George Mason University  
Graduate Course Approval/Inventory Form  

Please complete this form and attach a copy of the syllabus for new courses. Forward it as an email attachment to the Secretary of the Graduate Council. A printed copy of the form with signatures should be brought to the Graduate Council Meeting. Complete the Coordinator Form on page 2, if changes in this course will affect other units.

Please indicate:  ___X__ NEW  ____ MODIFY  ____ DELETE

Local Unit:  Public & International Affairs/ADJ  
Graduate Council Approval Date:  

Course Abbreviation:  JLCP  
Course Number:  730  

Full Course Title:  Seminar in the Courts and Constitutional Law  

Abbreviated Course Title (24 characters max.):  Seminar Courts & Con. Law  

Credit hours:  3  
Program of Record:  Justice, Law, & Crime Policy  

Repeatable for Credit?  ___ D=Yes, not within same term  
              ___ T=Yes, within the same term  
              ___ N=Cannot be repeated for credit  

Up to hours  

Activity Code (please indicate):  ___ Lecture (LEC)  ___ Lab (LAB)  ___ Recitation (RCT)  
___ Studio (STU)  ___ Internship (INT)  ___ Independent Study (IND)  ___X_ Seminar (SEM)  

Catalog Credit Format  3:3:0  
Course Level:  GF(500-600)  ___ GA(700+)  _X_  

Maximum Enrollment:  20  
For NEW courses, first term to be offered:  Fall 2005  

Prerequisites or corequisites:  None  

Catalog Description (35 words or less)  
Please use catalog format and attach a copy of the syllabus for new courses.  
JLCP 730 Seminar in the Courts and Constitutional Law (3:3:0). Role, influence, and effects of U.S. courts in creating constitutional norms and interpreting them. Special attention to First and Fourteenth Amendments, Commerce Clause. Analysis of leading court cases.

For MODIFIED or DELETED courses as appropriate:

Last term offered:  Previous Course Abbreviation:  Previous number:

Description of modification:

APPROVAL SIGNATURES:
Submitted by:  ________________________________  email: smastrof@gmu.edu  
Department/Program:  ________________________________  Date:  __________________
College Committee:  ________________________________  Date:  __________________
Graduate Council Representative:  ________________________________  Date:  __________________
**Approval from other units:**

Please list those units outside of your own who may be affected by this new, modified, or deleted course. Each of these units must approve this change prior to its being submitted to the Graduate Council for approval.

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Graduate Council approval: ___________________________________________ Date: ___________

Graduate Council representative: ______________________________________ Date: __________

Provost Office representative: _______________________________ Date: __________
Purpose of the Course:
This course is designed to explore the role of courts in the development of the American political system. To this end the course will first examine the nature of courts in the U.S. political system. Our focus here will be on distinguishing courts from other political institutions. Next we will survey the Constitutional foundations of judicial, legislative and executive powers as interpreted by the Supreme Court. Following this institutional analysis we will discuss the Court’s treatment of federalism concentrating on the Constitutional Revolution of 1937 and the possibility of a modern counterrevolution.

The second part of the course will spotlight issues regarding individual rights. In these weeks we will discuss the 14th Amendment and how the Court’s interpretation of the amendment has changed the understanding of American government in almost every aspect of political life. We will give particular attention to the issues of racial and gender discrimination as well as the broader questions of equality and voting rights. (We will chart, for instance, how under the Court’s guidance the voting rights issue has moved from the right to vote, to the right to have the vote counted, to the right to representation.)

Finally, the course will end with a discussion of the First Amendment Rights of freedom of speech and press. This will begin with some classic discussions of the First Amendment, illustrating the debate of the correct tools of interpretation and end with a discussion of campaign finance as speech.

Prerequisites
None.

Note: For those students who have not had an undergraduate course in judicial politics, I would suggest that you acquire and read a basic text on the operation of American Courts. There are several such books available. I would suggest that you read Lawrence Baum’s, American Courts. There are, however, several other good books discussing the same topics. I will be happy to provide others that can bring you up to speed in the course.

Texts:

Ducat, Constitutional Interpretation, 7th ed.(volumes I & 2 if purchased in paperback)

Ducat, Supplement to Constitutional Interpretation.

Horowitz, The Courts and Social Policy

William Leuchtenburg, The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt

Louis Fisher, Constitutional Dialogues: Interpretation as Political Process

In addition there are as the reading assignments indicate, several reading on reserve. Students will be responsible for these readings.

Since the Court will be in session during the term, I reserve the right to add to the reading list any relevant decisions that may be handed down. Generally, time permitting, I will download these decisions, edit them and make them available to the class.
Requirements:

There will be two exams in this course—a midterm and a final. Both exams will be essay exams and will account for 30% each of the final grade.

In addition to the exams, each student will complete 4 short research papers (about 10 pages). The topics and due dates for these papers will be assigned at the first class meeting. The student will be expected to prepare a written paper that will be presented as part of the discussion on the date assigned. Since these papers will focus on a specific question raised by the topic discussed during that day’s class, the student will be expected to take the lead in discussing the question and how it relates to the broader issues of the class session. The papers are each worth 10 percent of the final grade. No paper will be accepted, however, if the student does not make in the in-class presentation.

Week 1  Courts as Political Institutions
Lon Fuller, “The Forms and Limits of Adjudication,” (on reserve).
Horowitz, chpts. 1-2
Martin Shapiro (excerpts on reserve)
Fisher, chpts. 1 & 4

Week 2  The Sources and Controversies Surrounding Judicial Power
Ducat, pp. 1-140 and Appendix E
Bush v. Gore
Fisher, chpts. 2 & 3
Wechsler, “Toward Neutral Principles…” (on reserve)

Week 3  Legislative Power
Ducat, pp.141-224
Stuart Nagel, “Curbing the Courts…” (on reserve)
Fisher, chpts. 6 & 7

Week 4  Executive Power
Ducat, pp. 225-306
Dudley, “Stability and Change…” (on reserve)

Week 5  Executive Power and Foreign Affairs
Ducat, pp. 306-333

Week 6  Powers of the National Government in the Federal System
Ducat, pp. 334-440
Leuchtenburg

Week 7  Powers of the National Government in the Federal System (cont.)
Continue with the readings from Week 6.
Dudley, (articles on reserve)
Spaeth, (articles on reserve)
Yarborough, (on reserve)

Week 8  Mid term exam
Week 9  **Due Process and the Federal System: The Incorporation of the Bill of Rights**
Ducat, pp. 584-609
Hugo Black (on reserve)
*Adamson v. California* 323 U.S. 46 (1947) read in particular the Appendix to the case.

Week 10 **Equal Protection and Race**
Ducat, pp. 1293-1389

Week 11 **Equal Protection and Voting Rights**
Ducat, pp. 1389-1435
Guinier, Excerpts from, *The Tyranny of the Majority* (on reserve)
Bush v. Gore (pay particular attention to the concurring opinion)

Week 12 **Economic and Social Discrimination**
Ducat, pp. 1435-1506
Ginsburgh, “Gender and the Constitution,” 44 *University of Cincinnati Law Review* (1975), 1
Kay, “Models of Equality,” (on reserve)

Week 13 **Freedom of Speech**
Ducat, pp. 912-992
Meiklejohn, “The First Amendment is an Absolute,” *Supreme Court Review* (1961), 245.
Brennan, “The Supreme court and the Meiklejohn Interpretation of the First Amendment,” (on reserve)

Week 14 **Campaign Finance and Corporate Speech**
Ducat, pp. 992-1074
Sunstein, excerpts (on reserve)
Week 15  **Freedom of Press**
Ducat, pp. 1077-1208
Dworkin, chpts. 17, 18, and 19 (on reserve)

**Final Exam**

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**JLCP 730/GOVT 703**  **Seminar in the Courts and Constitutional Law (3:3:0).**  Role, influence, and effects of U.S. courts in creating constitutional norms and interpreting them. Special attention to First and Fourteenth Amendments, Commerce Clause. Analysis of leading court cases.