates; but to do so, you both must send me emails, confirming the exchange, at least one week before the first "exchanged" assignment.

5. Each member of the seminar will write a 10-12 page paper (double-spaced). You may choose any topic in the field of federalism. Please confer with me as you work on your paper topic and let me have a 2-3 page description of your main argument, so I can offer reactions to your plans. Of course, I'd be glad to meet with you in my office, to discuss your topic as you go forward -- before or after you complete the description. You may, in your paper, draw upon essays you have written in other courses; in that event, add a footnote that explains the relationship between the two papers, and let me have a copy of your earlier essay.

6. In determining final grades in the seminar, class participation counts for 30%, weekly papers 30%, oral reports and debates 20%, and the final paper, 20%. There is no final examination in the course.

### **Seminar Topics, Readings, and Questions**

#### **Overview, plus two Supreme Court decisions on Federalism, & related articles**

In our first meeting, I will ask each of you to introduce yourself – where you are from, what your main interests are in relation to the theme of federalism and the tensions between *liberty, equality & other basic rights*, and anything else you believe may be of interest to us. Then I'll take 15-20 minutes to go through the syllabus, noting the basic approach in the seminar, describing briefly the issues for each week, and responding to questions as we go through the course plan. The main readings are two court cases. In every federal system, the courts – and especially the members of the Supreme Court – have a crucial function, for they patrol the boundaries between the effort of the national government to determine policies for *all* the nation's citizens, and the tendency of state officials to resist, so that *they* can decide upon policies and programs for *their own* citizens. The two cases below introduce this theme, which will have continuing importance in the course. As you know, eight one-page papers are required in the seminar.

**1. U. S. v. Lopez (1995)** – majority opinion by Chief Justice Rehnquist, and dissent by Justice Breyer. The vote was 5-4. Read marked portions closely (marked paragraphs total about seven pages).

This is a landmark case, in which the U. S. Supreme Court blocked Congress from some important interventions in areas that are usually associated with state and local control. The U.S. Constitution does permit the federal government to regulate commerce that crosses state lines.<sup>2</sup> But can this “commerce power” be extended to permit Congress to enact a law forbidding the carrying of a gun in a school zone? A five-member majority of the Court said “No!” and the Congressional 1995 statute was null and void. Four justices argued that the new federal law should be constitutional under the Commerce Clause.

>Which side do you find more persuasive? Is gun-related violence in and around schools a part of commerce, in your opinion, as well as a social problem? Is it part of an interstate pattern or purely local? Be prepared to discuss the strengths and weaknesses of Rehnquist's and Breyer's arguments -- and perhaps to defend your own position -- when we meet on the 6<sup>th</sup>. (If you are not used to reading court opinions, you may find this tough going; but when we meet, we will discuss any puzzles that need clarifying; also, feel free to send me a note before the 6<sup>th</sup> if you wish.)

>And what of the basic question imbedded in judicial review – Is it acceptable, in a democracy, for appointed judges to block policies favored by elected federal and state officials? If so, under what conditions in your opinion?

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<sup>2</sup> Article I, section 8 of the U.S. Constitution gives Congress the power to “regulate Commerce... among the several States.”

**2. Alberto Gonzales v. Angel Raich (2005)** – read both opinions carefully (about nine pages). In this case, ten years later, the membership on the Supreme Court was unchanged but the feds won. In focusing on the legality of “medical marijuana,” the Court again confronted the same general issue – the line between national power and state autonomy in a federal system. But now Rehnquist and two of his allies from the Lopez case were thrown into dissent, arguing unsuccessfully that the states must be allowed to serve as experimenters and innovators. Yet for six of the nine members of the Court, the reach of federal power under the Commerce Clause extended even to local marijuana plants grown on one’s back porch.

>Are you persuaded by Justice Stevens’s careful analysis or by Justice O’Connor’s vigorous plea? Is O’Connor correct in arguing that Raich is “indistinguishable” from Lopez?

>If you wanted to maximize *individual liberty*, what outcome would you favor in these two cases? What alternative goals might you consider in deciding the case?

The readings also include a few recent examples of state & provincial initiative – in the fields of health insurance (Massachusetts and beyond), water supplies (in the Great Lakes), climate change (California, four Canadian provinces, and ten Eastern states), and film production.

You can read these mainly as illustrations of the important role that states and provinces can play in meeting their citizens’ needs (and demands). Such initiatives can also provide lessons as to the pros and cons of various directions for public policy.

You may have questions about the wisdom of some of these programs. For example, should the eight states and two provinces in the Great Lakes basin be allowed to prohibit other regions with large water needs from buying water from this “outside” source? And what – if anything – could be done to reduce the “destructive competition” seen in state efforts to attract film studios? In this regard, is the film industry different from other fields in which states compete, such as auto manufacturing plants?

“439,000 more get health coverage,” Boston Globe, Aug. 20, 2008

“The Massachusetts Way,” New York Times, Aug. 30, 2008

“Can It Happen Here?,” N.Y. Times, Aug. 11, 2008 (Paul Krugman)

“Mass. Health Plan Wins Waiver...,” N.Y. Times, October 1, 2008

“Small Business...” N.Y. Times, July 10, 2008

“A Little Less to Worry About,” N.Y. Times, Aug. 8, 2008

“Congress Passes Great Lakes Protection Plan,” N.Y. Times Sept.24, 2008

“U.S.-Canadian Group Plans to Curb Emissions,” N.Y. Times, Sept. 24, 2008

“Ten States with a Plan,” N.Y. Times, Sept. 25, 2008

“Jitters are Setting In for States...,” N.Y. Times, Oct. 12, 2008.

## **Federation or Confederation? – battles at the Founding**

A. T. Mason & G. E. Baker, eds., Free Government in the Making, 1985, 131-41.  
The Articles of Confederation (1777; 1781)

The Constitution of the United States of America; read marked sections closely.

Mason & Baker, 217-18, 222-24. CR37

The Antifederalists: Richard Henry Lee of VA (October 1787); Robert Yates of NY [Brutus], 1788 (10p).

Alexander Hamilton and James Madison, The Federalist Papers (1787-88): #1, 10, 39, 51 & 78

Mason & Baker, 276-84.

Debate: federalist (*Madhavi Menon*) vs. anti-federalist (*Nathan Bruschi*), with the rest of us as interested citizens ready to be persuaded. 8 per side, followed by 2 responses from each side, and then by reactions from the populace (thrown fruit not permitted).

Questions (which we are likely to discuss on the 8th; you may write your brief essay on **any one issue** raised by these questions, though **you are not limited to this set**):

1. In reviewing The Articles of Confederation, note particularly how the executive and judicial powers were allocated, and also the central government's powers as to taxation and regulating commerce. Compare the Articles limitation of "expressly delegated" powers to the wording of the 10th Amendment; which wording would you prefer & why?

2. At the Philadelphia Convention of 1787, Edmund Randolph proposed that the delegates adopt the *Virginia Plan*: the number of representatives from each state in the national legislature would vary with the state's population. Those from states with smaller populations countered with the *New Jersey Plan*, which would give each state the same number of representatives. The conflict was resolved via the *Connecticut Compromise*. Is it possible to make a *principled\** argument in favor of equal state representation in the Senate, despite great differences in population? (*\*that is, an argument not based simply on "political necessity" in order to win approval of the Constitution*).

3. In Federalist #39, Madison argues that "the proposed Government cannot be deemed a *national* one; since its jurisdiction extends to certain enumerated objects only" and leaves to the states an "inviolable sovereignty over all other objects."

How would Lee and Brutus respond? Do you agree with Madison or with those critics?

4. Why was Madison concerned about state encroachments on individual rights? (See biographies of Madison, and consider why Madison left Virginia to attend college in NJ.) What strategies did he use in seeking a bill of rights? Should he have been pleased with the Bill of Rights as adopted by Congress in 1789? Compare the phrasing of Article I, sec. 9 of the Constitution and Amendments I-X.

5. What is your reaction to the anti-federalist fears regarding re-election of national legislators, the "necessary and proper" clause, and the power of the president? In your opinion, were their concerns in one or more of these areas warranted? Note for example Richard Henry Lee's comment that "... men who govern, will in doubtful cases, construe laws and constitutions most favourable for increasing their own powers...".

6. Why was the assertion of judicial review in Federalist #78 viewed as "breathtaking"? Can you make a reasoned argument that the power claimed in #78 could have been held elsewhere or distributed more widely, rather than being held "monopolistically" by the Supreme Court?

## **The victory of “centralized federalism” & recent conflicts in the courts**

### *The Hamilton-Marshall victory:*

Mason & Baker, 295-99.

Hamilton on the Whisky Rebellion.

Chief Justice John Marshall’s opinions in Marbury v. Madison (1803) and McCulloch v. Maryland (1819).

### *Forty years of conflict:*

Introductory note (3p)

Mark Tushnet, A Court Divided, 2006, 20p.

Bob Woodward and Scott Armstrong, The Brethren, 1979

National League of Cities v. Usery, 426 US 833 (1976)

Garcia v. San Antonio MTA, 469 US 528 (1985)

United States v. Morrison, 529 US 598 (2000)

Lawrence v. Texas, 539 US 558 (2003)

Ellis Katz and Alan Tarr, Federalism and Rights, 1996, introduction, and essay by Dorothy Beasley

“Florida Gay Adoption Ban is Ruled Unconstitutional,” N.Y. Times, Nov. 26, 2008

Jameson Doig, “Judicial Independence in the United States? -- Complexities and a Sometime Thing,” 2008

Papers: all. (It will be helpful if those whose last names begin with M-Z write on issues that relate to Qs #6-10 – while A-L write on issues linked to Qs #1-5.)

Oral report (10-12'): What was Chief Justice Marshall's strategy with regard to federalism, and what was the impact of his major decisions in this field? Are you inclined to endorse the strategy Marshall used, or – if you had been a member of the Court at the time – do you think you would have opposed him?

Debate on Garcia: You can emphasize different points & raise additional issues, if you wish; you are not strictly bound to the arguments made by members of the Supreme Court, though you should not refer to information that would have been unknown in 1985. 8' initial statement from each side, then rebuttals (2' per side) & questions. Generally, debates should be timed for 8 minutes per side. Distribute brief outlines if you believe they would be useful.

Oral report on strategies for “overturning” Supreme Court opinions that undermine state sovereignty: Using Gonzales v. Raich as the example, the report should describe the efforts of a lobbying group, the Marijuana Policy Project, to add to the number of states that approve the use of “medical marijuana” and to replace opponents to that option with supporters, in Congressional races. You may want to concentrate on the 2008 election, a banner year for the Project.

### Questions

1. Antifederalist Robert Yates warned that any sitting group of Supreme Court judges could “mould the government into almost any shape they please.” What light does Marshall's opinion in McCulloch, compared with the views of the opinion-writers in Lopez and Raich, cast on this issue?

2. Could a “court-packing” plan win your support – perhaps as a way to ensure that elected officials are not shackled by a resisting Court as they create policies to meet new conditions? What are the pros and cons of a plan like that proposed by FDR?

3. Some critics of the Supreme Court have argued that the justices are unprincipled – often making decisions based on their sense of widespread public sentiment (or on “the election returns”), and at other times relying mainly on their own personal values -- rather than on a thoughtful assessment of what the Constitution requires. It might be argued that Tushnet embraces this view (see pp. 10 and 30-31, for example). Does he, in your opinion? What light does the Woodward reading cast on this issue? Based on the readings thus far, what do you think about this concern?

4. In National League of Cities v. Usery, the Court majority concluded that "there are limits upon the power of Congress to override state sovereignty," that the 10th Amendment protects the states' "ability to function effectively in a federal system," and that a 1974 Congressional wage & hour law was, by these standards, unconstitutional. Note Rehnquist’s interpretation of the 10<sup>th</sup> Amendment. Based on a close reading of the amendment, do you agree with his view? Why or why not? What do you think of Brennan’s argument that the states are protected via the way members of Congress are chosen?

4a. Relying on Federalist #31, John Marshall's opinion in Gibbons, and other sources, Brennan dissented. Is his argument for relying on "the political process and not...the judicial process" persuasive?

4b. As states take on additional duties (e.g., highway-safety training and affirmative action), is the kind of historical evidence used by Brennan less persuasive? Do Congressional mandates -- of the kind endorsed by Brennan – seriously undermine the ability of states and cities to set their own priorities in using scarce dollars (as California argued in this case)?

4c. In Stevens’s dissent, note his distinction between “the policy I prefer” and “the policy that is constitutional.” As you read the cases for this week and later sessions, can you identify other opinions in which it is clear that the writer is not relying mainly on his or her personal values in deciding what the Constitution requires or forbids?

5. Nine years later, Garcia overruled NLC. Why? Note Justice Blackmun’s rationale, linked to a state’s right to engage in "unorthodox or unnecessary" activities -- as he *reduced* state autonomy; also, his argument that “the political process” is the main protection for the states provided by the Constitution. Compare the dissent by Justice O'Connor, employing Federalists #17, 45 and 51, and Marshall's McCulloch. In your judgment, is Blackmun or O’Connor more persuasive?

6. In Lopez and Morrison, the Court majority has provided some consistency in its interpretation of the Commerce Clause. But is it the wisest interpretation? Evaluate the criticisms leveled by the dissenters in these two cases.

7. Reading Kennedy’s opinion in Lawrence v. Texas (2003) closely, do you spot an unusual level of hostility toward an earlier Court majority (which included two justices still on the Court in 2003)? Why do you think he wrote so sharply?

8. Gonzales v. Raich and Lawrence v. Texas seem inconsistent with the Lopez/Morrison theme of deference to the states. What do you think might be the reason(s) for the apparent inconsistency? What is your opinion of Scalia’s argument that changes in policy should be obtained through legislative action, not judicial edicts? (In

your essay, you may bypass these questions and instead explain which side you favor in one or more of these cases.)

9. Only ten state constitutions include an explicit "right to privacy" protection. Based on experience in those states -- note especially the Florida opinions -- would you favor adding that clause to *all* state constitutions? What are the pros and cons?

10. State voters and legislatures have taken a variety of actions regarding the rights of same-sex couples (mostly to limit their rights), as have Canadian provinces (mostly to equalize their rights with those of other couples). As Katz and Tarr point out, state *courts* also have an important role -- illustrated by the decision in Florida in late November 2008. What is your view of Judge Lederman's opinion, overturning a Florida law now more than 30 years old; from the standpoint of a democratic regime, is the decision defensible?

11. Where do you come down on the issue of electing vs. appointing judges? And what do you think of Stuart Taylor's argument (fn.49 in the Doig paper) that Supreme Court justices are driven far more by their political affiliations than by the values in the Constitution?

### **Fighting the Feds and Reaching Beyond: tensions and opportunities in welfare, health and education**

Marc Landy & Sidney Milkis, American Government (2004), 177-187 & map.

"States Funds... Are Drying Up," New York Times, Dec. 15, 2008

"Illinois is Trying... But the Most Corrupt State Is ...," N. Y. Times, Dec. 14,

Shapiro v. Vivian Thompson, 394 US 618 (1969) and Saenz v. Roe, 526 US 489 (1999)

Paul Posner, "The Politics of Coercive Federalism," Publius: the Journal of Federalism, v. 37 (May 2007), 390-409.

No Child Left Behind (2001)

Passage of the NCLB Act

"Just the Facts for NY Parents" (2002)

"States fight No Child Left Behind," USA Today (2004)

L. Uzzell, "... The Dangers of Centralized Education Policy," Cato Policy Analysis (May 2005)

Impact of NCLB in Massachusetts and Utah (2005)

"Next round begins," Christian Science Monitor, Jan. 2007

"Pros and Cons..." About.com, 2008

U.S. Dept. of Education, "Stronger Accountability", 2008

Summary: Reauthorization, 2007

"PA Earns Grant for Early Childhood Initiatives"

Physician-assisted suicide total

Washington v. Glucksberg, 521 US 702 (1997)

State of Oregon, Death With Dignity Act: second year's experience + two forms & the 1997 Act

Gonzales v. Oregon, 1126 S.Ct. 904 (2006)

Summary of Oregon's Death With Dignity Act, 2007

Washington State:

Coalition Against Assisted Suicide, statements, Jan. & Sept. 2008

“Doctor-Assisted Suicide Faces Vote...,” New York Times, Oct. 31, 2008.

“Assisted suicide backers raise millions...,” The Olympian, Nov. 2, 2008.

“Washington voters approve...,” Seattle Times, Nov. 5, 2008.

“Washington becomes 2<sup>nd</sup> state...,” AMNews, Nov. 24, 2008.

Montana: “Montana Court Decides Terminally Ill Patients...,” Medical News Today, Dec. 8, 2008

Jenna Yauch, “When Home is Where the Hurt Is,” Dartmouth Law Journal, Spring 2008, 217-234.

Papers: all (Those whose last names begin with M-Z might tackle issues that relate to the *first* half of the readings -- above the dash line -- while A-L write on issues raised in the *second* half of the readings.)

Debate: in favor of the current provisions of the No Child Left Behind law, plus the changes proposed by President Bush in January 2007; in opposition, and in favor of letting the states use their own preferred educational & testing strategies. You should, in addition to the readings above, check the web for related materials. (8 minutes per side, then two minutes for rebuttals)

Oral report: analyzing recent & current state efforts to grapple with the “physician-assisted suicide” issue. You should explore developments in two or three states and see if you can explain the (perhaps surprising) disconnect between support for PAS in the polls (as, in California) and the difficulty that proponents of the “Oregon innovation” have had in gaining passage of similar bills in California and other states.

Questions:

1. In the past 40 years, there has been a “silent revolution” in many states, which had long suffered from divided responsibility, with several officials elected state-wide, often for short terms; that traditional pattern tended to result in conflict among those elected officials, and sporadic policy efforts, often dropped after a year or two. The ‘revolution’ mainly focused on expanding the power of the governor. The chief executive’s term has been increased by Constitutional amendment from two to four years, and the governor has been given the power to appoint the attorney general and other major state officials. Many states have also given the governor the power to appoint members of the state judiciary, who previously stood for election. Does your home state have two or four-year terms for the governor? Are judges appointed or elected? What are the pros and cons of each approach? Where do you think Madison and Hamilton would come out? Where do you come down on these issues?

1. Economic downturns and corruption are recurring problems in most states. How effectively has your own state grappled with these issues in the past decade?

2. While the states have regained some independent power since the 1980s, there are important exceptions. For example, the states cannot set residence requirements linked to welfare benefits (and thus insulate their treasuries from the “welfare magnet” effect); see Shapiro (1969), affirmed in 1999 by Saenz. Consider this argument: “Either the states should be permitted to set any reasonable residence requirements as a condition of receiving benefits, or we should have one package of welfare benefits that all states agree to. The National Governors Association might take the lead in setting uniform

levels, perhaps adjusted for the regional consumer price index." Do you agree? Do you find Chief Justice Warren's analysis persuasive?

3. Although the past two presidents had been state governors and favored protecting state power, the influence of the national government has increased in recent decades, as Posner shows. What are the main reasons for this development? Do you agree with Posner that this has had important detrimental effects? What might be done to reverse the trend?

4. Some argue that state power has been eroded by George Bush's initiatives in the field of education. What, in your view, are the major strengths and weaknesses of No Child Left Behind? For example, is the emphasis in the law on reading and math the best approach, or does it undercut essential education in the arts, history, and other areas? And are the critics (e.g., some Utah legislators) correct or not, in attacking the law as undermining the principles of federalism? (NCLB was not reauthorized in 2008, and the Obama Administration is expected to modify the NCLB approach significantly.)

5. Note the difference between the sources of innovation in NCLB and in early childhood care & education? Is this division between federal and state initiative desirable? Is it understandable?

6. Does Justice Kennedy's opinion in Gonzales v. Oregon make sense to you? Do you agree with Justice Thomas that the Supreme Court in this case "beats a hasty retreat" from the majority position in Raich?

7. Do you favor permitting each state to set its own policies in the area of PAS, or would you prefer a uniform national law (which might set standards, for example, like Oregon's – or perhaps block *any* use of PAS, similar to the current laws in many states)?

8. State laws to aid battered women have taken a variety of forms. Jenna Yauch's article illustrates how, in this field, various states have served (in Justice Kennedy's words) as "laboratories for experimentation." Where does your state stand on the issue of preventing batterers from learning the location of their previous victims?

### **State innovation, economic development, & ethical conflicts**

David Osborne, Laboratories of Democracy, 1988

Ben Franklin Technology Partners, History..., 2008 update

#### Stem Cells

Aaron Levine, "State Stem Cell Policies..." 2007

National Conference of State Legislatures, "Stem Cell Research,"

#### Regional Strategies for Econ. Development: the role of public authorities

Jerry Mitchell, Public Authorities and Public Policy, 1992, 1-11.

Port of Los Angeles and Port of Miami, summary information

J. W. Doig, Empire on the Hudson, 2001

#### New challenges to state & local policies

"Justices Uphold Taking Property..." New York Times, June 24, 2005.

Susette Kelo v. City of New London, U.S. Supreme Court (June 23, 2005), majority opinion by Justice Stevens, dissent by Justice O'Connor.

American Planning Assn., "Supreme Court Decision..." June 2005.

Statement of the Penna. Chapter of APA, August 2005.  
“States Curbing Right to Seize Private Homes,” New York Times, Feb. 21, 2006.  
“More states limit eminent domain,” New Mexico Business Weekly, Dec. 2006  
“Legislature Fails to Override” [Delaware], June 2008.  
Castle Coalition, “Enacted Legislation Since Kelo,” fall 2008

Papers: all. (There will be some advantage if those whose last names begin with M-Z write on issues that relate to the *second* half of the readings – on public authorities, Kelo and related concerns – while A-L write on issues in the *first* half of the readings.)

Oral report: discussing state activities in the field of stem-cell research. (Include CA and perhaps one or two other states; concentrate on the theme stressed by Osborne and problems you see there, rather than on the morality of such research.) If President Obama removes all restrictions on federal funding, is there still an important role for decentralized centers under state initiatives?

Oral report: on the pros and cons of partially independent public authorities. For example, what (if anything) should be done about the problem of “democratic accountability”? You should look at one or two general critiques of public authorities – for example, Donald Axelrod, Shadow Governments, 1992, as well as other chapters in Mitchell’s book.

Oral report: discuss the trade-offs involved in the eminent-domain debate. Also, what would you recommend as the optimal policy for a state?

#### Questions

1. After analyzing innovative efforts by several states in the 1980s, Osborne concluded that the primary orientation for state executives must be to achieve economic growth, equity, and environmental protection by “changing the structure of the marketplace.” What does he mean? What are the pros and cons of this strategy, compared with other options? Is this approach illustrated by the BF Partnership (recently retitled Ben Franklin Technology Partners)? (If you wish, you may also draw on experience in your own state.)

2. Some observers believe that a variety of state efforts in the stem-cell field will help to ensure early “break-throughs”; others are doubtful, arguing that “pork-barrel” politics are likely to undermine the possibility of scientific advances. Based on your knowledge of political behavior in other policy areas, what is your view?

3. One way to reduce political interference, when long-term planning and large capital investment are needed, is to create a “public authority” insulated from interference by elected officials. Jerry Mitchell describes this approach, its possible advantages in advancing economic development and other policy goals, and the “democratic” concerns raised by insulation from the public. *Port* authorities have been especially active in pursuing economic development, as the brief information from the LA and Miami ports suggest. The story of the Port Authority of NY&NJ illustrates the strengths and limitations of the public-authority device: For 30 years, the agency was led by one career official – Austin Tobin – who was generally able to block politicians and others who opposed the PA’s preferred projects, including JFK Airport, the massive Bus Terminal and the World Trade Center. When Tobin was replaced, political pressure eroded -- though it did not entirely stop -- the agency’s economic-development activities in the NY-NJ region. What is your view of the pros and cons of the public-authority device?

4. The Kelo opinions suggest some puzzles: For example, Justice O'Connor argues against permitting states and their local governments to act independently (with CJ Rehnquist agreeing); yet in other cases both have strongly favored the states. What explains their apparent switch, i.e., their willingness to straight-jacket the states here? Also, Justice Stevens, who endorsed federal policies that undercut state innovation in Gonzalez v. Raich, and dissented from the majority rulings in Lopez and Morrison, is in this case a defender of state and local power; what explains his varying positions?

5. Some have criticized the new Congressional restrictions relating to eminent domain (Sec. 726, enacted in 2007), as unwisely limiting state and local action to redevelop cities. Do you agree? Also, some have criticized the bill as an attack on the basic values of federalism; what do you think?

### **Canadian federalism: early hopes & evolving tensions**

Whittington and Williams, eds., Canadian Politics in the 21<sup>st</sup> Century, 2008, xi-xii, 3-10, 21-22, and table on 377.

Map, and population table.

Note the dates of admission to Canada, running from 1867 to 1949 (Newfoundland) and 1999 (Nunavut); and the sharp differences in population, which determine representation in Parliament.

Francois Rocher, "Dividing the Spoils: American and Canadian Federalism" (2000)

*British North America Act of 1867* (BNA Act; now Constitution Act, 1867), and *Constitution Act, 1982--Part I, Canadian Charter of Rights and Freedoms*; both reprinted in Michael Whittington & Glen Williams, eds., Canadian Politics in the 21<sup>st</sup> Century, 362-376. Read especially carefully (in the 1867 Act) the sections on exclusive powers given to the provincial legislatures and (in the 1982 Act) – the limitation on mobility rights in Section 6(3) (note contrast with US after the Shapiro case); protection of affirmative-action laws in Sections 6(3) and 15(2) (contrast with US, see readings below); and section 33, which permits legislatures to suspend many individual rights (see readings below)

Whittington & Williams, 78-101 (Garth Stevenson)

Whittington & Williams, 108-132 (Glen Williams)

"When the smoke clears..."(on regional disparities), Calgary Herald, July 19, 2008

"Canadian Leader Shuts Parliament to Avoid No-Confidence Vote..." New York Times, Dec. 5, 2008; and "Conservatives Appointed as Senators in Canada," New York Times, Dec. 23, 2008

Whittington & Williams, 186-222 (Radha Jhappan)

Peter Hogg, Constitutional Law of Canada, 2008, 859-870.

J. Doig, "What Roles for the Judiciary in Aiding 'Vulnerable People'? – Contending views in the American and Canadian Supreme Courts"

Papers: all. (Those whose last names begin with A-L might write on issues raised by Jhappan, Hogg and Doig, while M-Z write on issues raised in the other materials.)

Oral report: on attitudes in Alberta and the other Western provinces toward federalism and decentralization. (See web sites for Alberta, British Columbia, etc., plus web sites for Stephen Harper of Alberta, leader of the Conservative Party and currently prime minister of Canada.)

Debate: "The United States would benefit from adoption of a federal law which permits states to suspend specific federal statutes for a two-year period, in order to experiment with policies now deemed in violation of federal law." The affirmative side should identify 5-6 areas in which the proposed federal law would permit this experiment -- and let the rest of us know what those areas are. The negative can attack the principle of the override and/or its application to the areas proposed. (See Question #8 below.)

#### Questions

1. What are the main differences between the US and Canadian constitutions, regarding "residual powers"? What lessons did the U.S. Civil War provide to Canadian constitution-makers, with reference to federalism? And why did the central government find -- even before the end of the 19th Century -- that its power, vis-à-vis the provinces, was slipping away?

2. How do you assess the rights and limitations found in the Charter? Do you prefer the US approach, in such areas as mobility rights and affirmative action? And regarding hate crimes?

3. What, in your opinion, are the political implications of the shifts in population and economic strength described in the readings?

4. As set forth in the 1867 Act, the Senate of the Canadian Parliament is comprised of individuals *appointed* by the federal government (formally, by the Queen), and each senator serves "for life" (actually, until age 75). Only the House of Commons is composed of those who stand for election. Compare the selection process for the Senate in the USA and in Canada; what are the pros and cons of each method?

5. Do the meetings of the "First Ministers" provide a useful alternative to the US system for representing the states with small populations -- i.e., an elected US Senate plus the work of the National Governors Association? What are the advantages of each approach?

6. In recent decades, Alberta and British Columbia have joined Quebec in arguing for greater provincial autonomy -- in trade policy and use of natural resources, in negotiation with aboriginal groups, and in other areas. What factors have led to this increased conflict between the West and the federal government? Note the number and relative size of major actors in contest in Canada (compared with the US): are numbers and size a significant explanation for the relative weakness of the central government?

7. Critics of the Charter have argued that it is anti-democratic, since the Charter allows the courts to block the policies voted by the provincial legislatures -- for example, as to the rights of non-citizens, women's rights, and gay rights. Was the Dickson Court, in your view, too active in undermining legislative powers? Where do you come out on the general issue of "courts vs. the people"?

8. Many Canadian commentators have concluded that, on balance, Section 33 is a positive element of the Charter (see Jhappan and Hogg), while Americans are inclined to emphasize the danger to individual rights. Why the different views? Can you make a case for experimenting in the US with a state law suspending (or "overriding") federal laws and state/federal constitutional guarantees -- as a way to encourage policy innovation? If so, what are some of the arenas to which it might be extended -- those that involve medical marijuana? English-only laws (as, Arizona in the 1990s)? limits on welfare benefits for new arrivals and on job opportunities for non-citizens? Or, as could occur in Canada, suspending search & seizure constraints? Perhaps any US override should be limited to one or two years rather than the Canadian five?

## **Canada & Québec: federalism with special status? or 1 of 10 equal provinces? or an independent nation?**

Whittington & Williams, 312-337 (McRoberts on Québec).  
Supreme Court of Canada, Reference re Secession of Quebec, 1998  
Hogg, 142-155 (on the Secession Reference & what followed)  
Office québécois de la langue française, history and mission  
Stacy Churchill, “Minority Francophone Youth and the Future, Diversité, 2008  
Alain-G. Gagnon and R. Iacovino, Federalism, Citizenship, and Quebec, 2007  
Marc Chevrier, “Our Republic in America,” 2001  
Supreme Court of Canada, Chaoulli v. Quebec, 2005  
“The Tories get a little culture shock...,” Globe and Mail, Sept. 29, 2008

Supplementary readings: si je me souviens bien: As I Recall (ed. by John Meisel, Guy Rocher, Arthur Silver), 1999, esp. chapter 6; Jeffrey Simpson, Faultlines, 1993 (chapters on Lucien Bouchard, 270-311, and Leon Dion, 312-352); Will Kymlicka, ed., The Rights of Minority Cultures, 1995, chapters 4, 5, 8-12, 17; Gagnon, Québec, 2004, chapters by Beauchemin, Gagnon, Lajoie and McAndrew.

Papers: all. (Those whose last names begin with M-Z might write on issues that relate to language issues and below, while A-L write on issues in the *first* half of the readings.)

Debate: “In view of the distinctive and influential culture of the great majority of its citizens, Quebec should be permitted to leave Canada if at least 55% of the province’s voters favor that position. The hurdles placed in the way of secession by the SCC and the federal government are unreasonable and should be removed.”

Oral report: Chaoulli has been criticized by some close observers as one of the worst decisions by the SCC in the past three decades – as equivalent perhaps to the (infamous) Lochner decision (US, 1905) and the decisions in the early 1930s blocking FDR’s plans. Why are those comparisons made? What in your view are the strengths and weaknesses of Chaoulli?

### Questions

1. On balance, do you believe the 1982 Charter has undermined the prospects that the nation of Canada can survive. What are the main arguments on each side?
2. Some observers, especially from Quebec, argue that Canada “needs to move [further] toward decentralization”? Do you agree, or do you more inclined to favor the sharply different position of Garth Stevenson?
3. If you were advising officials in Québec on the steps needed to achieve independence, what kinds of negotiation would you advise, based on the Supreme Court’s 1998 opinion and other factors you believe are important?
4. If Québec were independent, what kinds of association would be compatible both with maintaining her sovereignty and with encouraging the economic vitality of the new nation and her neighbors? Would there be free movement across the borders, for jobs and residences? a common currency (like the euro)? common welfare and environmental laws?
5. If Québec were to secede, should those living in parts of Québec be offered the opportunity to leave the new nation and stay in Canada? If so, to whom would you offer

this opportunity (anglophones where they form a large majority, as in parts of Montreal? Members of Aboriginal groups? others?), and why?

6. An authoritative report a few years ago concluded that emigration of anglophones has increased since Québec has pressed its French-dominant language policies. Is this emigration a cost that the Québec government should be willing to endure? Are there ways to stem the tide which should be considered by Québec officials (a question for M. Boucher)?

7. It seems surprising to many that francophones in Québec may be more inclined than Canadians outside Québec to want to eliminate borders between the US and Canada. Can that position be reconciled with the widely felt concern among francophones that Quebecois language and culture can only be protected if Québec has control over immigration and language policy in the province?

### **Community traditions, individualism, & capitalism: conflicts and strategies in Native-American nations**

The Cherokee Nation v. State of Georgia (1831), John Marshall

Samuel Worcester v. State of Georgia (1832)

Vine Deloria and Clifford Lytle, American Indians, American Justice (1983), 1-45, 126-132.

Santa Clara Pueblo v. Martinez (1978): opinion of Justice Thurgood Marshall, and dissent by Justice Byron White

W. Dale Mason, "Tribes and States: A New Era in Intergovernmental Affairs," Publius, 1998, 111-130.

N. Bruce Duthu, American Indians and the Law, 2008, 16-37, 190-216.

"Indian Tribes See Profit in Harnessing the Wind for Power," New York Times, October 10, 2008.

Papers: all (A-L might concentrate on the first half of the readings, while M-Z focus on the rest).

Debate: on the Martinez case. Was it correctly decided? One side for the Santa Clara Pueblo; another for Julia Martinez. Eight minutes per side, with two minutes for rebuttal. (Your analysis need not be limited to the arguments summarized in the 1978 Supreme Court opinions, but you should not draw on developments after 1978.)

Oral report (10-12 minutes) on the questions raised in #5 below.

#### Questions

1. In his 1831 opinion, Marshall suggests that Indian tribes might best be viewed as "domestic dependent nations.... Their relation to the United States resembles that of a ward to his guardian." In Worcester, in 1833, he declares that the treaty rights of the Cherokees, made with the United States, carry the clear implication that the Cherokee nation is "capable of governing itself." Are Marshall's positions in conflict? Can one draw from Marshall's opinions in the two cases a satisfactory set of principles for connecting US-Indian relationships?

2. In what ways do US/Indian relations meet the qualifications of federalism as laid out at the beginning of the syllabus? How do the plenary power of Congress and the trust doctrine complicate your answer? In what spheres are Indian nations truly autonomous?

3. Do you believe that the "standards of a democratic society" should, on balance, have led the Supreme Court to support the claim of Julia Martinez against the tribe? Or is the reasoning of Justice Thurgood Marshall more persuasive?

4. In your opinion, should the states have control over gambling policy within their borders? What are the arguments, pro and con, when tribal reservations are involved?

5. To what extent, in the current period, are American Indians more autonomous than states from national-government control? And in what ways less?

6. Assume that you favor the Tribal Sovereignty and Economic Enhancement Act: what strategies do you think might be effective in obtaining passage in Congress? What resources are available to pursue these strategies?

### **The rights of Aboriginal Peoples: the Canadian case**

David Taras & Beverly Rasporich, eds., A Passion for Identity, 2001, 37-53 ( J.R. Miller), and 146-151 (Cora Voyageur).

Bradford Morse, "Common Roots but Modern Divergences: Aboriginal Policies in Canada and the United States," 1998

Grand Council of the Crees, Sovereign Injustice: Forcible Inclusion of the James Bay Cree into a Sovereign Québec, 1995, map, introductory letter, & 1-7, 32-33, 399-402.

"Québec and the Cree Nation Sign Historic Agreement", October 23, 2001; and recent developments

"Native leaders band together ... with China," Globe and Mail, Sept. 29, 2008.

Papers: all (A-L might concentrate on challenges facing the Cree and later readings, while M-Z focus on the first half of the readings)

Oral report on the special rights of native peoples, in harvesting fish and other food sources: you might focus on the Sparrow test under section 35, as developed by the Supreme Court; the arguments of native peoples and of non-native fishers on this issue; and recent tensions. See for example Regina v. Powley, Ontario Court of Appeal (Court File C344065), Feb. 23, 2001; and R. v. Marshall, Supreme Court of Canada, 1999 Can. Sup. Ct., Lexis 81 (Nov. 17, 1999).

Oral report: on the questions raised in #5 below.

#### Questions

1. Are aboriginal rights well protected by sections 15 and 35 of the Charter? Does the "unique form of dual citizenship" (Whittington) available to First Nation members add in any important way to this protection?

2. What was the impact of the Supreme Court decisions in Sparrow, Guerin and other cases on the legal relationships between the Canadian government and Aboriginal peoples?

3. Why did aboriginal leaders react negatively to the process and the outcome of the Meech Lake Accord? How do they view sections 16-23?

4. Do you agree with the Cree brief, or should Québec's majority be able to decide the issue?

5. Note the contrast with Bill C31 in the essay on Cara Voyageur; is that legislative approach to resolving the issue better or worse than the U.S. reliance on the courts?

More generally, how does the autonomy of American Indians differ from that of Canadian Aboriginal peoples?

6. Do you agree with the Cree brief in Sovereign Injustice, or should Quebec's majority be able to determine the issue? What principles underlie your position?

7. In Canada as a whole, what system of Native representation might best be used to avoid fragmenting the political strength of Native Canadians?

### **To be decided after class discussion.**

In these four class meetings, we will focus – at least in part -- on the lessons from our discussion of federalism thus far for the resolution of current national and regional problems, in *other* parts of the world. We should select 3-5 cases, treating them via individual & team research and oral reports, combined with brief readings on the cases chosen.

Among possible areas: **the European Union**, as it has evolved toward and perhaps away from a “true” federation; **Northern Ireland**, looking in particular at the April 1998 proposal by George Mitchell; **Iraq** (see for example the proposal by Joseph Biden); **Afghanistan**; **Mexico & Chiapas**; **Hong Kong & China**. Short papers: one due, either week; we should aim for about half the papers in each week.

Oral reports and debates on the topics chosen will be decided by the instructor, in collaboration with seminar members scheduled to pursue each topic. Readings will be chosen in collaboration as well.

***Topics chosen by class vote: Spain, the EU, and Afghanistan.***

### **Federalism in Spain**

Beramendi and Maiz, “Spain: Unfulfilled Federalism,” 2004, 123-149.

Map of Spain + Population and GDP of regions

Spanish Constitution of 1978 (excerpts)

Moreno, “Ethnoterritorial Concurrence & Imperfect Federalism in Spain,” ca1994, 6-11.

Agranoff, “Federal Evolution in Spain,” 1996, 393-396.

Bermeo, “Conclusion: The Merits of Federalism,” 2004, esp. 461-469, 474-477.

(drawing on studies of Canada, Spain, India, Nigeria & 8 other countries)

Papers: on Spain

Oral reports: on what happened in the first years after the Constitution was adopted; on “Europeanization” and its impact on federalism in Spain.

Questions

1. William Riker has noted that some federations illustrate “keeping together federalism.” Does this approach apply to Spain in the 1970s? Did the new constitution, in your opinion, meet this goal?

2. What characteristics of Spain did the drafters of the 1978 document believe were especially important, when they opted not to craft a unitary government?

3. Is the asymmetry found in Spain's federal system similar to that of Canada in relation to Quebec? And/or similar to Canada/First Nations?

4. Do you agree with the statement, “The goals of the Basques and the Quebecois are largely the same, though their methods differ”?

5. What is your view, based on recent weeks in the course and perhaps your own experience, of the generalization that “when federalism and nationalism are combined, the political system will never” be stable. Cf. Bermeo’s comment that “federalism helps to perpetuate ‘the very cleavage it is designed to manage’”.

6. Is the Spanish federation “imperfect” as some observers argue, or is it “nearly perfect”, using the standards found on pp. 2-3 of the syllabus?

7. Under what conditions is political decentralization likely to be “fundamental” to achieving liberty and democracy, as one of the readings suggests? What light does the Spanish and American Indian experience throw on this question?

## **European Union**

Two maps

Nugent, The Government and Politics of the European Union, 2006, 48-56.

Hueglin, “From Constitutionalism to Treaty Federalism,” 2000, 138-153.

Bolick, “European Federalism: Lessons from America,” 1994, 8-15, 29-30, 40-50.

Schmidt, “European ‘Federalism’ and its Encroachments on National Institutions,” 1999, 29-36.

“The European Union’s week from hell,” The Economist, Oct. 11, 2008, p. 69.

“Impairing Europe, Gibe by Gibe,” New York Times, Feb. 14, 2009.

“Blueprint for EU army to be agreed,” Telegraph, Feb. 18, 2009.

Papers: A-K should write on the EU

Oral reports: on the rise and fall of the EU Constitution; on food-safety regulation in the European Union.

### Questions

1. In your view, has centralization in the EU now reached its likely maximum level? What do you think of the argument that “treaty federalism” may be a better model for close cooperation elsewhere in the world than the “old model” of federalism?
2. What are the advantages and drawbacks of a written constitution for the EU?
3. Would a unified security policy for the EU be desirable? Is it feasible?
4. Are you inclined to favor adding “functional representation” in the EU, as described by Hueglin?
5. Do you agree with the criticisms set forth by Vivien Schmidt – for example, on the erosion of executive power within the member states?
6. How do the problems of maintaining national culture and identity differ, when comparing EU countries with the situation faced by the Quebecois?
7. Are the concerns expressed by Clint Bolick well founded, in your view?
8. What is meant by the “democratic deficit”? How serious a problem, in your opinion, is such a deficit for the EU? Note Hueglin’s suggestion that, in the EU, “citizens become clients” who must either accept the results of “executive fiat” or engage in civil disobedience.

## **European Court of Justice**

Nugent, Government and Politics of the EU, 2006, 293-310.

The Court of Justice of the European Communities (composition and jurisdiction)

Shapiro, "The US Supreme Court and the European Court of Justice Compared" (2006), 195-219.

Eckhard Kalanke v. Bremen, 1995

Molinari, "The Effect of the Kalanke Decision on the European Union," 1997, 1, 6-

15.

Papers: L-Z should write on the ECJ

Oral reports: affirmative-action issues in the EU, in comparison with the United States.

### Questions

1. What roles do References for Preliminary Rulings play in the European Court of Justice? Is this type of action included within United States Supreme Court's jurisdiction? Does this strengthen or erode the federal system of the European Union?
2. Are the ECJ's one-judge per member-state and term-limit policies preferable to the system that exists in the United States for the U.S. Supreme Court?
3. Do you agree with the ECJ decision in the *Barber v. Guardian...* and the *Commission v. Germany* cases (discussed in Nugent)? Should the ECJ be able to block national policies in such areas as pensions and the ability of individual countries to set food standards?
4. Do you agree with decision in the Kalanke case? Can the Bremen Law on Equal Treatment for Men and Women in Public Services be reconciled with Articles 2(1) and 2(4) of Council Directive 76/207?
5. In the wake of the Kalanke case, some commentators (e.g., Molinari) have been skeptical as to whether this decision will actually affect sex-equality laws of various member states of European Union. Do you agree with this assessment? Does the E.U. have other tools to force its member states to comply with ECJ decisions?
6. In view of the EU's relative youth, some commentators have suggested that the ECJ will play a similar role to that of the U.S. Supreme Court during the early years of the United States. And perhaps similar to the role of the Supreme Court of Canada since 1982. Are these comparisons reasonable, or is there something different about the E.U.'s structure and the historical situation that changes the relationship of the ECJ to the rest of the E.U. government?

## **Federalism in Afghanistan?**

CIA, Afghanistan Social and Economic Statistics

Two maps – ethnic groups and provinces

Schetter, "Ethnicity and the Political Reconstruction of Afghanistan," 2003

Adeney, "Constitutional Design and the Political Salience of 'Community' Identity..." July 2008

Lister and Nixon, "The Place of the Province..." 2007

Jalali, "Afghanistan: Prospects for Nation Building," 2007

Rand, "Women and Human Security: The Case of Post-Conflict Afghanistan," 2007

Papers: A-K should write on Afghanistan; L-Z on themes and issues that cut across two or more countries/regions we have discussed.

Oral report: on prospects for federalism in Afghanistan: What are the major issues and sources of conflict in developing a permanent government in Afghanistan? Should the Afghans follow the highly centralized model provided by President Karzai? Or should they follow recent trends calling for the inclusion of all ethnic groups and warlords – including the Taliban?

Questions

1. Schetter's argument runs counter to much of the later materials included in the readings. However, after reading those, do you think he is wrong, in suggesting that a federal system be created – but in a way that does not reinforce ethnic labels -- and that warlords might be given the responsibility of provincial governors?
2. What level of centralization is appropriate in Afghanistan? Should regional governments be based on ethnicity, perhaps following the pattern suggested on one of the maps? How would the rights of “minority” citizens in each province be protected against the power of local commanders who have often been abusive (see Lister & Nixon)?
3. Is there a way to integrate the warlords into governments in the various regions? Are there incentives the central government can offer? Conversely, can the central government enforce its policies should the warlords refuse to join the regional governments? (Note that a few warlords have been members of Karzai's cabinet [Adeney].)
4. Do you think that affirmative action or quotas would work on a national level? A regional level? Is an ethnic quota the appropriate solution?
5. Is it reasonable to think of the Tajiks, Uzbeks, Hazara, and other minority groups as requiring special protections and rights like the Basques or the Quebecois? Is this a useful strategy toward developing a stable government?
6. Are women in Afghanistan a vulnerable group requiring special protections and privileges? If so, who would provide and enforce these rights? A judiciary? A central government? Can you imagine a correlation between protection of women's rights and increased federalism?

### **III. Knowledge, Ethics and Public Policy**

#### **Prof. Fred Eidlin**

*Fred Eidlin is Professor in the Department of Political Science, University of Guelph (Ontario, Canada). BA (Dartmouth), MA (Indiana University), PhD (University of Toronto). He is interested in foundational problems of the social sciences and public policy, especially where inquiry runs into intellectual difficulties. He is also interested in the dynamics and developmental tendencies of Soviet-type regimes, and in problems of their transition, the relationships between ideas, emotions, and social structure, in perceptual, belief, and symbol systems.*

#### **Aims and objectives:**

Specialized knowledge, including policy science, plays an important role in the formulation and evaluation of public policy. If it did not, government agencies would not be hiring graduates trained in public policy and administration. Nor would they be regularly training and upgrading their employees in these fields of knowledge.

Yet some scholars are skeptical about the very idea of using government purposefully. Others, though not ruling out purposeful use of government, argue that public policy can do no more than muddle through. Such strong and moderate skeptics advance weighty arguments as to how difficult it is to engineer social change. How can policy scientists deal with such problems as flawed theory, incomplete information, unintended consequence, and the openness of political systems? What is the relationship of policy science to democracy? Are policy scientists merely servants of the people, or do they sometimes know better than the people what is in the public interest? Does the expertise of policy scientists give them any special authority as to the ethical aspects of policy formulation and evaluation? What about the reality that the instruments available to policy makers are all too often blunt, unresponsive, and inefficient? How can the reality be addressed that there is not one single public interest, but many, often conflicting, public interests?

This course develops an approach that might be called "hopeful realism." It approaches the study of public policy critically and realistically, while retaining hope that better policy science might contribute to bringing about a better society. Looking at concrete policies, policy-making processes, and theories, it examines both typical sources of policy failure, and typical conditions that appear to promote success. It recognizes that, despite all difficulties involved, countless examples of successful public policy actually exist. Success may often be only partial, but the historical record provides grounds for hope that policy science may learn to do better.

#### **Method of presentation:**

Seminar presentations, lectures, and discussion.

#### **Course requirements:**

Short paper on selected problem area (email).....	10%
Participation and presentation on problem area.....	10%
Mid-term Examination (in class, computers allowed).....	20%
Research paper (by email) .....	30%
Final Examination (by email) .....	30%

### **Participation and short papers:**

Since the course is run as a seminar, attendance and participation are important. As a 4000-level seminar this course requires regular completion of all assigned readings and active informed participation in class discussion, as well as written work. Two requirements provide some tangible structure and incentive for this effort.

Before each class period every student should formulate 2 or 3 questions addressing the issues raised by that week's readings. These questions should not be longer than 10 to 15 typed lines each. They should be submitted by email, and some will be selected for discussion in class. They will not be formally "graded," but will factor into assessments of class participation.

Second, each student will be a member of at least one "research group." These groups will have 3-6 members. Each will be responsible for a set of thematically-related readings. These sets of reading will consist of either a chapter in Shafritz (each contains several readings), or ½ of the Hirschmann book. Each group will be responsible making a presentation on one of these sets of readings. Each group member will be responsible for researching and presenting a critical analysis of one reading. The group as a whole will decide how best to coordinate the individual presentations so that they address the thematic relationship. Groups should first meet to discuss presentation strategy, and decide who is responsible for what. Before making their presentation, each group should arrange to discuss its plans with the instructor. After presenting in class, each student will submit a short paper (3-6 pages) based on his/her critical presentation.

### **Required readings:**

Albert Hirschmann, *The Rhetoric of Reaction*

Shafritz, Lane, & Borick, *Classics of Public Policy*

Additional readings will be placed on Blackboard.

### **Term paper assignment:**

The task is to research and analyze a particular public policy in a particular jurisdiction. Papers should identify and explore the following questions: (1) How and when did the problem first emerge as a public problem? (2) How and when did this public problem get onto the agenda of government? (3) Were there different and/or competing explanations of the causes of the problem, and different theories and prescriptions concerning what to do about it? (4) What social, economic, and political interests were at stake and in conflict with each other? (5) What political processes account for the nature of the policy eventually adopted, and (6) How well did the policy work? How effective was it?

The title and character of the project is to be discussed and approved by the due date.

Sources must include articles in scholarly journals, documents, and monographic literature (books). Papers must not rely excessively on Internet sources? (This restriction does not, of course, apply to scholarly journal articles found through the Internet). Papers should be approximately 18-22 pages in length. It does not matter which presentation style you use, so long as it is recognized (e.g., Turabian or APA), and as long as you consistently adhere to one style throughout your paper.

## **Course Outline**

### **Part I: Lectures with discussion**

The policy process

Knowledge, science, democracy, and public policy and administration Ethical issues in public policy

Perception and misperception in public policy and administration: The role of theory in public policy and administration

### **Readings:**

Eidlin and Appelbaum, "Social Science, Social Engineering, and Public Policy"

"Reason, Unreason, and Social Scientific Knowledge in the Policy Sciences"

Eidlin, "The Ethics of Imperfect Knowledge in Policy Science"

"The Radical Revolutionary Strain in Popper's Social and Political Theory"

"Blind Spot of a Liberal: Popper and the Problem of Community"

"Popper's Social-Democratic Politics and Free-Market Liberalism"

"Impediments to Reform in Post-Soviet Agriculture"

"Some Thoughts on the Collapse of the GDR and Its Consequences"

"Individual Needs and Societal Necessities"

"The Gorbachev Revolution" and "An Imaginary Report which Mikhail Gorbachev Did Not Present to the 27th Congress of the CPSU"

"Power and the State: Some General Problems"

### **Part II: Presentation and discussion of readings in thematic sets**

Group 1. Hirschmann, *The Rhetoric of Reaction*

readings: chs. 1-3

Group 2. Hirschmann, *The Rhetoric of Reaction*

readings: chs. 4-6

Group 3. Shafritz, ch. 1: "The Context of Public Policy"

readings: 1, 2, 3

Group 4. Shafritz, ch. 2: "Public Policymaking"

readings: 4, 5, 6, 7

Group 5. Shafritz, ch. 3: "Interests, Groups and Public Policy"

readings: 9, 10, 11, 12

Group 6. Shafritz, ch. 4: "Agenda Setting"

readings: 13, 14, 15

Group 7. Shafritz, ch. 5: "The Political Economy of Public Policy"

readings: 17, 18, 19

Group 8. Shafritz, ch. 7: "Policy Implementation by Executive"

readings: 24, 25, 27

Group 9. Shafritz, ch. 9: "Foreign Policy"

readings: 34, 35, 36

Group 10. Shafritz, ch. 10: "Public Policy as Public Relations"

readings: 38, 39, 40

Group 11. Shafritz, ch. 11: "Policy Analysis"

readings: 41, 42, 43

### **Part III: Student presentations with discussion**

20-minute presentation of results of term-paper research, with interruption allowed for questions, criticisms and disagreements.

## IV. Economics and Politics of Public Policy

### Prof. Laura I. Langbein

*Professor Langbein teaches quantitative methods, program evaluation, policy analysis, and public choice. Her research fields include: theories of bureaucratic discretion, productivity, pay-for-performance and intrinsic motivation, social capital, and cooperation in the workplace; theories of influence of interest groups in Congress and the bureaucracy; empirical applications in various policy areas, including the environment, education, defense, housing, criminal justice (death penalty and police), and corruption. Her recent articles have appeared in Political Research Quarterly, Journal of Politics, Journal of Policy Analysis and Management, Social Science Quarterly, Journal of Public Administration Research and Theory, Evaluation Review, Public Choice, Public Administration Review, Economics of Education Review, International Public Management Review and other scholarly journals. She has forthcoming articles on the impact of descriptive on substantive representation of women in US state legislatures, and on the World Bank's measurement of corruption in countries. Her new textbook, Program Evaluation: A Statistical Guide, (with Claire Felbinger) was published by ME Sharpe in Sept. 2006.*

#### **Course description**

This course applies both normative and positive theories of public policy to specific policy areas, including social as well as regulatory policies, and to current topics such as national security and terrorism, and secondary credit markets (i.e, the mortgage and credit crash). Topics covered in designated class sessions include issues in education (and day care); cash and in-kind transfers to the poor; health care; social security; crime and illegal drugs (and terrorism); environmental regulation and natural resources; risk, safety and (maybe) advertising regulation; and other policy issues of specific interest to those in the class. For each topic, class discussion will generally adhere to the following outline:

#### A. Current policy

What is the current policy? (May be general; e.g., higher education; or specific; e.g., Pell grants). (Current policy may be "do nothing.")

#### B. Market failure/success

- 1) In the absence of government, what, if any, market failure(s) would characterize the supply of and/or the demand for the good or service?
- 2) What, if any, would be the theoretically best (if not optimal) policy response? (i.e., Pareto improving if not Pareto optimal)

#### C. Non-market (government) failure/success

- 1) Given the presence (or absence) of government, what, if any, is/are the type(s) of non-market failure (or success) that characterize current policy?

What political factors account for disparity (or, possibly, conformity) between the current and a theoretically more optimal policy?

In your answer, use the readings and the class discussions and notes about the characteristics of voters/citizens, interest groups/elites/social movements, legislators, and unelected officials (especially in executive agencies) in terms of their

likely preferences and the institutional "rules" that affect their behavior and preferences. (You may consider policies in areas outside the U.S., and in non-democracies.)

With the exception of the introductory sessions, each class will be structured around a specific policy area using the outline set forth above. Because of the seminar format, and because information from class discussions and the readings is to be applied to fulfill the course requirements, it is critical that everyone not only come to class, but be prepared to discuss--and challenge--the readings (and the instructor). This will also make it easier for you to write the 2 short papers. Be sure to use the outline above to write the short papers.

To help you write these papers, analyze policy issues, bring tools of quantitative analysis learned in other classes to the task of policy analysis, prepare for comprehensives, etc., there will also be 2 short exercises requiring you to identify market/govt failures and to use empirical tools to analyze the effectiveness of actual policy responses. You will hand these in for grading, but we will also discuss the methodological and substantive issues raised by exercises as part of the class.

### **Course requirements**

Two short assigned exercises identifying market/govt failure and effectiveness of policy response. (15% each) Problem will be handed out one week before the due date. (Problem will combine econ and stats questions.)

Two short papers (20% each) (Max. 3 pages double space each; use outline above;

use page 4 for diagrams, if necessary)

Paper 1 on education

Paper 2a on welfare, health care or social security

Paper 2b on regulating risk/safety, the environment or crime

One term paper (25%) (10 - 15 pages)

Longer version of a short paper, or on a topic of your choice.

Same outline as short papers. (Masters students only; but see details

below)

**PhD students: see below.**

Class presentation of term paper (5%)

Class participation (fudge factor)

The two short assignments will be self-explanatory. They introduce a policy, and ask you to identify likely market and government failures that justify or question the efficiency of the policy, an exercise in policy analysis required by OMB for all agencies whose regulations it examines. It will also ask you to use the skills from MOPS/Conduct of Inquiry and Program Evaluation to explain the results from an empirical study of policy impact, and to assess the credibility of the implied causal claim.

The short papers focus on understanding the readings and the class discussions. Each short paper is to be no more than 3 double-spaced typed pages (and 1 page for diagrams, if needed). Each paper should follow the outline above, using the logic of policy analysis based on the assigned readings, the class handouts and discussion and, optionally, other relevant information that the student has available and wishes to introduce. In addition, each short paper may conclude with a brief original discussion or personal opinion on the issue that pertains to the readings, the current news, or the class discussion. You may also voice an opinion that is relevant but is not raised in the readings, the discussion, or the news. Given the page limit in the short papers, each

section must be succinct, well organized and clear, but as thorough as possible. It probably will help to start with an outline of your most important points, focusing on current policy, market failure, non-market failure, reasons for non-market failure, and your opinion. Adhere to that outline in the paper that you hand in. Please read and edit your paper before you hand it in. Be advised that it takes longer to write short papers than long papers. *Ruthless editing and rewriting is essential.*

The short papers may focus on a subset of the general policy issue that the paper is to address. Some examples include: vouchers in education; education choice; reducing school size; reducing class size in public schools; "no child left behind" policy; EITC; minimum wage; work requirements to get welfare; welfare caps; privatizing social security; public provision of social security; public subsidy for prescription drugs; tax subsidy of employer-provided health insurance; tax subsidy for home mortgage; housing vouchers; raising cigarette taxes; taxing booze; banning/regulating handguns; easing compliance with federal clear air regs; raising air/water pollution standards; taxing gasoline and/or automobile mileage; preserving ANWR; preserving endangered species; building highways to reduce traffic congestion; increasing airline safety/security (screening passengers, scanning luggage, etc.); raising fuel efficiency standards; patients' "bill of rights"; banning (certain) drugs; mandatory minimum sentences for certain crimes; the death penalty; etc.

The term paper is a longer, more nuanced version of the short papers, but it is based on a topic of your choice. The policy area of the term paper will, in most cases, be more narrow than many of the general policy areas that we discuss in class; you may also choose a topic that we do **not** discuss (e.g., regulation/deregulation in trucking, banking, railroads, utilities, auctioning bandwidth, telephony; the arts; sports; national defense; foreign aid; supporting AIDS treatment (not prevention) in Africa; NAFTA and other foreign trade policies; immigration (legal or illegal). As an alternative to a purely analytical paper, masters students may chose to write an empirical policy paper, revising the paper they wrote for PUAD604 and adding or updating the section on theory/previous research. **PhD students must write an empirical term paper evaluating the impact or effectiveness of a public policy or policy change, basing their model on theoretical expectations and previous research, and adding their own original empirical research. Alternatively, PhD students may wish to examine empirically why different political entities make different policy choices, or implement them differently.** In all cases (masters and PhD students), the paper may build on previous research that you have done or are doing in your program of studies.

#### **A note on outside readings.**

Besides the readings listed on this syllabus, additional readings will be a necessity for many of you to complete the term papers. Consulting additional readings is an option (not a requirement) for the short papers. Please minimize reliance on ad hoc searches of the web for these additional sources. There is a lot of "stuff" on the web, but most of it is not refereed by professional peer review. Materials in books and journals (on-line or not) that are held by university libraries are refereed, and are more likely to be theoretically coherent and empirically valid. By all means use the web to search for these sources; and use the web for electronic versions of journals held by libraries. Materials published by reputable think tanks are also refereed, and are usually of high quality. (Urban Institute, Brookings, American Enterprise and Cato span the ideological spectrum and are of

equally high quality, probably because of competition in the think tank market.) Also, if applicable, use the web to access data files collected by government agencies, universities and reputable think tanks (especially Urban) for use in statistical analyses. Before you start searching for information, see me; I have a drawer full of references on a lot of policy topics, and I (usually) point you in the right direction.

Of the many journals in economics and political science, this is a partial list of those that are likely to be useful:

Economics: Journal of Economic Perspectives, Regulation Magazine, CATO Journal, Brookings Review, National Bureau of Economic Research Papers, Journal of Economic Literature, American Economic Review, Journal of Human Resources, Journal of Policy Analysis and Management, Public Choice, Southern Economic Journal, Journal of Law and Economics, Journal of Legal Studies, Jnl. of Regulatory Economics, National Tax Journal, Social Science Quarterly, Economics and Politics, etc.

Politics: American Political Science Review, American Journal of Political Science, Journal of Politics, Policy Studies Review, Policy Studies Journal, Evaluation Review, Public Choice, Journal of Law and Economics, CATO Journal, Journal of Legal Studies, American Economic Review, Journal of Policy Analysis and Management, Journal of Theoretical Politics, Rationality and Society, Economics and Politics, Journal of Law, Economics and Organization, Social Science Quarterly, etc.

Journals specific to particular policy areas: New England Journal of Medicine, Journal of Environmental Economics and Management, Economics of Education Rev., etc.

Readings for purchase:

Sharp, Register and Grimes, Economics of Social Issues (18th ed.)  
Miller, Benjamin and North, Economics of Public Issues (14th ed.)  
Gruber, Public Finance and Public Policy (Worth, 2005 or 2007).  
Winston, Government Failure versus Market Failure (Brookings, 2006)

Recommended readings (other editions are also good; each addition has a slightly different selection of policy issues):

Stiglitz, Economics of the Public Sector, 3<sup>rd</sup> ed.  
Edgmand, Moomaw and Olson, Economics and Contemporary Issues, 6<sup>th</sup> ed.

Required reading from books:

Shefrin, Markets and Majorities  
Walters, Enterprise, Government and The Public

**Course schedule, reading assignments:**

- **Market failure and Government Failure**
- **Review of market failure and optimal policy design:  
applications of the theory to specific policy issues**

Walters, Enterprise, Government and The Public, ch. 2-3

Shefrin, M&M, ch. 1 (BB)  
 Miller, Econ of Public Issues, all.  
 Gruber, PF & PP, ch. 1-3, 5-7, 9, 10  
 Weimer and Vining, Policy Analysis, 2005, ch. 4,5, 6, 10 (recommended)  
 Stephens, Economics of Collective Choice, ch. 2, 3, 4 (recommended)  
 Stiglitz, Economics of the Public Sector, 2000, ch. 1-4 (recommended)  
 Edgmand, Econ and Contemp Issues, ch. 1, 2, 3, 5 (recommended)

- **Introduction to non-market failure**
- **Hand out Exercise 1**

Miller, Econ of Public Issues, all but ch. 15, 16, 19, 32  
 Walters, Enterprise, Government and The Public, ch. 4  
 Gruber, PF & PP, ch. 9, 10 (again)  
 Bardach, A Practical Guide for Policy Analysis, Appendix A, "Things

Governments

Do"

Weimer and Vining, Policy Analysis, 2005, ch. 10  
 Sharp et al., Econ of Social Issues, ch. 1, 2, 3, 8, 9, 10  
 Winston, GF versus MF, ch. 1-8  
 Congleton; Shughart; Sobel and Leeson, "Editorial Commentaries on the  
 Political Economy of Catastrophe in New Orleans", Public  
 Choice 127 (1-2), April 2006: 5-74  
 Frame and White, "Fussing and Fuming over Fannie and Freddie:  
 How Much Smoke, How Much Fire?" J. Econ. Perspectives  
 19 (2), Spring 2005.  
 Stephens, Economics of Collective Choice, ch. 1 (recommended)  
 Weimer and Vining, Policy Analysis, 2005, ch. 8,9 (recommended)  
 Stiglitz, Economics of the Public Sector, 2000  
 ch. 6, "Public goods and publically provided private goods"

- **Reasons for government/non-market failure or success**
- **Voting and interest groups**

Shefrin, M&M, ch. 6 (on free trade)  
 Gruber, PF & PP, Ch. 9.2-9.3  
 Jacobs and Shapiro, "Studying Substantive Democracy," PS:  
 Political Science and Politics 27 (1), March 1994: 9-17 (BB) (JSTOR)  
 Stiglitz, EPS 2000, ch. 7, "Public Choice" (recommended)  
 Fred McChesney, Money for Nothing: Politicians, Rent Extraction,  
 and Political Extortion, Harvard, 1997 (recommended)  
 Stevens, The Economics of Collective Choice, ch. 6, 7 (thru 7.72)  
 (recommended)

- **Legislatures and bureaucracies**

Gruber, PF & PP, ch. 9.4 (again)

Langbein and Spotswood-Bright, “Private Governments: The Impact of Residential Community Associations on Residential Property Values.” SSQ, 85 (3), Sept. 2004. (BB) (began life as a class paper in 604+607; short version appears also in Regulation Magazine, published by Cato)

Stevens, The Economics of Collective Choice, ch. 8, 9, 10 (recommended)

Stiglitz, EPS, 2000: ch. 8 “Public Production and Bureaucracy” (recommended)

W. F. Shughart II, ed., Taxing Choice: The Predatory Politics of Fiscal Discrimination, Transaction, 1997 (recommended)

- **Specific policy applications: Market failure and/or Government failure?**

- **Education (including higher education and day care)**

Henry Levin, “Education as a Public and Private Good,” JPAM 6(4), Summer ‘87

Gruber, PF&PP, ch. 11

Miller et al., Economics of Public Issues, ch. 16, 17, 19

Sharp et al., Economics of Social Issues, ch. 6

Psacharopoulos, “The Value of Investment in Education: Theory, Evidence, and Policy” J. of Education Finance 32(2) Fall 2006

Stiglitz, EPS, 2000: ch. 16, “Education” (recommended)

Edgmand et al., Economics of Contemp Issues, ch. 9, 10 (recommended)

- **Moral redistribution or moral hazard: welfare (cash/in-kind transfers to the poor), work and decentralized finance. What do we know about welfare reform? Should states run the show?**

Gruber, PF&PP, ch. 10, 14, 17

Miller et al., Economics of Public Issues, ch. 4, 11, 13

Sharp et al., Economics of Social Issues, ch. 1, 7, 12

Iversen and Soskice, “Electoral Institutions and the Politics of Coalitions: Why Some Democracies Redistribute More than Others.” APSR, May 2006.

Edgmand et al., Economics of Contemp Issues, ch. 12, 14 (recommended)

Stiglitz, Economics of the Public Sector, 2000 (recommended)

ch. 5, “Welfare Economics: Efficiency vs Equity”

ch. 15, “Welfare Programs and Redistribution of Income”

- **Social (In)Security**

Miller, et al., Economics of Public Issues, ch. 23  
 Gruber, PF&PP, ch. 12, 13  
 Scheffrin, Markets and Majorities, ch. 3  
 Ferrara, Social Security, ch. 5  
 R. Douglas Arnold, “The Politics of Reforming Social Security,” Pol. Sci. Qtrly 113 (2), Sum. ‘98: 213-240  
 Sharp et al., Economics of Social Issues, ch. 15, pp. 428-445  
 Edgmand et al., Economics of Contemp Issues, ch. 11 (recommended)  
 Stiglitz, EPS, 2000: Ch. 14, “Social insurance” (recommended)

- **Health Care and Government: Pathology or Palliative?**

Gruber, PF&PP, ch. 15, 16  
 Miller et al., Economics of Public Issues, ch. 2, 6, 9, 12, 17  
 Sheffrin, M&M, ch 2  
 Sharp et al., Economics of Social Issues, ch. 15, pp. 4445-455  
Regulation Magazine, Fall 1992 (in periodical stacks)(recommended)  
 Stiglitz, EPS, 2000: ch. 12 “Health Care” (recommended)  
 Edgmand et al., Economics of Contemp Issues, ch. 7 (recommended)

- **Paper on redistribution, health or social security due**

- **Pollution, Politics, and Public Policy**

Sheffrin, M&M, ch. 4  
 Gruber, PF&PP, ch. 5, 6.1, 6.2  
 Walters, Enterprise, Government and the Public, ch. 16  
 Miller et al., Economics of Public Issues, ch. 2, 7, 12, 17, 24-28  
 Sharp et al. Economics of Social Issues, ch. 4  
 Van Doren, “Letting Environmentalists Preferences Count,” Regulation Magazine, Fall 2003  
 Portney et al., “The Economics of Fuel Economy Standards,” J. Econ. Perspectives 17 (4), Fall 2003 (in JSTOR) (recommended)  
 Stiglitz, EPS, 2000: ch. 9, “Externalities and the Environment” (recommended)  
 Edgmand et al., Economics of Contemp Issues, ch. 6 (recommended)

- **Regulating Risk: Health, Safety and Small Business**

Sheffrin, M&M, ch. 5  
 Gruber, PF&PP, ch. 6.3-6.5  
 Miller et al., Economics of Public Issues, ch. 1-3, 10, 24  
 Walters, Enterprise, Government and the Public, pp. 510-522  
 Ch. 11: 304-320; Ch. 17: 522-548 (recommended)

Calfee, "The Ghost of Cigarette Advertising Past," Regulation Magazine, Nov./Dec. 1986; reprinted, Regulation Sum. '97  
Hudgins, "Memo to the Mafia: Smuggle Cigarettes,"  
Regulation Magazine, Spring 1998  
Regulation Magazine, Fall 1991 (in periodical stacks)(recommended)

- **Crime and Illegal Drugs**

(second hour)

Miller et al., Economics of Public Issues, ch. 5, 8, 10, 22

Langbein, "Politics, Rules and Death Row: Why States Eschew  
or Execute Executions," SSQ 80(4), Dec. '99

Soss, Langbein and Metelko, "Why Do White Americans Support  
the Death Penalty?" (J. of Politics, 2003) (BB)(also JSTOR)

Edgmand, Economics and Contemporary Issues, ch. 8

Sharp et al., Economics of Social Issues, ch. 5

Lukesetich and White, Crime and Public Policy, ch. 3-6, 9, 10  
(recommended)

- **Paper on environment, risk or crime due**

- **Class presentations of term paper**

## **V. American Public Policy**

### **Prof. William Lowry**

*William Lowry is a Professor of Political Science at Washington University. He received his PhD in Political Science from Stanford University in 1988. He studies American politics, environmental policy, and natural resource issues. He is the author of five books as well as numerous articles.*

#### **Description**

This course considers basic aspects of public policy, mostly but not entirely in the American context. We will discuss prominent theories of policymaking, major stages of the policy process, review some classic works, discuss recent contributions, and focus our substantive discussions on an ongoing research project largely of your choosing. The purpose of the class is to provide a broad overview of the American policy process and to facilitate empirical application of major theories.

#### **Requirements**

The class will be conducted as a seminar. We should all be able to learn from each other. As such, attendance and participation in discussion is essential. We will all have to keep up on the reading in order to contribute. Besides participation, your major requirement is the research project. Different parts of the paper will be turned in at various points during the semester with the final paper due 4/21. Grades will be based on participation and this research project.

#### **Reading**

*Theories of the Policy Process* 2nd ed. by Sabatier;  
*Agendas, Alternatives, and Public Policies* by Kingdon  
*Implementation* by Pressman and Wildavsky

- **Introduction**

Paul Sabatier. 2007. *Theories of the Policy Process*. Chapter 1.

- **Overview of Policy Theory**

Garrett Hardin. 1968. "The Tragedy of the Commons" in *Science*

Elinor Ostrom. 2007. Chapter 2 in Sabatier.

Theodore J. Lowi. 1964. "American Business, Public Policy, Case Studies, and Political Theory" in *World Politics*.

Ingram, Schneider, and DeLeon. 2007. Chapter 4 in Sabatier.

#### **Optional Reading**

Daniel McCool. 1995. "The Theoretical Foundations of Policy Studies." In *Public Policy Theories, Models, and Concepts*.

Paul Pierson. 2000. "Increasing Returns, Path Dependence, and the Study of Politics" in *APSR*.

Paul Pierson. 2003. "When Effect Becomes Cause" in *World Politics*.

Elinor Ostrom 1990. *Governing the Commons*.

Burger, Ostrom, et al. 2001. *Protecting the Commons*.

- **Agenda-Setting**

- Peter Bachrach and Morton S. Baratz. 1962. "The Two Faces of Power" in *APSR*.  
Charles Lindblom. 1959. "The Science of Muddling Through" in *Public Admin Review*.  
Paul Schulman. 1975. "Nonincremental Policy Making" in *APSR*.  
John Kingdon. 1984. *Agendas, Alternatives, and Public Policies*.

**Optional Reading**

- Dempster and Wildavsky. 1979. "On Change." *Political Studies*.  
Jeffrey W. Legro. 2000. "The Transformation of Policy Ideas" in *AJPS*.  
Robert C. Lieberman. 2002. "Ideas, Institutions, and Political Order: Explaining Political Change" in *APSR*.  
Jonathan Bendor. 1995. "A Model of Muddling Through" in *APSR*.  
Sarah Pralle. 2003. "Venue Shopping" in *Journal of Public Policy*.  
Thomas Birkland. 1997. *After Disaster*.  
William Lowry. 2006. "Potential Focusing Projects and Policy Change" in *PSJ*.

- **Variance across Cases**

- Berry and Berry. 2007. Chapter 8 in Sabatier.  
Chris Mooney. 2001. "Modeling Regional Effects in State Policy Diffusion" in *PRQ*  
Blomquist. 2007. Chapter 9 in Sabatier.  
Erikson, Wright, and McIver. 1989. "Political Parties, Public Opinion, and State Policy in the American States" in *APSR*.

**Optional Reading**

- David Cameron. 1978. "The Expansion of the Public Economy" in *APSR*.  
Dawson and Robinson. 1963. "Inter-party Competition, Economic Variables, and Welfare Policies in the American States" in *JOP*.  
Thomas Dye. 1966. *Politics, Economics, and the Public*.  
Hibbs, Doug. 1977. "Political Parties and Macroeconomic Policy" in *APSR*.  
Hofferbert. 1966. "The Relation between Public Policy and some Structural and Environmental Variables in the American States" in *APSR*.  
Lowry, William R. 1998. "Public Provision of Intergenerational Goods." *AJPS*.  
William Lowry. 2005. "Policy Reversal and Changing Politics" in *SPPQ*.  
Edward R. Tufte. 1978. *Political Control of the Economy*.

- **Change over Time**

- True, Jones, and Baumgartner. 2007. Chapter 6 in Sabatier.  
Zahariadis, Chapter 3 in Sabatier.  
1st paper assignment due: Write a 1-2 page prospectus on your project. What policy (or policies) are you going to study? Why? How?

**Optional Reading**

- Deborah Stone. 2002. *Policy Paradox: The Art of Political Decision Making*.  
Frank Baumgartner and Bryan Jones. 1993. *Agendas and Instability in American Politics*.  
Jones and Baumgartner. 2005. *The Politics of Attention*.  
Michael D. Cobb and James H. Kuklinski. 1997. "Changing Minds: Political Arguments

and Political Persuasion” in *AJPS*.

Mertha and Lowry. 2006. “Unbuilt Dams: Seminal Events and Policy Change in China, Australia, and the U.S.” in *Comparative Politics*.

William Lowry. 2003. *Dam Politics*.

- **Formulation: Interest groups**

E.E. Schattschneider. 1960. *The Semi-Sovereign People* (parts on e-reserve).

Theodore Lowi. 1979. *The End of Liberalism* (parts on e-reserve)

Mancur Olson. 1965. *The Logic of Collective Action*. Chapter II. (e-res)

Adam and Kriesi. 2007. Chapter 5 in Sabatier.

Sabatier and Weible. 2007. Chapter 7 in Sabatier.

### **Optional Reading**

Cobb and Elder. 1983. *Participation in American Politics*.

Grant McConnell. 1966. *Private Power and American Democracy*.

Stigler. 1971. "The Theory of Economic Regulation." *Bell Journal of Economics*.

Austen-Smith and Wright. 1994. “Counteractive Lobbying.” *AJPS*.

Steve Balla and Jack Wright. 2001. “Interest Groups, Advisory Committees.” *AJPS*.

Baumgartner and Leech. 1996. “The Multiple Ambiguities of Counteractive Lobbying.” *AJPS*.

Heinz, Laumann, Salisbury, and Nelson. 1990. “Inner Circles or Hollow Cores?” *JOP*.

Heinz, Laumann, Salisbury, and Nelson. 1993. *The Hollow Core*.

Hojnaki and Kimball. 1998. “Organized Interests.” *APSR*.

Theodore Lowi. 1967. “The Public Philosophy: Interest-Group Liberalism.” *APSR*.

Grant McConnell. 1966. *Private Power and American Democracy*.

Terry Moe. 1980. *The Organization of Interests*.

Robert Salisbury. 1990. "The Paradox of Interest Groups." In *Interests and Institutions*.

David B. Truman. 1951,1971. *The Governmental Process*.

Jack Walker. 1983. "The Origins and Maintenance of Interest Groups in America." *APSR*.

Virginia Gray and David Lowery. 1996. “A Niche Theory of Interest Representation” in *AJPS*.

- **Formulation: Parties and Congress**

Anthony Downs. 1957. *An Economic Theory of Democracy*. Chapter 8. (e-res)

David Mayhew. 1974. *Congress*. (parts on e-res)

Carmines and Stimson. 1986. “On the Structure and Sequence of Issue Evolution” in *APSR*.

Shipan and Lowry. 2002. “Environmental Policy and Party Divergence” in *PRQ*.

### **Optional Reading**

John Aldrich. 1995. *Why Parties*.

Ed Carmines and Jim Stimson. 1989. *Issue Evolution*.

Alan I. Abramowitz. 1994. "Issue Evolution Reconsidered." *AJPS*.

Gary Cox and Matt McCubbins. 1993. *Legislative Leviathan*.

Erikson, MacKuen, and Stimson. 1998. “What Moves Macropartisanship?” *APSR*.

Green, Palmquist, and Schickler. 1998. “Macropartisanship”. *APSR*.

Marc Hetherington. 2001. “Resurgent Mass Partisanship.” *APSR*.

Robert Huckfeldt and John Sprague. 1992. "Political Parties and Electoral Mobilization." *APSR*.

V.O. Key. 1949. *Southern Politics*.

Keith Krehbiel. 1993. "Where's the Party?" in *British Journal of Political Science*.

Keith Krehbiel. 2000. "Party Discipline and Measures of Partisanship" in *AJPS*.

Steve Smith. 2000. "Positive Theories of Congressional Parties." *LSQ*.

- **Formulation: Congress and the President**

Richard Neustadt. 1980. *Presidential Power* (parts on e-reserve).

Terry Moe. 1985. "Control and Feedback in Economic Regulation: The Case of the NLRB" in *APSR*.

Sarah Binder. 1999. "The Dynamics of Legislative Gridlock" in *APSR*.

Edwards and Wood. 1999. "Who Influences Whom?" in *APSR*.

### **Optional Reading**

David Epstein and Sharyn O'Halloran. 1999. *Delegating Powers*.

Ripley and Franklin. 1976. *Congress, the Bureaucracy, and Public Policy*.

William Lowry and Charles Shipan. 2002. "Party Differentiation in Congress" in *LSQ*.

David E. Lewis. 2008. *Politicizing Administration: Policy and Patronage in Presidential Appointments*.

John Coleman. 1999. "Unified Government, Divided Government, Party Responsiveness." *APSR*.

Gary Cox and Matt McCubbins. 1993. *Legislative Leviathan*.

Groseclose, Levitt, and Snyder. 1999. "Comparing Interest Group Scores." *APSR*.

Huber, Shipan, Pfahler. 2001. "Legislatures and Statutory Control of Bureaucracy." *AJPS*.

Hall and Dierdorf. 2006. "Lobbying as Legislative Subsidy" in *APSR*.

Keith Poole and Howard Rosenthal. 1991. "Patterns of Congressional Voting." *AJPS*.

William Riker. 1980. "Implications from the Disequilibrium of Majority Rule." *APSR*.

Norman Schofield. 1978. "Instability of Simple Dynamic Games." *Review of Economic Studies*.

Ken Shepsle. 1979. "Institutional Arrangements and Equilibrium." *AJPS*.

Ken Shepsle and Barry Weingast. 1994. "Positive Theories of Congressional Institutions." *APSR*.

George Edwards and B. Dan Wood. 1999. "Who Influences Whom?" *APSR*.

Edward Tufte. 1978. *Political Control of the Economy*.

Aaron Wildavsky. 1966. "The Two Presidencies."

- **Implementation: Broad frameworks**

Sabatier and Mazmanian. 1980. "A Conceptual Framework of Implementation." (e-res)

Pressman and Wildavsky. 1984. *Implementation*.

Charles Tiebout. 1956. "A Pure Theory of Local Expenditures." *Journal of Political Economy* (e-res)

### **Optional Reading**

Eugene Bardach. 1977. *The Implementation Game*.

Goggin et al. 1990. *Implementation Theory and Practice*.

William R. Lowry. 1992. *The Dimensions of Federalism*.

Paul Peterson. 1981. *City Limits*.

Rom, Peterson, and Scheve. 1998. "Interstate Competition and Welfare Policy." *Publius*.  
 Peter J. May. 1992. "Policy Learning and Failure" in *Journal of Public Policy*.  
 Daniel Carpenter. 2002. "Groups, the Media, Agency Waiting Costs, and FDA Drug Approval" in *AJPS*.  
 John Scholz and Feng Heng Wei. 1986. "Regulatory Enforcement in a Federalist System." *APSR*.  
 Carl Van Horn. 1994. *The State of the States*.  
 Craig Volden. 2002. "The Politics of Competitive Federalism." *AJPS*.  
 Dewitt John. 1994. *Civic Environmentalism*.

- **Implementation: Public agencies**

Matt McCubbins and Thomas Schwartz. 1984. "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms" in *AJPS*.  
 McCubbins, Noll, and Weingast. 1987. "Administrative Procedures as Instruments of Political Control." *Journal of Law, Economics, and Organization*.  
 Charles Shipan. 2004. "Regulatory Regimes, Agency Actions, and the Conditional Nature of Congressional Influence" in *APSR*.  
 Michael Lipsky. 1980. *Street Level Bureaucracy* (parts on e-res)

### **Optional Reading**

James Q. Wilson. 1989. *Bureaucracy*.  
 Clarke and McCool. 1996. *Staking out the Terrain*.  
 Fritschler. 1996 (5<sup>th</sup> ed.). *Smoking and Politics*.  
 Herbert Kaufman. 1960. *The Forest Ranger*.  
 Landy, Roberts, Thomas. 1994. *The Environmental Protection Agency*.  
 Steven Balla. 1998. "Administrative Procedures and Political Control of the Bureaucracy." *APSR*.  
 Calvert, McCubbins, Weingast. 1989. "Theory of Political Control over Agency Discretion." *AJPS*.  
 David Epstein and Sharyn O'Halloran. 1999. *Delegating Powers*.  
 Huber, Shipan, and Pfahler. 2001. "Legislatures and Statutory Control of Bureaucracy." *AJPS*.  
 Huber and Shipan. 2002. *Deliberate Discretion?*  
 Herbert Kaufman. 1960. *The Forest Ranger*.  
 William Lowry. 1994. *The Capacity for Wonder*.  
 Rod Kiewiet and Matt McCubbins. 1991. *The Logic of Delegation*.  
 Barry Weingast and Mark Moran. 1983. "Bureaucratic Discretion or Congressional Control?" in *The Journal of Political Economy*.  
 Gary Miller. 1992. *Managerial Dilemmas*.  
 Terry Moe. 1987. "An Assessment of the Positive Theory of Congressional Dominance." *LSQ*.  
 John Scholz and B. Dan Wood. 1998. "Controlling the IRS." *AJPS*.  
 Stephen Skowronek. 1982. *Building a New American State*.  
 Barry Weingast and Mark Moran. 1982. "The Myth of the Runaway Bureaucracy." *Regulation*.  
 B. Dan Wood and Rick Waterman. 1991. "The Dynamics of Political Control of the Bureaucracy" in *APSR*.

Wood and Waterman. 1994. *Bureaucratic Dynamics*.  
William T. Gormley, Jr. 1986. "Regulatory Issue Networks in a Federal System" in *Polity*.  
Baumgartner and Jones. 1991. "Agenda Dynamics and Policy Subsystems" in *JOP*.  
George A. Krause. 1999. *A Two-Way Street*.  
John Brehm and Scott Gates. 1997. *Working, Shirking, and Sabotage*.

- **Evaluation: Judicial and Public Opinion**

Rosenberg. 1991. *The Hollow Hope*: pp.1-70 (eres)  
Stimson, Mackuen, and Erikson. 1989. "Dynamic Representation" in *APSR*.

**Optional Reading**

Robert Durr. 1993. "What Moves Policy Sentiment?" in *APSR*.  
Robert A. Katzmann. 1988. *Judges and Legislators*.  
Forrest Maltzman and Paul Wahlbeck. 1996. "Strategic Policy Considerations." *APSR*.  
Andrew Martin. 2001. "Strategic Decision Making and the Separation of Powers." *APSR*.  
Jonathan Harr. 1995. *A Civil Action*.  
Lettie McSpadden. 1995. "The Courts and Environmental Policy" in Lester (Env Politics).  
Brady Baybeck and William Lowry. 2000. "Federalism Outcomes and Ideological Preferences" in *Publius*.  
David Nachmias. 1980. *The Practice of Policy Evaluation*.  
Jim Stimson. 1991. *Public Opinion in America*.  
John Hibbing and Elizabeth Theiss-Morse. 2001. "Process Preferences" in *APSR*.  
Valerie Hoekstra. 2000. "The Supreme Court and Local Public Opinion" in *APSR*.  
Campbell, Converse, Miller, and Stokes. 1960. *The American Voter*  
Philip Converse. 1962. "Information Flow." *Public Opinion Quarterly*.  
Anthony Downs. 1972. "Up and Down with Ecology." *The Public Interest*.  
Anthony Downs. 1972. "Up and Down with Ecology – The Issue Attention Cycle" in *Public Interest*.  
R. Shep Melnick. 1983. *Regulation and the Courts*.

- **Evaluation: Academics**

Schlager. 2007. Chapter 10 in Sabatier.  
Sabatier. 2007. Chapter 11 in Sabatier.

**Optional Reading**

Kim Quaile Hill. 1997. "In Search of Policy Theory" in *Policy Currents*.  
Paul A. Sabatier. 1997. "The Need for Better Theories Status and Development of Policy Theory: A Reply to Hill." In *Policy Currents*.



# Proceedings of the Policy Studies Organization

*PSO, a Related Society of the American Political Science Association,  
the International Political Science Association, and the International  
Studies Association*

The PSO symbol is the 47th problem of the famous scholar Euclid. Called the Pythagorean Theorem as it was Pythagoras, an Aeonian Greek, who established an academy where the proposition was debated, and central to ancient scholarship, it represents applying knowledge to practical needs. An avocational mathematician and President of the United States, James Garfield, discovered an alternative proof. His son, Harry Garfield, longtime President of Williams College and President of the American Political Science Association, once owned the house in Washington now housing the APSA and the PSO

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2006—Rainbow Murray, *Birkbeck, University of London*

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#### MEETINGS

The Policy Studies Organization holds concurrent meetings with the Southern Political Science Association in New Orleans every January, with the Midwest Political Science Association every April in Chicago, and with the American Political Science Association at its annual meetings in August. To schedule papers and panels for these events, please contact Daniel Gutiérrez at [dgutierrez@ipsonet.org](mailto:dgutierrez@ipsonet.org).

#### POLICY STUDIES ORGANIZATION ENDOWMENTS AND AWARDS

The Policy Studies Organization established and raises funds for three endowments which are held in permanent trust by the American, Midwest, and Southern Political Science Associations. The Seymour Martin Lipset Fund is for the Library and Centennial Center at APSA headquarters, the Walter Beach Endowment brings foreign scholars to the Southern meetings, and the Harrell Rodgers Endowment enables graduate students to attend Midwest meetings. Gifts can be sent at any time to the three associations earmarked for these funds, as permanent endowment to help people down through the years. They are fully tax exempt. If you have questions about giving through charitable annuities, remainder trusts or other devices, offering attractive tax benefits, contact the PSO President, Dr. Paul Rich at [rich@hoover.stanford.edu](mailto:rich@hoover.stanford.edu)

##### Seymour Martin Lipset Endowment at APSA

The Policy Studies Organization established and sponsors the Seymour Martin Lipset Endowment of the American Political Science Association. The endowment helps to fund the Lipset Library, part of the APSA Centennial Center for visiting scholars. The study area offers handsome offices along with computers and meeting rooms, and the Lipset Library is a much appreciated gathering place. The Lipset Endowment Committee is chaired by Larry Diamond of the Hoover Institution and Paul Rich of the Policy Studies Organization. Gifts are payable to the APSA earmarked for the Lipset Endowment and are fully tax deductible. Inquiries can be addressed to Dr. Rich at [rich@hoover.stanford.edu](mailto:rich@hoover.stanford.edu)—or to the PSO office.

##### Harrell Rodgers Endowment at MPSA

The Policy Studies Organization has established the Harrell Rodgers Endowment with the Midwest Political Science Association to help students attend the annual Midwest conference. Fellows are invited to PSO functions at the conference and their names are permanently inscribed on the Rodgers Plaque at the PSO headquarters in Washington. Applications as well as contributions to the permanent Rodgers endowment can be made to the Midwest and are tax exempt.

##### The Walter E. Beach Endowment at SPSA

The Policy Studies Organization has established the Walter E. Beach Fellows Endowment with the Southern Political Science Association, to enable foreign scholars to attend the annual meetings of the Southern. Beach Fellows are permanently honored on a plaque in the PSO Washington headquarters. Donations are fully tax deductible and may be sent to the Southern, as well as applications for grants.

##### The Rex Kallembach – Wiley-Blackwell Award

This award is given to students who have an interest in the publication industry. It is named after Rex Kallembach, treasurer of the Policy Studies Organization.

##### The Harold D. Lasswell Award

This prize is awarded annually for the best dissertation in the field of public policy. It is co-sponsored by the Policy Studies Organization and the APSA Public Policy Organized Section. It carries a prize of \$1,000.

##### The Aaron Wildavsky Award

This is for a book or article published in the last ten to twenty years that continues to influence the study of public policy.



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#### **PSO Services to the Profession**

PSO members making sabbatical, overseas study or like plans may obtain a letter of introduction from PSO headquarters to expedite admission to archives and research facilities. So we can do a good job, please provide information about research or like plans and your expectations for assistance, and write or email the PSO headquarters. Occasionally PSO will be asked for the names of faculty to provide evaluations regarding programs, departments, or individuals applying for promotion or placement. The PSO would be grateful to hear from members with some background in such evaluations. If you would be willing to be listed as an evaluator, kindly send your C.V. to the headquarters, preferably by email. The Policy Studies Organization warmly welcomes proposals for cooperation in funding opportunities, foundation proposals, and new projects. The officers will consider seriously any ideas. The society's journals, book series, Washington offices and other resources are there to be used and we urge those with initiatives and suggestions to contact the President or Executive Director. We seek your help in being entrepreneurial and innovative. The PSO website is at [www.ipsonet.org](http://www.ipsonet.org) and includes links to policy institutes and graduate schools. Additional links are welcome and should be sent to Daniel Gutiérrez at the international headquarters, [dgutierrez@ipsonet.org](mailto:dgutierrez@ipsonet.org). If you have ideas for improvements to the website, also send them along. The PSO email list sends out material on policy-related matters and if you want to use it for an announcement of a program, summer institute, call for papers or other events, just write Daniel Gutiérrez—and write as well if you wish to add someone to the list or to receive the emails yourself. The links on the website and the use of the email list have produced good results for our PSO members and you are cordially urged to add your contribution. The PSO Washington Office is registered with the federal government for the purpose of J1 training visas and so can accept interns from overseas. Of course local students are also welcome to correspond with the office about possible internships, which are handled on an individual basis. Sometimes a joint internship can be considered with related organizations in Washington to provide a more varied experience. The office also has contacts at the Organization of American States and can help with placing interns there. PSO is committed to social responsibility, believing that all organizations should contribute positively to the environment. Publications are printed on recycled paper by union labor, and products are purchased from concerns whose employment practices are progressive. We support diversity, encourage feedback from all those with whom we deal, and cooperate with Wiley Blackwell, Berkeley Electronic Press and other partners to donate or provide publications at much reduced cost to developing countries. Our officers serve out of a conviction that the policy sciences can help improve human life.

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Alabama	<i>President:</i> Dr. Tim Bennet, Jacksonville State University <a href="mailto:tbarnett@jsu.edu">tbarnett@jsu.edu</a>	April 3-4, 2009	Alabama State University
Georgia	<i>President:</i> Chris Grant, Mercer University <a href="mailto:gpsanet@gmail.com">gpsanet@gmail.com</a> <i>Program Chair:</i> Carol Pierannunzi, Kennesaw State University <a href="mailto:cpierann@kennesaw.edu">cpierann@kennesaw.edu</a>	November 12-14, 2009	Mountain Creek Inn, Pine Mountain GA
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British Columbia Political Studies Association	<i>President:</i> Hamish Telford, Fraser Valley University <a href="mailto:Hamish.telford@ufv.ca">Hamish.telford@ufv.ca</a> <i>Program Chair:</i> Derek Cook, Thompson Rivers University <a href="mailto:dcook@tru.ca">dcook@tru.ca</a>	May 1-2, 2009	Thompson Rivers University, Kamloops BC
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### The Georgia Political Science Association Awards

#### *McBrayer Award and Prize*

The McBrayer Award and an accompanying \$500.00 cash prize will be awarded in years when a paper of outstanding scholarship within the discipline is presented in its entirety on the GPSA annual meeting program and subsequently recognized as such at the discretion of the Editorial Board and Editor-in-Chief of the Proceedings of the GPSA by their decision to bestow the McBrayer Award.

Please contact Dr. Joe Trachtenberg, Editor-in-Chief, with questions and concerns about the award at [joetrachtenberg@mail.clayton.edu](mailto:joetrachtenberg@mail.clayton.edu) or call (678) 466-4810.

#### *Annual Pajari Undergraduate Paper Award*

The ROGER N. PAJARI Undergraduate Paper Award is awarded annually to the best undergraduate paper submitted to meet the requirements of an undergraduate political science course taught in the state of Georgia and nominated by the professor teaching the course. The awards committee selects the best paper from those submitted each year. The deadline is July 1st of each year. Papers submitted after the deadline will be included in the next year's competition. All papers must be submitted as an MS Word or PDF document. The winning paper will be posted in the Proceedings of the GPSA.

Professors who wish to nominate exemplary student papers should contact the Chair of the Awards Committee at [hcline@mgc.edu](mailto:hcline@mgc.edu)

#### *Donald T. Wells Award*

For outstanding service to the Georgia Political Science Association.

GPSA Members: Please email letters of nomination for the Donald T. Wells Award to the GPSA Board of Directors at [hcline@mgc.edu](mailto:hcline@mgc.edu)

For more information about these awards granted by the Georgia Political Science Association please visit their website [www.gpsanet.org](http://www.gpsanet.org)

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The Policy Studies Organization sponsors parliamentary debates at conferences. There is a Speaker of the House and the opposing parties with prime minister and shadow prime minister, as well as front and back benches who face each other as at Westminster. This enables participation by those who otherwise would just be listening to panels, and has proved quite popular and highly interesting. It also introduces students to a form of democracy which is sometimes neglected in American political science discussion. For information about these Parliamentary Debates, please contact PSO headquarters. We are always eager to assist with these timely debates at conferences, big and small.



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