THE COURSES

In the course and seminar descriptions that follow, the number in parentheses at the end of the description represents the value of the course or seminar in course hours per quarter.

FIRST-YEAR COURSES

CIVIL PROCEDURE. 302. The first part of this course concerns the mechanics of civil litigation, with special reference to pleading, discovery, and trial, including the respective roles of judge and jury. The second part studies the power of particular courts to decide cases (subject matter jurisdiction); jurisdiction of the courts over the person or things before them; the scope and effect of judgments; principles of finality of judgments; and the rules governing joinder of claims and parties. Aut (3). Ms. Buss, Mr. Currie. Spr (3). Ms. Garrett, Mr. Goldsmith.

CONTRACTS. 305. The course will deal with the enforceability and interpretation of contractual arrangements, sanctions for their breach, and justifications or excuses for nonperformance. Special attention will be paid to the role of nonlegal sanctions in commercial relationships and to the relevance of contract doctrine to the drafting and negotiation of agreements. Win (3), Spr (3). Ms. Bernstein, Mr. Epstein.

CRIMINAL LAW. 303. This course relates the general doctrines of criminal liability to the moral and social problems of crime. The definitions of crimes against the person and against property (as they are at present and as they might be) are considered in the light of the purposes of punishment and of the role of the criminal justice system, including police and correctional agencies, in influencing behavior and protecting the community. Aut (3), Win (3). Mr. Alschuler, Mr. Schulhofer.

ELEMENTS OF THE LAW. 301. This course examines certain issues that occur in many different areas of the law and considers the relationship between these issues and comparable questions in other fields of thought, such as moral and political philosophy, economics, and political theory. The subjects for discussion include: the nature of, and justification for, reasoning from precedent; the meaning of such notions as consent, coercion, and voluntary choice; the decision whether to impose rules or allow discretion; the problems of interpreting statutes and other authoritative texts; and the objective or subjective nature of moral judgments. Aut (3). Mr. Strauss, Mr. Sunstein.

LEGAL RESEARCH AND WRITING. 307. Each first-year student is assigned to a tutor for individual and small-group work in legal analysis, research, and exposition, including an exercise in brief-writing and oral argument. Aut (2), Win (1), Spr (1). Ms. Ferziger, Mr. Luna, Mr. Rosen, Mr. Silverman, Mr. Sylvester, Ms. Waldeck.
PROPERTY. 304. An introduction to the legal relationships that arise out of or constitute ownership of property. Among the subjects to be covered are the initial acquisition of rights in real and personal property, the nature of ownership of natural resources, the various types of concurrent and successive interests in land, and restraints on alienation. The course will also deal with the law relating to easements and covenants, landlord and tenant, and conveyancing. Win (3), Spr (3). Mr. Helmholz, Mr. Ross.

TORTS. 306. This course deals with the Anglo-American system (mainly judge-created) of liability for physical injury to person or property. Special stress is laid on the legal doctrines governing accidental injury, such as negligence and strict liability, assumption of risk, and the duty requirement. The rules for determining damages in personal-injury cases will also be discussed. Alternative theories of tort liability, e.g., moral and economic, will be compared. Aut (3), Win (3). Mr. Levmore, Mr. Sykes.

ELECTIVE. In the spring quarter first-year students will elect one course from among the following: Law and Economics, Introduction. 492; The Law of Lawyering. 409; Legislation. 706; National Security. 707; Political Philosophy. 708; Public Choice. 713; and Sex Equality. 488.
SECOND- AND THIRD-YEAR COURSES

**ACADEMIC LAW.** 500. (Seminar) This seminar is designed for students who are thinking seriously about becoming legal academics. Its aims are to guide students through the process of writing a paper suitable for a job talk and eventual publication in a law review, and to teach students how to deliver such a talk. This year the seminar will focus on empirical research, an increasingly important type of legal scholarship. Students will be required to write a paper that blends theoretical analysis (from the sub-discipline of the student’s choice) and any of a number of different types of empirical inquiry including, data analysis, sociological survey research, or citation analysis. The responsibility for proposing a satisfactory topic lies with the student and is subject to the approval of the professors. This seminar is limited to 10 students. It will meet periodically throughout the year and involves a commitment to write a substantially more original paper than is required for most seminars. Students will be asked to attend selected faculty and recruiting workshops during the year so that they can learn from the critical evaluation of other presentations. Aut (1), Win (1), Spr (1). Ms. Bernstein and Mr. Lott.

**ADMINISTRATIVE LAW.** 461. Administrative law is the law that governs the executive departments and the administrative agencies in carrying out the multiple programs of the modern regulatory state. This course undertakes an examination of administrative law in the context of a broad inquiry into the nature of contemporary government. It will focus attention on the purposes of regulatory statutes, on their malfunctions in practice, and on the potential contribution of administrative law to counteracting these malfunctions. A central inquiry is whether control of administrative discretion through procedural formalities and judicial review can be reconciled with effective and politically responsible government. The constitutional position of these agencies, applicable procedural requirements, and the availability and scope of judicial review will also be examined. Win (3). Ms. Garrett. Spr (3). Mr. Sunstein.

**ADMIRALTY.** 710. This course will cover the historical element of the jurisdiction of the federal courts; the role of the Supreme Court in the “common law” development of the substantive law of the admiralty; and several of the main elements of the substantive maritime law: the maritime torts and contracts, salvage, general average, and limitation of liability. Win (3). Mr. Schmidt.

**ANTITRUST, ADVANCED.**

**ADVANCED ANTITRUST.** 523. (Seminar) This seminar will focus on mergers and acquisitions. In addition, it will briefly cover several other topics not discussed fully in the antitrust course (which is a prerequisite). The seminar will examine the evolution of the antitrust treatment of mergers with particular attention to current practices before the antitrust enforcement agencies. It will also examine joint ventures and current issues involving corporate control and the Hart-Scott-Rodino Act. Time permitting, other topics to be covered include: (1) antitrust and high technology industries; (2) the relationship between antitrust and direct regulation of business; (3) special features of antitrust procedure and practice (contribution, class actions, Parens Patri, proposals for deterebling); (4) evolving principles of causation and dam-
age (antitrust injury, net benefit, losses on capital not invested); and (5) the proposed antitrust exemptions, including the labor exemption. Spr (3). Mr. Rosenfield.

ADVANCED CIVIL PROCEDURE: COMPLEX LITIGATION. 525. (Seminar) The focus will be on handling the preparation for trial, and trial, of today’s increasingly complex civil litigation. Topics covered will include class actions, joinder and intervention devices, managing discovery, refining issues and trial techniques. The perspective will be that of a practicing trial lawyer dealing with these issues under the Federal Rules supplemented by a critical look at how these procedures might be improved to the benefit of our civil justice system. Satisfies part of the writing requirement if substantial written work is completed. Win (3). Mr. Jentes.

ADVANCED CONTRACT THEORY. 532. (Seminar) An important assumption of many legal scholars is that law is needed to reinforce cooperation when cooperation would otherwise fail. But there is a widespread view, among economists and other social scientists, that cooperation is more pervasive than legal academics assume, even without the threat of legal enforcement. This seminar addresses a number of theories regarding nonlegal incentives to cooperate, including theories of selective incentives, repeat games, signaling games, emotion, and status. The seminar also addresses the implications of these models for contract and commercial law, administrative law, family law, and other areas. The final grade will be based on a paper (which may satisfy the law school’s writing requirement). Short reactions to each week’s readings will also be required, though they will not be graded. (3). [Not offered in 1998-99.]

ADVANCED ISSUES IN THE CRIMINAL PROCESS. 608. (Seminar) This seminar addresses various legal issues related to the criminal process, and it frequently analyzes them through the lens of the complex federal criminal case. The issues include questions relating to electronic monitoring and investigative techniques, charging practice (whether through grand jury indictment or judicial complaint), discovery, joinder and severance, evidentiary matters, suppression motions, the right to a jury trial, forfeiture, sentencing, post-conviction litigation, and prosecutorial and judicial discretion. The setting of the complex criminal prosecution is chosen because the importance of the aforementioned issues is often magnified in that context. The course will attempt to explore the various legal and policy issues implicated by each subject area. In addition, the course will attempt to explore the jurisprudential underpinnings of certain areas of law (e.g., the law of forfeitures) and will explore whether the present case law presents a cohesive and coherent analytical framework. Aut (3) Mr. Filip & Mr. Stoll.

SECURITIES ADVANCED

ADVANCED SECURITIES. 487. This course picks up where the basic securities course leaves off. It covers the regulation of stock and futures exchanges (and other “self-regulatory organizations”), broker-dealers, and investment advisers, and the allocation of responsibilities between the SEC and the CFTC. It includes some issues in the regulation of tender offers and other control transactions that are omitted from the basic course. Topical subjects, such as legislative and regulatory initiatives, the regulation of derivatives, and the listing of securities of foreign issuers, also receive attention. Win (3). Judge Easterbrook.
AGENCY AND PARTNERSHIP. 614. (Seminar) This course will examine the basic principles of agency law, particularly the doctrines associated with authority, vicarious responsibility, and fiduciary duty. During the course, we will discuss how agency principles and doctrines are applied in such areas as partnership, legal ethics, corporation law, contract law, civil procedure, criminal law, torts, and constitutional law. Some time will be devoted to partnership law. Aut (3). Mr. Harris.

AGENCY, PARTNERSHIPS, AND THE LAW OF FIDUCIARY DUTIES. 434. Fiduciary duties are common in law and exist in a variety of different contexts. This course examines the different contexts in which the term fiduciary is used and the different meanings of the term in those contexts. The course will focus on the law of agency and partnerships, trusts, franchiser-franchisee relationships, as well as other areas. (3). Mr. Fischel. [Not offered in 1998-99.]

AMERICAN LAW AND THE RHETORIC OF RACE. 498. (=LL/Soc 243, =PolSci 273). An episodic study of the ways in which American law has treated legal issues involving race. Two episodes are studied in detail: the criminal law of slavery during the antebellum period and the constitutional attack on state-imposed segregation in the twentieth century. The case method is used, although close attention is paid to litigation strategy as well as to judicial opinions. Win (3). Mr. Hutchinson.

AMERICAN LEGAL THEORY. 578. (Seminar) This seminar begins with Blackstone's Commentaries, which shaped American legal consciousness in the late eighteenth and most of the nineteenth centuries. It then considers the jurisprudential revolution of the early twentieth century, focusing particularly on the ethical skepticism of Oliver Wendell Holmes and the legal realists. The bulk of the seminar is devoted to an assessment of current schools of legal thought—law and economics, critical legal studies, feminism, and natural justice. The readings include works by Jerome Frank, Richard Posner, Mark Kelman, Duncan Kennedy, Carol Gilligan, Catharine MacKinnon, Robin West, Arthur Leff, Michael Moore, Abraham Lincoln, and others. Satisfies part of the writing requirements if substantial written work is completed. An original paper of about 35 pages, usually involving independent library research, will be required. Spr (3). Mr. Alscher.

ANTITRUST LAW. 428. An introduction to the law of antitrust. After a brief consideration of the common law of restraint of trade and the basic antitrust statutes, the course focuses first on the practices by which competing firms eliminate, or are alleged to eliminate, competition among themselves. The practices considered include formal cartels, price-fixing conspiracies, "conscious parallelism," trade association activities, resale price maintenance, and mergers to monopoly and other types of horizontal merger. The course then looks at the practices by which firms, either singly or in combination, exclude actual or potential competitors from their markets, by means of practices such as boycotts, tying arrangements, vertical integration, and price discrimination under the Robinson-Patman Act. Both price and non-price vertical restrictions are considered. Finally, procedural doctrines that affect antitrust enforcement, such as the state action exemption and the petitioning immunity, are included. Aut (3). Mr. Picker. Spr (3). Mr. Sykes.
ART LAW. 529. (=ARTH 495) (Seminar) This seminar examines legal issues in the visual arts, including the following: artist’s rights and copyright; government regulation of the art market; valuation problems related to authentication and artist estates; disputes over the ownership of art; illicit international trade of art; government funding of museums and artists, and First Amendment issues as they relate to museums and artists. Satisfies part of the writing requirement if substantial written work is completed. Spr (3). Mr. Dam, Mr. Grampp, Mr. Landes, and Ms. Rorschach.

BANKRUPTCY AND REORGANIZATIONS I. 437. This course focuses on the policies underlying federal bankruptcy law. Subjects covered will include the jurisdiction of the bankruptcy courts, an individual’s right to discharge, the nature of claims that are cognizable in bankruptcy, the rejection and assumption of executory contracts, the automatic stay, and the avoidance powers of the trustee. This course is a prerequisite for Bankruptcy and Reorganizations II. Win (3). Mr. E. Posner.

BANKRUPTCY AND REORGANIZATIONS II. 468. This course deals with readjusting or reorganizing a corporation under the Bankruptcy Code. It focuses on the negotiating advantages or disadvantages that legal rules provide to various participants in the reorganization process. In analyzing a wide range of situations, attention is directed to (1) the role played by nonbankruptcy law; (2) the extent to which bankruptcy law overrides that law; (3) the measure of protection afforded creditors holding secured claims; (4) the treatment of lessors and lessees and of parties to executory contracts; (5) the contents of reorganization plans; (6) the degree to which a majority of those in a particular class of participants can bind dissenting minorities; and (7) the ability of the courts to force a plan on a dissenting class of participants. Bankruptcy and Reorganizations I is a prerequisite for this course. Spr (3). Mr. E. Posner.

BIOETHICAL ISSUES IN A CHANGING HEALTH CARE ENVIRONMENT. 569. (Seminar) This seminar will investigate how the increasing domination of managed care organizations is changing and constraining traditional common law, statutory and constitutional resolutions of conflicts within the doctor-patient relationship, as well as creating new conflicts of interests among the physician, the patient, and the community. Expertise in manipulating the economics of managed care will reside solely within the students in this seminar, but a recognition of financial constraints is essential. Using legal precedents as “floorboard clinical ethics,” we will discuss some or all of the following issues, depending on the specific interests of the participants: informed consent and the refusing patient, truth-telling, confidentiality and the duty to warn, the treatment of anomalous newborns, clinical research, abortion, termination of life-sustaining treatment, physician assisted suicide, and euthanasia. Readings will include cases, medical monographs, and bioethical commentaries. Attendance, participation, and a twenty- (or more) page paper will be required. Enrollment is limited to twenty students. Win (3). Ms. Goldblatt.

BUSINESS ORGANIZATIONS. 701. The basic idea of this course is to teach one integrated two quarter course in business organizations. The course will cover agency and partnerships, closely and publicly held corporations, and new hybrid organizational forms such as limited liability partnerships. By covering the different char-
acteristics of each of these organizational forms in one course, my hope is that stu-
dents will emerge with a richer understanding of the choices faced by businesses
when deciding how to operate. Students taking this course must sign up for both
quarters. There will be no exam after the first quarter. Students may not take this
course and the one quarter Corporations class which focuses, as the name suggests,
on the corporate form of firm organization. We will cover corporate law in as much
(probably greater) detail than the one quarter course but will do so in the broader
context outlined above. Aut (3), Win (3). Mr. Fischel.

BUSINESS PLANNING. 606. (Seminar) The aim of this seminar is to develop and
apply the student's knowledge of taxation and corporate and securities law in the
solution of a series of transactional problems involving typical steps in business
formation and rearrangement. The problems include the formation of a closely held
company; the transition to public ownership of the corporation; executive compen-
sation arrangements; the purchase and sale of a business; and mergers, tender of-
fers, and other types of combination transactions. Both small-group discussions
and lectures will be employed. The student must have taken (or be taking concur-
rently) Corporation Law and Taxation of Business Enterprises I, or receive instruc-
tor approval. Win (3). Mr. Rocap and Mr. Tresnowski.

COMMERCIAL TRANSACTIONS. 421. This course studies commercial transac-
tions arising under the first seven articles of the Uniform Commercial Code, with a
pronounced focus on payment systems and credit instruments. The classes will cover
negotiable instruments, bank collections, letters of credit, credit cards and ATM
cards. The course may also include additional topics of interest such as documents
of title, guaranty and surety relations, and franchises. Aut (3). Mr. Triantis.

COMMUNICATIONS LAW. 519. (Seminar) This seminar will examine the regu-
lation of the communications industry in the United States from the creation of the
Federal Radio Commission in the 1920s until the present day. The seminar will cover
the regulation of both the broadcast business (radio, television, and cable) and the
common carrier business of telecommunications both before and after the break up
of the Bell System in the early 1980s. Satisfies part of the writing requirement if
substantial written work is completed. (3). [Not offered in 1998-99.]

COMPARATIVE CONSTITUTIONAL LAW. 592. (Seminar) The aim of this semi-
nar is to develop an understanding of Western European constitutional traditions.
We will focus primarily upon the German and French constitutions, using the Ameri-
can Constitution as a comparative background. The course will cover both rights
provisions and basic structures of government. While there are no prerequisites,
some exposure to Constitutional Law I would be helpful. Satisfies part of the writ-
ing requirement if substantial written work is completed. (3) Mr. Currie [Not of-
fered in 1998-99.]

COMPARATIVE CONSTITUTIONALISM AND RIGHTS. 483. This class com-
pares approaches to constitutionalism and individual rights in major Western de-
mocracies. It is expected that after taking this course a student will be able to
appreciate the unique character of the American concept of constitutionalism and rights as well as the character of the American political and constitutional system. It is also hoped that the course will help students to understand better their foreign partners in constitutional, political, and legal matters, and to communicate better with them. To meet these objectives we will look into historical and cultural bases of constitutionalism and rights in the United States and other Western democracies. We will compare different meanings of such notions as freedom, liberty, democracy, constitution, social compact, separation of powers, individual rights, equality, and welfare in various countries. We will look at different modes of operation of such apparently similar institutions as parliaments, executives, courts, and constitutional courts, as well as mechanisms for protection of rights. We will also discuss the applicability of different models of constitutionalism to countries that have recently launched a transition to democracy. The course has a ‘generalist’ character: there will be relatively few cases discussed in the course and much more analysis of constitutional ideas, theoretical concepts, and institutions. Aut (3) Mr. Osiatynski.

COMPARATIVE LAW TOPICS. 616. (Seminar) This seminar explores comparisons among legal systems with an eye on illuminating contemporary questions of interest. We will consider such diverse topics as the remedies available for breach of contract, conflicting claims to natural resources, the ownership of art works determined to have been stolen long ago, the use of illegally obtained evidence, collective punishment, voting rules, and perhaps law-and-economics and other methodological arguments quite generally. One aim is to develop skills relevant to other (modern and ancient) comparative materials. Another objective is to acquire information and analytic tools appropriate to these interesting areas of the law. Win (3). Mr. Levmore.

COMPETITION LAW OF THE EUROPEAN COMMUNITY. 490. This course will examine one of the most developed parts of the law of the European Community, its competition law. We will begin with an introduction to the institutions of the Community, paying particular attention to the role of the European Court of Justice and the relatively new Court of First Instance. As is true in the United States, the European judiciary has played a central role in the development of Community competition law. We will then turn to an in-depth examination of European competition law itself: its importance to the broader goals of market integration in the constituting Treaties of the European Union; its substantive coverage (cartels, abuse of dominant position, mergers and acquisitions, application to state-owned or sponsored enterprises, state aids); and its administration by the European Commission. Where useful, analogies will be drawn to U.S. antitrust law. No prerequisites. (3). Judge Wood. [Not offered in 1998-99.]

COMPLEX APPELLATE LITIGATION. 510. (Seminar) Litigation in the federal courts of appeals and the U.S. Supreme Court requires skills not usually possessed by trial lawyers. Many cases in the federal courts of appeals are direct appeals from government agency actions without an intervening district court decision. Even when the government is not a party and private parties appeal the district court’s decision, the outcome may depend significantly on the interpretation given to fed-
eral statutes and government regulations. Both types of cases may involve complex factual records that need to be distilled and presented effectively in the limited pages and oral argument time allowed by modern appellate courts. In addition, the outcome in complex appellate litigation often depends on difficult constitutional and administrative law issues or the court’s perspective on hotly-contested public policy questions. This seminar will focus on developing the skills necessary to handle complex appellate cases of the type described above. In lieu of a paper or examination, students will be required to prepare short appellate briefs and to present oral arguments in the context of hypothetical problems closely approximating those encountered in a sophisticated appellate practice with a government agency, private law firm, or public interest group. Spr (3). Mr. Warren.

CONFLICT OF LAWS. 415. An inquiry into the adjudication of cases connected with more than one state, principally through consideration of choice of law and respect for prior judgments. Aut (3). Mr. Isenbergh.

THE CONSTITUTION IN CONGRESS. 501. (Seminar) Students will present papers on constitutional controversies that have arisen in Congress, such as the Jackson and the Bank, the annexation of Texas, the Compromise of 1850, and Reconstruction. Topics will be assigned and researched during the autumn quarter so that oral presentations may begin in January. Prerequisite: Constitutional Law I. Satisfies part of the writing requirement if substantial written work is completed. Win (3). Mr. Currie.

CONSTITUTION-MAKING IN POLAND. 609. (Seminar) Poland’s new constitution was adopted by a popular referendum in May 1997. During the preceding eight years, four constitutional commissions worked on more than ten drafts while the constitution itself was a matter of fierce conflicts and an instrument of political struggles in Poland. This seminar is the first hand report from the battlefield. The instructor has been an advisor to three constitutional commissions, a co-author of the draft Bill of Rights for Poland, an author of a number of important provisions in the final document, and a major defender of the draft constitution during the ratification campaign. This interdisciplinary seminar analyzes the constraints on social and constitutional change resulting from Poland’s history and from the transition itself. It emphasizes internal contradictions in simultaneous transition to constitutionalism, democracy, and market. The seminar looks into the details of the struggles about the division of powers, the debates concerning constitutionalization of market economy, as well as social and economic rights. Prospects for the establishment of a constitutional culture and to the rule of law in Poland and other post-Communist countries are also discussed. Aut (3). Mr. Osiatynski.

CONSTITUTIONAL DECISION MAKING. 502. (Seminar) Students enrolled in this seminar will work as “courts” consisting of five “Justices” each. During each of the first eight weeks of the quarter, the “courts” will be assigned several hypothetical cases raising issues under either the equal protection clause or the first amendment’s guarantee of freedom of speech and press. Each “court” must select in advance whether it will focus on equal protection or first amendment. All cases
must be decided with opinions (concurring and dissenting opinions are of course permitted). The decisions may be premised on the "legislative history" of the amendment (materials on that history will be provided) and on any doctrines or precedents created by the "Justices" themselves. The "Justices" may not rely, however, on any actual decisions of the United States Supreme Court. The seminar is designed to give students some insight into the problems a justice confronts in collaborating with colleagues, interpreting an ambiguous constitutional provision, and then living with the doctrines and precedents he or she creates. Constitutional Law II and III are not prerequisites for participation in this seminar. Enrollment will be limited to three courts. Since the members of each court must work together closely under rigid time constraints, it is preferable for students to form their own complete courts. Satisfies part of the writing requirement if substantial written work is completed. (3). Mr. G. Stone. [Not offered in 1998-99.]

CONSTITUTIONAL LAW I: GOVERNMENTAL STRUCTURE. 401. Analysis of the structure of American government, as defined through the text of the Constitution and its interpretation. The major subjects covered are: the allocation of powers among the legislative, executive, and judicial branches, the function of judicial review, and the role of the states and the federal government in the federal structure. It is recommended that students take Constitutional Law I before studying Constitutional Law II or III, Administrative Law, or Federal Jurisdiction. Aut (3). Mr. Vermeule. Win (3). Mr. Goldsmith.

CONSTITUTIONAL LAW II: FREEDOM OF SPEECH. 402. A study of the doctrine and theory of the constitutional law of freedom of speech. The subjects for discussion include advocacy of unlawful conduct, defamation, invasion of privacy, commercial speech, obscenity and pornography, offensive speech, symbolic expression, restrictions on the speech of government employees, restrictions on speech in schools and colleges, the relevance of free speech principles to museums and libraries, protest in public places, regulation of campaign expenditures and communications, freedom of the press as a distinct principle, and regulation of the electronic media. Students who have completed Constitutional Law IV are ineligible to enroll in this course. Win (3). Mr. G. Stone.

CONSTITUTIONAL LAW II: FREEDOM OF SPEECH. 402. A study of the doctrine and theory of the constitutional law of freedom of speech, with particular attention given to the question of whether (and to what extent) modern technology, culture, and commerce might require changes to the free speech tradition. Some of the topics to be covered include the public forum doctrine, the distinction between government subsidies to speech and government speech itself, campaign finance, and commercial speech. Students who have completed Constitutional Law IV are ineligible to enroll in this course. Spr (3) Mr. Lichtman.

CONSTITUTIONAL LAW III: EQUAL PROTECTION AND SUBSTANTIVE DUE PROCESS. 403. This course will consider the history, theory, and contemporary law of the post-Civil War Amendments to the Constitution, particularly the Equal Protection and Due Process Clauses of the Fourteenth Amendment. The cen-
tral subjects will be: the constitutional law governing discrimination on the basis of race, gender, and other characteristics; the recognition of individual rights not explicitly enumerated in the Constitution; and the constitutional distinction between state and private action. Throughout, we will consider certain foundational questions, including the role of courts in a democracy, and the question how the Constitution should be interpreted. Aut (3). Mr. Obama. Win (3). Mr. Strauss.

CONSTITUTIONAL LAW IV: SPEECH AND RELIGION. 405. This course will cover various aspects of the first amendment, with particular emphasis on freedom of expression and the problems of church and state. It is recommended that students first take Constitutional Law I. This course is a one-quarter alternative to Constitutional Law II and Religion and the First Amendment and will cover much of the same material. Students who have completed Constitutional Law II are ineligible to enroll in this course. Spr (3). Mr. Currie.

CONTEMPORARY ISSUES IN HUMAN RIGHTS. 579. (Seminar) This seminar is designed for both law students and medical students. The first part will focus on the dramatic changes in the creation and enforcement of international human rights law that have taken place since World War II. Notwithstanding serious challenges from a variety of sources, no government in the world publicly dissents from the acceptance of support for human rights. We will examine the existing international human rights regime and explore the impact of the UN charter, the Universal Declaration, and various multilateral and regional human rights treaties and regimes on the behavior of nations today. Using cases from U.S. and international courts, the course will then focus on medical and ethical issues in human rights. Topics will include political repression (including psychiatric repression and the history of the Gulag); medical research, informed consent, and human rights; the role of physicians in practicing and documenting torture; persecution and asylum; and questions of eugenics. We will emphasize how the ethical traditions of both law and medicine can be used to promote human rights. Guest lecturers and a film series will supplement the curriculum. Students will be expected to make short presentations and to submit a short mid-term paper (5-6 pages) and a 20 page final paper. (3) Ms. Bhabha. [Not offered in 1998-99.]

COPYRIGHT. 458. This course will explore the major areas of copyright law, with special emphasis on how modern technology might challenge traditional copyright principles. Topics will include copyright duration, subject matter, and ownership; the rights and limitations of copyright holders including the fair use doctrine; remedies for copyright infringement; and federal preemption of state law. Win (3). Mr. Lichtman.

CORPORATE FINANCE. 425. An examination of corporate financial matters, including corporate capital structure and leverage, enterprise and securities valuation, the financial protection of security holders and creditors, dividend policy and regulations, and fairness and shareholder protection in mergers and acquisitions. The concept of efficient capital markets and its implications for investment strategy will also be considered. Corporation Law is a prerequisite. Spr (3). Mr. Carlton and Mr. Fischel.
CORPORATIONS. 423. This course surveys topics in corporate law with a strong emphasis on corporate governance. Included are units on limited liability, the fiduciary duties of directors, executive compensation, shareholder proxy proposals, shareholder derivative suits, and the emerging role of institutional investors in corporate affairs. Special attention is paid to change of control transactions, especially takeovers, defensive tactics, and state anti-takeover statutes. The course materials are a mix of cases, news articles, institutional investor publications, and excerpts from the work of leading corporate law theorists. No previous background of any kind in economics or finance is assumed. Aut (3). Ms. Bernstein.

CRIME CONTROL: LAW AND POLICY. 527. (Seminar) This seminar will examine the principal legal and policy issues raised by a number of current proposals designed to reduce violent crime. Among topics to be explored will be trends in the level of violent crime, crime control strategies at the police patrol level (e.g., community policing), drug enforcement policy, and sentencing policy (including intermediate sanctions, boot camps, mandatory minimums and the "three strikes" concept). Satisfies part of the Writing Requirement if substantial written work is completed. (3). Mr. Schulhofer. [Not offered in 1998-99.]

CRIMINAL JUSTICE SYSTEM. 469. This course examines the criminal justice system and the problems of its reform. The primary purpose is to understand the institutional and operational interrelationships in that system using interdisciplinary materials that bridge substantive criminal law and constitutional criminal procedure. Topics will include the causes of crime and effectiveness of various crime control strategies, the operations of police (deployment issues, discretion, and police misconduct), pretrial procedure (including bail, diversion and preventive detention), plea negotiation, sentencing, and prison reform. (3). Ms. Meares. [Not offered in 1998-99.]

CRIMINAL PROCEDURE I: THE INVESTIGATIVE PROCESS. 472. The focus of this course is on the constitutional law that governs searches, seizures, and confessions. The course considers in detail the evolution of the exclusionary rule and the development and administration of the probable cause and the warrant requirements. It also examines stop and frisk, administrative searches, searches incident to arrest, vehicle searches, consent searches, and the admissibility of confessions. Aut (3). Ms. Meares.

CRIMINAL PROCEDURE II: THE ADJUDICATIVE PROCESS. 473. This course examines what happens in criminal cases after police investigations have been concluded. It considers such topics as bail and preventive detention, the right to counsel, the prosecutor’s decision to charge, grand jury screening, the right to a speedy trial, pretrial discovery, plea bargaining, and the right to jury trial. Students need not have taken Criminal Procedure I to enroll in this course. Win (3). Mr. Vermeule.

CRIMINAL PROCEDURE III: FURTHER ISSUES IN CRIMINAL ADJUDICATION. 497. This course is limited to students who have taken either Criminal Procedure I or Criminal Procedure II. The course will examine electronic surveillance,
lineups, the use of unlawfully obtained evidence for impeachment purposes, joiner and severance, prejudicial pretrial publicity, the right to appeal, freedom from double jeopardy, and federal habeas corpus. Spr (3). Mr. Alschuler.

CURRENT CONTROVERSIES IN CORPORATE AND SECURITIES LAW. 522. (Seminar) The seminar deals with the most important developments in U.S. (and to some extent foreign) corporate and securities practice during the preceding six months. The legal, political, and economic implications of these developments are analyzed from the points of view of lawyers giving advice to a variety of clients. Each student submits one paper and gives an oral presentation and analysis of another student’s paper. Satisfies part of the writing requirement if substantial written work is completed. Spr (3). Mr. Shepro.

CURRENT TOPICS IN TORT THEORY. 617. (Seminar) Law and economics has a well-developed and widely accepted theory of tort law. In recent years, however, some scholars have proposed modifications to this theory that incorporate an understanding of the vagaries of human judgment and choice. In predictable and stable ways, human decision-making often departs from the predictions of the rational model of choice on which the economic theory of tort law is based. This seminar will review some of these departures and their meaning for modern tort law. Spr (3). Mr. Rachlinski.

CYBERLAW. 605. (Seminar) This course will address the law of cyberspace with an emphasis on criminal law (including the criminal law regarding computer crime). Topics covered will include free speech, with a focus on stalking, pornography and defamation; criminal law and procedure; jurisdiction, criminal copyright and privacy. The course will require either two short papers or one long paper. No examination will be offered. Spr (3). Ms. Abraham.

DEVELOPMENT OF LEGAL INSTITUTIONS. 476. An introductory course in the historical background of Anglo-American law, with particular emphasis on the development of English criminal and civil procedure from the era of Magna Carta to the centuries before the American Revolution. Topics: (1) Fact finding: trial by battle, by ordeal and by jury; the development of jury trial—the self-informing jury, passivization, and jury control. (2) Law making: customary law; Chancery—writs and the forms of action, equity and the trust; Parliament and legislation; legal fictions; precedent and law reporting. (3) Civil justice: the growth of the common law and the jurisdiction of feudal, manorial and ecclesiastical courts; legal education, attorneys, bar and bench; pleading; appellate jurisdiction; equitable procedure and remedies, the fusion of law and equity. (4) Criminal procedure: private and public prosecution; Star Chamber; defense counsel, the privilege against self-incrimination and other defendant rights; criminal sanctions. (3). [Not offered in 1998-99.]

DISPUTE RESOLUTION. 584. (Seminar) This seminar will examine alternatives to litigation. The seminar will be divided into two parts. In the first part, we will discuss relevant cases and readings, and will also use role-playing exercises. In the second part, students will present draft papers. Possible topics for the first part
include arbitration, both conventional and final-offer; mediation; settlement escrows; fair division and envy-free approaches to disputes; and ex ante approaches to avoiding disputes. Student papers may address any topic relevant to ADR. Satisfies part of the writing requirement if substantial written work is completed. (3). Mr. Picker. [Not offered in 1998-99.]

DIVERSITY AND COMMUNITY STANDARDS. 610. (Seminar) This seminar will pursue over a wide variety of subject areas what might be called the molecular question of the relationship of microcosm to macrocosm—the question of whether and when the law requires that each discrete unit proportionally resemble the whole. Just as every molecule of water contains the same 2/1 proportion of hydrogen and oxygen as the sea, so courts have sometimes pushed each job site, school, community, etc. to contain its proportionate share of blacks, women, the poor, even opportunities for nude dancing. At other times the law has permitted or encouraged concentration rather than dispersion. The seminar will explore the implications for diversity, and for various minorities of legal intervention to either prohibit or permit such concentration. It will also inquire into when, if ever, it makes sense for the scope of federal constitutional rights to vary depending on the community standards of the place in which they are exercised. The basic courses in constitutional law are useful preparation for this seminar. Aut (3). Ms. Case.

THE EMERGING LAW OF ELECTRONIC COMMERCE. 618. (Seminar). The objective of the course is to provide students with a basic understanding of the environment, mechanics and legal framework of electronic commerce as it exists today and is likely to develop in the early years of the twenty-first century. The course will begin with a brief overview of the development of the internet aimed at understanding its present physical and institutional infrastructure. It will then describe the basic types of electronic commercial transactions. With respect to each type of transaction, the course will cover the typical commercial environment in which it takes place, a rudimentary account of the underlying technology, the mechanics of the transaction and the laws governing it. In broadest outline, the types of EC transactions may be grouped into two basic categories: consumer-oriented electronic commerce and business-to-business electronic commerce. With respect to the former, the course will cover, inter alia, the current and emerging law of electronic payment systems, including digital cash and smartcards, digital signatures, certification authorities, cybernotaries, electronic negotiation and contracting, the domestic use of related cryptographic technologies, electronic consumer protection, and online advertising and marketing. With respect to the latter, the course will cover, inter alia, automated business-to-business transactions using electronic data interchange (EDI). Specifically, we will focus on the laws governing the use of EDI in the retail, manufacturing, financial services and government sectors of the economy. With respect to both consumer-oriented and business-to-business electronic commerce, we will look carefully at how adoption of the new UCC 2B would affect current law. (Approval of the final draft of UCC 2B by the ALI is anticipated in December, 1998 or the spring of 1999.) As time permits, we will also consider how the outcome of the debate over the liberalization of cryptography policy with regard to export con-
trol laws in both the United States and the European Community will affect the development of international electronic commerce in the early years of the twenty-first century. Other topics that may be covered include the rules governing the proof of electronic commerce in commercial litigation, the implications of the virtual corporation for American corporate law, and sysop liability in commercial contexts. Because of the global significance of electronic commerce, the rapidity with which it is developing, and the consequent need for a comparative perspective or sense, the course will use wherever possible foreign as well as domestic legal sources, United Nations working papers, and the publications of industry and public policy groups at home and abroad. Enrollment is limited to sixteen students. The course may be taken for substantial writing credit. A seminar paper on a topic of the student's choice will be required. Final paper length to be between 25 and 30 pages. Spr (3). Mr. Silverman.

**EMPIRICAL LAW AND ECONOMICS. 565.** (Seminar). This seminar is intended to develop the skills necessary for critical evaluation of econometric research in law and economics and econometric evidence in litigation. We will begin with introductory sessions on econometric tools and concepts, and proceed in later sessions to read and assess empirical analysis on various topics. Topics may include employment discrimination, the costs of smoking, death penalty issues, and the deterrence effect of the civil liability system. Students will write several short papers on the readings over the course of the quarter. Spr (3). Mr. Lott.

**EMPLOYEE BENEFITS. 555.** (Seminar) The private pension system now has assets approaching two trillion dollars, and pension accounts have become a fundamental means both of individual saving and of aggregate capital formation. This seminar will provide an overview of the main types of pension plans as well as other types of employee benefit plans, the principles of taxation governing deferred compensation arrangements, the Internal Revenue Code requirements applicable to qualified pension plans and the fiduciary and conflict of interest requirements of the Employee Retirement Income Security Act of 1974 (ERISA). The federal insurance scheme for defined benefit plans administered by the Pension Benefit Guaranty Corporation will also be examined. Finally, the seminar will explore the role of, and issues relating to, pension plans and welfare plans in various types of transactions, particularly plan investments and corporate acquisitions. The materials will include finance and accounting literature as well as statutory and case material. Spr (3). Ms. Lutgens.

**EMPLOYMENT DISCRIMINATION. 433.** This course considers employment discrimination and the legal prohibitions on its practice, with particular emphasis on discrimination on the basis of race, gender, sexual orientation, and disability. We will examine the basic frameworks for proving discrimination, looking at both overtly class-based employment policies and facially neutral rules that have a disproportionate impact on protected groups. We will also focus on affirmative action; the intersection between race and gender; the question of when, if ever, gender differences authorize differential treatment; pregnancy in the workplace; sexual harassment; employment discrimination in the military; and reasonable accommodation under the Americans With Disabilities Act. Win (3). Ms. Hasday.
EMPLOYMENT AND LABOR LAW. 435. This course examines the legal framework governing the relationship between employers and workers. It explores common law principles; questions of occupational safety and health; employment discrimination of various sorts; and private sector unionization and collective bargaining. There will be discussion of the National Labor Relations Act, including employees’ rights to organize, employees’ selection of unions as collective bargaining representatives, collective bargaining and regulation of the bargaining process, use of economic weapons such as strikes and boycotts, and the enforcement of collective bargaining agreements. A recurrent question is the choice various “models” of employment relationships: freedom of contract; information and incentives; unionization; and direct regulation. Students who completed the 1997-98 course Labor Law last year are ineligible to enroll in this course. Win (3) Mr. Sunstein.

ENTREPRENEURSHIP AND THE LAW I & II. 619. (Seminar) This companion course to the Institute for Justice Clinic on Entrepreneurship will examine the theory and practice of entrepreneurial transactions, with an emphasis on small business start-ups. Possible topics include constitutional issues related to entry-level enterprise; the regulatory and transactional aspects of business start-ups; converting legitimate underground enterprises to legally compliant businesses; and the day-to-day matters faced by small business owners, such as licensing and zoning requirements, premises liability, labor relations, and insurance. Students who are participating in the Clinic will be expected to enroll in the companion course. Aut (1), Spr (1). Ms. Lee and Mr. Joseph.

ENVIRONMENTAL LAW. 460. This course surveys the major federal environmental laws (CERCLA, RCRA, the Clean Water Act, the Clean Air Act, and TSCA), which regulate the three basic media of the environment (ground, water, and air). The course lays out the various governmental tools used to address the problems of environmental degradation and discusses the value of these tools. Special attention is paid to the economic, social, and political obstacles to efficient regulation of the environment. Win (3). Mr. Rachlinski.

ESTATE PLANNING. 451. The principal objective of this course is an examination of the federal estate and gift tax law and federal income taxation of trusts and estates. The course includes a study of various arrangements for the aggregation and devolution of wealth, applying principles of wills, trusts, future interests, and tax. The course seeks to develop an understanding of the process of estate planning and choosing among alternative means of accomplishing client personal and tax objectives. (3). Mr. Kanter. [Not offered in 1998-99.]

EVIDENCE. 416. The content and reform of the law governing proof of disputed propositions of fact in criminal and civil trials, including relevance; character evidence; the hearsay “rule” and other rules of exclusion; and the confrontation, examination, and privileges of witnesses. Win (3). Ms. Buss, Mr. R. Posner.

EVOLUTION OF LEGAL DOCTRINES. 531. (Seminar) Legal doctrines have life cycles. They are born and mature. Many doctrines fade and die. There is a form of
natural selection among doctrines, with several candidates offering to serve the same function in different ways. This seminar looks at the maturation and replacement of doctrines, posing the question why some die and others survive. Scope is eclectic: the doctrines range from "separate but equal" under the equal protection clause to the "original package doctrine" under the commerce clause, from the appointment of counsel under the Sixth Amendment to the understanding of the Rules of Decision Act (that is, why Swift gave way to Erie). The premise of the seminar is that those who fail to learn from the past are condemned to repeat it. Satisfies part of the writing requirement if substantial written work is completed. (3). Judge Easterbrook. [Not offered in 1998-99.]

FAMILY LAW. 450. This course considers three basic questions: Who is allowed to marry or otherwise form a family? How does the law regulate the creation and dissolution of family relationships? What are the rights and responsibilities that family members have because of their family status? These questions will be examined in both modern and historical context, with particular emphasis on the marital relation. Topics include: polygamy and common law marriage, marriage and parenthood under slavery, interracial marriage, same-sex marriage and parenthood, surrogate motherhood, the economic consequences of divorce, the dissolution of nonmarital relationships, the termination of parental rights, federal benefits and disabilities tied to family status, the prohibition on interspousal contracts for domestic services, the marital rape exemption, domestic violence, and child custody and support. Aut (3). Ms. Hasday.

FEDERAL BUDGET POLICY. 528. (Seminar). This seminar will examine one crucial aspect of the federal legislative process, the formulation and implementation of federal budget policy. Since the adoption of the Congressional Budget and Impoundment Control Act of 1974 (later amended by the Gramm-Rudman-Hollings deficit reduction act and the Budget Enforcement Act of 1990), federal budget policy has played a major role in the drafting and consideration of appropriations bills, tax legislation, entitlement reform and other legislative initiatives. We will focus on the FY 1999 and 2000 congressional budget cycles, from the presentation of the president's budget through congressional consideration and enactment of budget legislation, appropriations bills, and tax proposals. Our discussions will include issues relevant to the budget process, including the selection of budget baselines, the effect of committee organization and interest groups on the budget process, the pay-as-you-go provision, revenue estimating and the length of the budget window, and the proposed balanced budget amendment to the Constitution. We will discuss the constitutional and policy issues concerning recent budget legislation, such as the Line Item Veto Act and the Unfunded Mandates Act. We will explore some of the issues relating to the growth in entitlement spending, including proposals to privatize Social Security, generational accounting, and the effect of mandatory spending on the rest of the federal budget. We will also explore the implications of cash-flow budget surpluses and pending reform proposals. Participants will be expected to complete short written pieces before each class, which will also serve as the basis for some of our discussions. Enrollment is limited to 25 students. Spr (3). Ms. Garrett.
**FEDERAL CRIMINAL LAW. 583.** (Seminar) This seminar deals with selected issues in the federal substantive criminal law. Particular topics to be studied include federal criminal jurisdiction, mail and wire fraud, RICO, drug enforcement offenses, money laundering and sentencing of federal offenders. Win (3). Mr. Bunge.

**FEDERAL ESTATE AND GIFT TAX. 444.** The principal objective of this course is an examination of the federal estate, gift, and generation-skipping law. Among the objects is to develop an understanding of the process of estate planning and choosing among alternative means of accomplishing personal and tax objectives. (3). Mr. Isenbergh. [Not offered in 1998-99.]

**FEDERAL JURISDICTION. 411.** A study of the role of the federal courts in the federal system. Topics will include: federal question, diversity, and admiralty jurisdiction; litigation against federal and state governments and their officials; abstention and related doctrines; direct and collateral review of state-court decisions; and congressional control of the jurisdiction of the federal courts. Win (3). Mr. Currie.

**FEDERAL REGULATION OF SECURITIES. 424.** This course covers the issuance and trading of securities. The first half of the course looks at the issuance process in some detail, paying special attention to the complex rules issued by the Securities and Exchange Commission. It takes the decision to raise capital as a given (see the course in Corporate Finance for attention to this subject). The second part of the course looks at trading, including tender offers, private actions, and damages. The economics of finance and capital markets is employed to assist the analysis. Corporate Law is a prerequisite, although may be taken concurrently. Aut (3). Mr. P. Mahoney.

**FEMINISM AND COMMODOIFICATION. 607.** (Seminar). Even in this era of enthusiasm for free markets, controversy rages over the appropriate boundaries of the free enterprise system. In a variety of contexts, arguments are advanced that particular goods and services should be in part or in whole beyond the exchange process. This seminar will examine possible reasons for limiting the scope of the market domain, including assertions that certain human attributes are inherently priceless and that specific forms of market interactions degrade even willing participants. Seminar meetings will include discussions of surrogacy contracts, the establishment of markets for parental rights, market exchanges of sexual services, sales of human organs and other tissues, and sales of human embryos for implantation or research purposes. Readings will include selections from the works of Richard Posner, Margaret Radin, Elizabeth Anderson, Richard Epstein, Michael Trebilcock, Susan Rose-Ackerman, Judith Andre, and Eric Mack, as well as cases and statutes. Aut (3). Ms. J. Mahoney.

**FEMINIST APPROACHES TO LEGAL ISSUES. 466.** This course will use feminist methods of approaching legal issues to examine a number of contemporary controversies. The readings will include a broad range of scholarly writings by feminists on specific legal issues. (3). Ms. M. Becker. [Not offered in 1998-99.]
FEMINIST JURISPRUDENCE. 705. This course will consider ways in which law and legal theory may affect the realization of the equality of the sexes and the rights of women. The readings will include a broad range of scholarly writings. Aut (3). Ms. Case.

FLEXIBILITY IN CONTRACTUAL RELATIONS. 611. (Seminar) Two conflicting goals are central to medium and long term commercial contracts: (a) securing binding commitments from one or both parties and (b) creating flexibility in the terms of their relationship that can accommodate changes in the environment. Determining the optimal balance and creatively incorporating this balance into contract terms are very important skills in drafting commercial contracts. This seminar examines the various ways that commercial parties inject flexibility in contractual relations while maintaining some level of reliable commitment. We will investigate, among other topics: flexible pricing clauses, flexible quantity terms, performance standards, liquidated damages, force majeure and renegotiation clauses. We will also discuss judicial interpretation and enforcement of such clauses. The seminar will combine the study of contract theory with case studies of contracts used in practice. Aut (3). Mr. Triantis.

FUNDAMENTALS OF COMMERCIAL REAL ESTATE TRANSACTIONS. 440. This course will examine the process of structuring, negotiating, and documenting commercial real estate transactions, focusing primarily upon the acquisition and sale of income properties. We will specifically address the contract of purchase and sale, due diligence, negotiating problems, choice of entity and tax considerations, condition of title and title insurance, survey, warranties, closing considerations, and basic financing structures. Win (3). Mr. Gilmartin and Mr. Rosenbloom.

GAME THEORY AND THE LAW. 506. (Seminar) This seminar examines the principles of game theory and their use to analyze legal problems. Applications will be drawn from torts, contracts, bankruptcy, antitrust, and civil procedure. Win (3). Mr. Picker and Mr. E. Posner.

GLOBAL TELECOMMUNICATIONS AND BROADCASTING LAW. 620. (Seminar). We live in the age of convergence of broadcasting and telecommunications. Telecommunications became the most aggressively growing sector of world industry. Governments offer for public international bids telecommunications licenses all over the world. Technology and market considerations make the national regulatory systems more and more open to foreign and international impacts. The law of broadcasting is also undergoing fundamental changes. The new technologies make traditional scarcity justifications of regulation obsolete. The growing internationalization and Americanization results in protectionist “culture wars.” The course reviews the international structures governing telecommunications (including satellites and the web) and presents the international dimensions of licensing and regulation (including antitrust issues in major international mergers, foreign ownership, etc.). The public duties of telecom and broadcasting companies are discussed (problems of law enforcement and privacy, universal service related duties, etc.). International copyright and international trade aspects of broadcasting (transfrontier
television) and telecommunications investments as well as the international aspects of electronic trade will be discussed in light of the current international negotiations. Win (3). Mr. Sajo.

**HIGHER EDUCATION AND THE LAW. 521.** (Seminar) The university has long maintained that its history and role as a creator of knowledge and refuge for society’s critics require that the government and the courts extend a special respect to the academy’s need to govern itself. This seminar will discuss how the courts have dealt with this argument in areas such as academic freedom; student admissions and discipline; faculty tenure, dismissal, and unionization; and teaching and research restrictions. Discussions will focus on the competing interests of society and the university and the role of the courts in balancing these interests. Spr (3). Mr. Sussman.

**HISTORICAL AND INTELLECTUAL ORIGINS OF PROPERTY. 548.** (Seminar) This seminar will trace the intellectual developments in the theory of property rights through the classical writers on the subject. It will cover such authors as Aquinas, Hobbes, Harrington, Locke, Hume, the Federalist Papers and the anti-Federalists, as well as the early Supreme Court constitutional decisions on takings property rights. Several short papers will be required of students during the course. Enrollment is limited to 20 students. Satisfies part of the writing requirement if substantial written work is completed. (3) Mr. Epstein. [Not offered in 1998-99.]

**HOLMES: JURIST AND ICON. 478.** (=LL/Soc 235, =Hist 458.) This course examines the life and writings of Oliver Wendell Holmes Jr., with emphasis on his ambitions as well as his theories, and with special attention to his role, largely posthumous, as symbol, or even icon, for a disparate variety of philosophical trends in Anglo-American law. (3) Mr. Hutchinson. [Not offered in 1998-99.]

**HUMAN RIGHTS I. 412.** (=Hist 293/393, MAPH 400, Philos 316, PolSci 339). The philosophical and historical basis of human rights, the concept of human rights, the main types of human rights, the controversies surrounding these and the methods of justifying them. Special focus on the moral and legal importance of human rights and their relation to other moral and legal values. Aut (3) Mr. Gewirth.

**HUMAN RIGHTS II. 413.** (=Hist 394, MAPH 401). This course is primarily concerned with the evolution of the modern human rights regime. It discusses human rights origins as a product of the formation and expansion of imperial Western nation-states. It juxtaposes the Western origins with competing, non-western systems of thought and practices of rights. It assesses in this context the universality of modern human rights norms. The course proceeds to discuss human rights in its two prevalent modalities. First, it discusses rights as individual protection of personhood and the modern, western notion of individualism entailed therein. Second, it discusses rights as they affect groups or states and limit their actions via international law, e.g. formal limitations on war.

The course follows a chronological narrative. In the first section, we discuss the elaboration of human rights as natural law in the seventeenth and eighteenth cen-
HUMAN RIGHTS, STATE SOVEREIGNTY AND PERSECUTION: ISSUES IN INTERNATIONAL REFUGEE LAW. 577. (Seminar) This seminar will introduce students to the relationship between state sovereignty and human rights implementation through selected topics in international refugee law. The philosophical and historical background to the current definition of a refugee will be considered, as will the key constitutive elements including the notion of "well-founded fear of persecution." North American and European statutes and caselaw will be discussed covering a range of issues including asylum for victims of non-state persecutors (husbands, rapists, guerrilla forces, tribal initiators), "safe havens" and other forms of temporary protection. The future of asylum and alternative systems for addressing the problems of forced migration will also be discussed. Aut (3). Ms. Bhabha.

IMMIGRATION POLICY AND LAW. 447. This course covers the constitutional foundations of the power to control immigration, the historical evolution of U.S. immigration law, and the constitutional rights of aliens seeking admission to the U.S. or resisting expulsion. In addition, we will discuss judicial and administrative decisions interpreting the provisions of the Refugee Act of 1980, a particularly dynamic and controversial area of immigration law. Current public policy issues will be discussed. Win (3). Ms. Gzesh.

INSURANCE LAW AND POLICY. 438. This course will examine legal issues relating to first-party and third-party insurance, as well as limited aspects of domestic insurance regulation. Topics will include the special principles of construction applicable to insurance policies, particular problems arising under life and health policies, bad faith issues, the duty to defend and to settle under liability policies, the recent insurance "crisis" in some lines of coverage, and problems relating to insurance for environmental harms. (3). Mr. Sykes. [Not offered in 1998-99.]
INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW. 711. Environment protection became a global problem not only because of the global nature of the ecosystem but also because local and global damage to the environment often results from global activities. The course reviews the international legal reaction to these developments. It also offers a comparative approach which helps to find innovative solutions at the national level. The course is relevant to students interested in environment protection and human rights, as well as international business law, given the importance of foreign environmental regulatory and liability regimes in investment and privatization. The course will cover, partly relying on case studies, problems of the global commons (global warming, ozone layer problems, marine pollution), the impact of megainvestments on rivers (including World Bank policies), wildlife and habitat protection, hazardous waste treatment and liability, and the interrelations of world trade and environment protection. Win (3). Mr. Sajo.

INTERNATIONAL AND COMPARATIVE SECURITIES REGULATION. 612. (Seminar) The seminar will consider two separate but related questions. First, what types of regulatory regimes exist for the developed and developing world’s securities markets and how do they differ? Second, how are transactions among parties from multiple jurisdictions regulated, and how should they be regulated? We will explore causes (and effects) of regulatory similarity and variety, including market structures and political influences. Aut (3). Mr. P. Mahoney.

INTERNATIONAL FINANCE. 489. Today the volume of international financial flows far exceeds the volume of international trade. This course deals with the international aspects of domestic banking and security markets and with offshore markets. The focus will be on U.S., European and Japanese regulatory systems and the role of international financial institutions. Among the topics covered will be the eurodollar and euromarket, the international banking and securities clearing systems, foreign exchange as well as futures and options markets, derivatives, swaps and an introduction to emerging markets finance, especially with regard to privatization. This course is intended to complement, rather than substitute for, courses in U.S. securities and banking regulation. Win (3). Mr. Dam.

INTERNATIONAL LAW. 485. The basic introductory course in international legal studies which is designed to outline what law is and how it works among nations and also to explore the workings of leading international institutions. It should provide the grounding for specialized studies in the vast domain of international legal studies and an introduction to an area of law, which unlike foreign law, forms a part of the laws of the United States, even as it differs radically from other fields of domestic law. Using new materials, the course will address the legal and organizational structure of the world community, the fundamental concepts and sources of international law, as well as the law governing the use of force and the protection of human rights. Aut (3). Mr. Goldsmith.

INTERNATIONAL LAW, HUMAN RIGHTS, AND WAR CRIMES. 624. The course will focus on the development of international law pertaining to war crimes and
the protection of human rights from Nuremberg and the other World War II war crimes trials through the Vietnam era and up to the new International Tribunals for Bosnia and Rwanda. A central focus of the course will be on the development of doctrines defining individual responsibility for war crimes and human rights violations, but we will also study problems relating to the concepts of aggression, intervention, self-defense, and military necessity. The overarching concern of the course will be to assess the legal legacy which the Bosnian and Rwandan tribunals have inherited. Enrollment is limited to eighteen students and four short thought papers will be required which will satisfy part of the writing requirement. Spr (3). Mr. Goldsmith.

INTERNATIONAL LITIGATION AND ARBITRATION. 540. (Seminar) This seminar examines both private and semi-public international disputes arising out of transnational transactions. The first half of the quarter will focus on the procedural questions arising out of complex transnational litigation between private parties in U.S. courts. Specific topics will include personal jurisdiction over foreign defendants, forum selection, forum non conveniens and parallel litigation, taking evidence abroad, and enforcement of arbitral agreements and awards. The second half of the quarter will examine the special doctrines governing a more direct collision with the foreign sovereign itself. Specific topics include foreign sovereign immunity, jurisdiction to prescribe, the Act of State doctrine, and enforcement of foreign judgments. Students will have the choice of a paper or take-home examination. Aut (3). Judge Wood.

INTERNATIONAL TAXATION. 446. A survey of the income tax aspects (1) of investments and business operations of foreigners in the United States, and (2) of overseas investments and business operations of Americans. The principal focus is on the U.S. tax system, but some attention is paid to adjustments between tax regimes of different countries through tax credits and tax treaties. Spr (3). Mr. Isenbergh.

INTERNATIONAL TRADE REGULATION. 626. (Seminar) This seminar will examine the regulation of international trade under national and international law. The emphasis will be on the principal obligations of the WTO/GATT system, including the most favored nation obligation, the national treatment obligation, and various other constraints on domestic regulatory policies. We will also examine laws of the United States enacted to implement WTO rights and obligations, including the "escape clause" and the antidumping and countervailing duty laws. Considerable attention will be devoted to the structure of international dispute resolution and to the use of unilateral trade sanctions. We will at times consider how similar problems have been handled in different legal systems, comparing the law of the WTO/GATT, the NAFTA, the European Union, and the U.S. federal system. Issues relating to trade and the environment will also receive some attention. Aut (3). Mr. Sykes.

INTRODUCTION TO TAX POLICY. 537. (Seminar) A survey of the causes and consequences of the methods chosen by governments to raise revenues through taxation. The seminar involves a smattering of public finance, politics, and tax analysis. We consider possibilities for improving the U.S. tax system. Prior courses in
individual and corporate income taxation (or the equivalent) are recommended but not required. There is an examination, with option to write a paper instead. Satisfies part of the writing requirement if substantial written work is completed. Win (3). Mr. Isenbergh.

**INTRODUCTORY INCOME TAX. 441.** A survey of the essential elements of the U.S. income tax, with principal focus on the taxation of individuals. Points of concern are the nature of income, its timing and measurement, the notions of tax benefit and tax incentive, realization, sales and exchanges, the boundary between personal and business expenditures, capital recovery and capital gains, and assignment of income among related taxpayers. Note: the winter section is a four-hour credit course. Aut (3). Mr. Weisbach. Win (4) Mr. Isenbergh.

**ISSUES IN DETERRENCE. 515.** (Seminar). This seminar will undertake a comprehensive examination of the theory of deterrence in criminal law. Topics will include the empirical grounding of major deterrence-based prescriptions; the relative deterrent effects of different forms of punishment (e.g., capital punishment, imprisonment, fines, and shaming penalties); the contribution to deterrence made by the indirect or collateral consequences of conviction (e.g., damage to reputation); the use of preference formation and expressive condemnation as instruments of deterrence; and the significance of class and race to deterrence theorizing. (3). Mr. Kahan. [Not offered in 1998-99.]

**ISSUES IN POVERTY AND LAW. 574.** (Seminar) This seminar is designed to explore how the law (and the absence of law) affects those who are poor. We will begin by analyzing the rhetoric of poverty in Supreme Court decisions. We will then examine interdisciplinary materials focused on political and social theories that drive poverty policy programs. We will conclude the seminar with an in-depth look at specific policies and programs pertinent to the relationship between poverty and social control. Some issues we are likely to discuss are: access to public housing and spatial concentration of poverty, gentrification, access to law enforcement by poor people, the normative conception of compliance with the law and its relationship to inner city crime, and an analysis of church and state collaboration to reduce crime in poor communities. A continuing theme of this course will be the relationship between race and poverty in urban areas. Several short papers and class participation will be required. Win (3). Ms. Meares.

**THE JUVENILE JUSTICE SYSTEM. 601.** (Seminar) This seminar will consider how our legal system should respond to crimes committed by minors. In particular, we will consider the appropriateness of treating minors differently from adults in preventing, adjudicating, and imposing consequences for criminal behavior. Readings on adolescent development will help inform our discussion. Students will be expected to write three or four short papers. (3). Ms. Buss. [Not offered in 1998-99.]

**LABOR AND EMPLOYMENT LAW. 602.** (Seminar) This seminar examines restrictions imposed by federal and illustrative state labor and employment laws on corporate transactions and organizational change. Transactional topics include ac-
acquisitions, mergers, relocations, "double breasting," reengineering, and downsizing. Organizational change topics include employee involvement programs and "the contingent work force." (3). Mr. Lopatka and Mr. Raudabaugh. [Not offered in 1998-99.]

LAND USE PLANNING. 613. (Seminar) This seminar will explore the development of zoning in the courts. We will examine such topics as: zoning theory as a planning tool or a device for class segregation; the legality of exclusion; application of restrictions to existing laws; zoning administration and factors to be considered upon zoning applications; substantive due process; administrative discretion and review of local decisions; aesthetic standards and the limits of aesthetic restrictions; freedom of association; exactions and rough proportionality; transfers of development rights; public benefits imposed on private owners (preserving landmarks, wetlands, endangered species, open space and vistas, and growth controls); self imposed hardships; Fifth Amendment Takings Clause; how to measure takings damage. Aut (3). Mr. Friedman.

LAW AND ECONOMICS: INTRODUCTION. 492. Over the last forty years, economics has become an important tool for those who want to understand the effect legal rules have on the way people behave. This course provides an introduction to the concepts of law and economics. The course also explores the extent to which the principles of economics can be used to explain the workings of the legal system itself. The topics covered in the course include the Coase theorem, the choice between property and liability rules, the allocative effects of alternative liability rules (e.g., strict liability versus negligence); the determination of damages for breach of contract; and the economics of legal procedure. No prior acquaintance with economics or calculus is assumed; the relevant economic concepts are developed through an examination of particular legal applications. Spr (3). Mr. Landes.

LAW AND ECONOMICS: ADVANCED. 439. This course provides a formal introduction to the positive and normative economic analysis of law. It will address topics in law and economics drawn principally from the fields of torts, insurance, contracts, commercial law, and the economics of litigation. Intended for students who have taken Price Theory (Economics 301/Law 436) or the equivalent, it will freely employ multivariate calculus and other standard tools of microeconomic analysis. (3). Mr. Sykes. [Not offered in 1998-99.]

LAW AND HUMAN BEHAVIOR. 538. (Seminar) This seminar will discuss recent work on decision and choice, much of it from cognitive psychology and behavioral economics, much of it critical of standard economics. We will explore the implications of this work for law. How should new thinking about human behavior affect old thinking about law? Possible areas include environmental protection, occupational safety, broadcasting and television, race and sex discrimination, and contract. Spr (3). Mr. Sunstein.

LAW AND THE MENTAL HEALTH SYSTEM. 470. The course is designed to help lawyers function effectively when issues of mental disability relate to legal issues. The course will examine the interrelationship between legal doctrine, procedural
rules, medical, cultural and social scientific understandings of mental disability and institutional arrangements affecting the provision of services to the mentally disabled. Consideration will be given to admission to and discharge from mental health facilities; competency to consent to or to refuse treatment; to surrogate decisionmaking for those found incompetent; to the rights of those confined in mental health facilities; to discrimination against the mentally disabled; and to the rights of the mentally disabled in the criminal justice system. Satisfies part of the writing requirement if substantial written work is completed. Students have a choice of taking a final exam at the end of the quarter or writing a paper on a topic approved by the instructor. Win (3). Mr. Heyrman.

LAW AND POLITICS: U.S. COURTS AS POLITICAL INSTITUTIONS. 513. (= Pol Sci 370). (Seminar) The purpose of this seminar is twofold. First, it aims to introduce students to the political nature of the American legal system. In reviewing a substantial amount of the social science literature on courts, we will focus on the relationship between the courts and other political institutions. The sorts of questions we will ask include: Are there interests that courts are particularly prone to support? What effect does congressional or executive action have on court decisions? What impact do court decisions have? Second, by critically assessing approaches to the study of courts, the course seeks to highlight intelligent and sound approaches. Particular concern will focus on what assumptions students of courts have made, how evidence has been integrated into their studies, and what a good research design looks like. Satisfies part of the writing requirement if substantial written work is completed. Aut (3). Mr. Rosenberg.

THE LAW OF LAWYERING. 409. Lawyers often suppose that the entire law of professional responsibility is contained in the profession’s codes. However, “other” law (criminal law, tort law, procedural law, securities law, etc.) plays an equally and sometimes more important role in regulating a lawyer’s conduct. This three-credit course will focus on an examination of the ways in which ethics codes and “other” law work together to shape a lawyer’s course of action in different contexts (business transactions, civil litigation, government representation, criminal defense). We also will examine the role of market, educational, and social institutions in the regulation of the legal profession. This course satisfies the professional responsibility requirement for upper-year students. (3). Ms. Meares. [Not offered in 1998-99.]

LAW, SCIENCE AND MEDICINE. 591. (Seminar) This course examines the relationship between law, science and medicine. It will begin with a discussion of the role of science in the courts and the legislatures before addressing specific legal developments. We will focus on a variety of topics including such areas as: human and animal experimentation, genetics, and reproductive technologies. Students may either write a series of three essays over the course of the semester, or one longer paper. Writing credit with permission of instructor. Win (3). Ms. Berg.

THE LAWYER AS NEGOTIATOR. 419. The aim of this course is to investigate the uses of law in negotiations and to develop students’ skills as negotiators. Students will be given a theoretical framework with which to analyze problems of negotia-
tion. They will experiment actively with a variety of negotiating techniques. Special emphasis will be given to ethical issues. Students will be engaged in exercises with simulation materials. Spr. (3). Mr. Gottlieb.

LEGAL HISTORY OF EARLY AMERICA, 1600-1760. 475. This course will explore the history of American law from the founding of the colonies through the onset of the Revolution. Special attention will be paid to the interplay of legal inheritance and ideology; the transformation of legal culture; regional variation; the development of the law of slavery; dispute settlement; gender; the British imperial connection; the role of lawyers; and the ambiguous processes of legal "modernization" and "formalization." The course will emphasize the social and intellectual history of law. Aut (3). Mr. Ross.

LEGAL INTERPRETATION. 516. (Seminar) Many challenges in law come from the difficulty of interpreting words—always incomplete, often old. This seminar explores different methods of resolving interpretive problems: "plain meaning," its cousin textualism, a search for intent ("original," presumed, or imputed), functional analysis, and so on. The seminar will ask how the competing approaches to decoding texts stand up on different criteria, such as consistency with principles of democratic governance (including the contributions of public choice theory) and the philosophy of language. Constitutional and statutory interpretation will receive approximately equal emphasis. Enrollment is limited to 20 students. Completion of the two short papers that the seminar entails satisfies part of the Law School's writing requirement. Aut (3). Judge Easterbrook.

THE LEGAL PROFESSION. 410. This course seeks to give students a basic introduction to the structure, ideology, and functioning of the modern American legal profession, with particular emphasis on the importance of legal ethics in the practice of law. The course introduces students to the traditional conception of the lawyer's roles and responsibilities, examined in the context of the substantive law and ethics regulations governing lawyers. Among other things, we will consider the nature of the lawyer-client relationship, competency, confidentiality, conflicts of interest, and tensions that are created by the lawyer's duties as an officer of the court and as an advocate in an adversary system. We will conclude by reexamining some fundamental questions about who we are and what we stand for as lawyers. Aut (2). Mr. Alberts.

LEGISLATION. 706. An introduction to the federal legislative process and to theories of statutory interpretation, with emphasis on the latter. Major subjects covered include the intellectual history of statutory interpretation in the United States; the respective roles of statutory text, canons of construction, legislative history, administrative regulations, and other interpretive sources; and quasi-statutory topics such as implied causes of action, retroactivity, and severability. Spr (3). Mr. Vermeule.

LITIGATION METHODS. 418. A four-quarter course beginning in the spring quarter of the second year and concluding in the spring quarter of the third year; includes an Intensive Trial Practice Workshop required for third year Clinic students
and offered two weeks prior to the fall quarter. Students may choose to take the course for only the first two quarters including the Workshop. The Litigation Methods course develops legal skills with special emphasis on litigation strategy, pre-trial and trial preparation, and trial and appellate advocacy. Throughout the course a combination of teaching techniques will be employed, including lectures, large and small group discussions, videotaping, simulations, and actual clinical experiences. Special emphasis will be placed on teaching strategic planning and preparation. Actual cases in progress will be used in small groups and large classes to teach the various elements of advocacy. Topics may include negotiation, pleading, discovery, motion practice, voir dire, direct and cross examination, expert witnesses, opening statements, closing arguments, pretrial preparation, post-trial procedure, and appeals. Students will prepare and present actual cases in court under the supervision of the instructors. Students may be provided the following opportunities in actual cases: client and witness interviews, substantial participation in an evidentiary hearing, contested legal arguments, court appearances, strategic planning memos on several cases, preparation of a legal brief or memorandum for submission to court, and participation in discovery. Students are expected to devote between 5 and 10 hours per week to their work on behalf of clients during each of the four quarters. Preference in enrollment will be given to second-year participants in the Mandel Clinic. All students will be certified to appear in court under Illinois Supreme Court Rule 711 during their third year. Evidence is a prerequisite. Students taking Litigation Methods are not eligible to enroll in Trial Advocacy or Major Civil Litigation. Litigation Methods satisfies part of the writing requirement if substantial written work is completed. Aut (2), Spr (2), Win (1), Spr (1). Ms. Conyers, Mr. Heyrman, Mr. Knight, Mr. Schmidt, Mr. R. Stone.

LOCAL GOVERNMENT LAW. 717. This course examines the law regarding provision of public goods and services at the local level. It explores the way in which local government law addresses the issues of what services a local government should provide, which residents should receive those services, who should pay for the services provided, and who should provide the answers to the previous questions. It explores the relationship among federal, state, and local governments, with particular emphasis on judicial analysis of the constitutional and statutory basis of those relationships. Win (3). Ms. Roin.

MAJOR CIVIL LITIGATION. 511. (Seminar) In this practical seminar students are taught proper and effective methods for preparing and presenting major civil litigation in trial and pretrial settings. Emphasis is on the federal courts. Unlike the Trial Advocacy seminar, this seminar covers not only trial presentations but also pretrial proceedings and discovery. It also requires preparation of written materials. Using a complex fact setting, students participate, both as plaintiff and defense counsel, in each of the principal litigation steps: contact by the client; development of the facts; drafting of pleadings; discovery including depositions; motion practice; hearings; and trials. Emphasis is also placed on teaching students how to perfect the appellate record at the trial court level. The seminar in the second quarter focuses on particular issues which arise in major civil litigation. For example, the
second quarter concentrates on the effective presentation of expert witnesses, including economic experts, accounting experts, and market survey experts. The seminar is taught by a federal trial judge assisted by experienced trial lawyers. Enrollment is limited to sixteen students. Students should have taken Evidence. Students taking Major Civil Litigation are not eligible to enroll in Trial Advocacy or Litigation Methods. The seminar extends over two quarters. Satisfies part of the writing requirement if substantial written work is completed. Win (2), Spr (2). Judge Holderman.

MESOPOTAMIAN LAW. 596. (Seminar) This seminar will examine the ancient near eastern Sumerian, Babylonian, and Assyrian law collections (all in English translations) from the third, second, and first millennia B.C., and explore questions relating to the legislative and judicial significance of these collections. The materials will be placed within their political, social, and economic settings, and will be explored from the perspectives of comparative material from other ancient and modern legal systems. No knowledge of ancient languages is required for the course. (3). Ms. M. Roth. [Not offered in 1998-99.]

NATIONAL SECURITY. 707. This course examines the concentration of foreign policy-making powers in the executive and the conflict between protection of individual liberties and national security concerns. Topics include: war powers; the role of international law in U.S. courts; the power to make international agreements; regulation of aliens; restrictions on U.S. nationals abroad; covert operations and intelligence gathering; the justiciability of national security issues; national security restrictions on information, expression and association; security clearance procedures; and sexual orientation as a disqualification for government service. Spr (3). Ms. Hasday.

NATURAL RESOURCES LAW. 712. All valuable natural resources such as water, fish, wildlife, forests, and rangelands, start out in common ownership. Lest they be over-utilized, they must either pass from public ownership into private hands or else their consumption must be carefully regulated. Natural resource regulation in the United States has followed both paths. Some resources, such as oil and water, are governed by well-understood mechanisms that move them into private ownership. Others, such as wildlife and the public forest lands, remain in common ownership in a regulated state. This course will survey the law governing natural resources in the United States, including both the basic mechanisms for privatization and public management of these resources. Particular attention will be paid to the regulation of the vast public lands in the United States. Spr (3). Mr. Rachlinski.

NEGOTIATION THEORY AND PRACTICE. 467. The course provides an overview of the theory and practice of negotiation. Along with a review of the classic literature in the field, the course will emphasize the development of skills in analyzing negotiation situations, inventing mutual gains, and reaching agreements. Students will be required to negotiate agreements in a variety of substantive areas. Particular attention will be directed to domestic and international multi-issue, multi-party negotiations and the role of culture in negotiation. Win (3). Mr. Webber.
NEO-ARISTOTELIAN POLITICAL THOUGHT. 703. (Seminar) An examination of different modern approaches to political thought that take their point of departure from Aristotle. This will include: the early Marx and contemporary humanist Marxisms (e.g. the Praxis group); modern Thomisms of various sorts, both liberal (John Courtney Murray, Jacques Maritain) and less liberal (John Finnis, Robert George); British perfectionist socialist Aristotelianism (T. H. Green, Ernest Barker); and the "capabilities approach" (Amartya Sen, and some of my own work). How do concepts of human flourishing and truly human functioning shape a distinctive political ideal? What does it mean to give priority to "the good" in this way? Is there a way of reconciling such an approach with liberal or political/liberal ideals?

Open to Ph.D. students in Philosophy, Divinity, and Political Science, law students with an undergraduate major in philosophy or equivalent preparation, and others by permission of instructor. (Those seeking permission should write Prof. Nussbaum a letter.) Aut (3). Ms. Nussbaum.

NONPROFIT ENTITIES. 432. This course will provide a broad introduction to the special legal and conceptual problems of nonprofit organizations. The course will include a description of the nonprofit universe and the theoretical rationales for the nonprofit sector. The course will also include coverage of such topics as organization and governance, fiduciary obligations of officers and directors, investment powers, regulation of charitable solicitation, and the enforcement powers of donors, the attorney general, and others. (3). Mr. Fischel. [Not offered in 1998-99.]

OIL AND GAS. 453. The basic law relating to the exploration, production and development of oil and gas. The principal topics covered are: 1) ownership interests in natural resources, 2) leasing and field development, 3) the classification and transfer of production interests, and 4) regulation of field operation—pooling, unitization and environmental controls. Taxation and post-production marketing controls will not be covered. (3). Mr. Helmholz. [Not offered in 1998-99.]

PARENT, CHILD, AND THE STATE. 471. This course will examine the legal rights of parents and children, and the state's authority to define and regulate the parent-child relationship. The course will devote considerable attention to the reliance of courts on the due process clause to identify which familial relationships are protected and under what circumstances state intervention in those relationships is justified. Among the topics discussed will be children's and parent's rights of expression and religious exercise, termination of parental rights and adoption, paternity rights, the state's response to child abuse and neglect, the role of race in defining the family, and the legal issues raised by the development of new reproductive technologies. (3). Ms. Buss. [Not offered in 1998-99.]

PATENTS AND TRADE SECRETS. 459. This course focuses on patent law and, to a lesser extent, on trade secret law. Though the course is primarily concerned with legal doctrine, it will deal with how intellectual property rules promote and sometimes deter innovation. Most of the time will be devoted to U.S. law but international patent cooperation efforts, as well as key differences between the U.S. and foreign patent systems, will also be discussed. Spr (3). Mr. Dam.
POLITICAL PHILOSOPHY. 708. This year we will focus on the idea of "political liberalism," studying John Rawls's book and related work by supporters and critics of his ideas. Topics will include the relationship between Political Liberalism and A Theory of Justice; the difference between political and comprehensive liberalisms (of the sort defended by John Stuart Mill and Joseph Raz); the role of religious discourse in political liberalism; political liberalism's treatment of the family and sex equality. Spr (3). Ms. Nussbaum.

POLITICS OF WELFARE. 552. (=SSA 460, =Pol Sci 340). (Seminar) This seminar explores the evolution of welfare policy in the U.S. with particular attention to theoretical explanations for the dynamics that motivate policy change. Alternative approaches to understanding the political, economic, institutional and social dynamics that influence poverty policy and the implications of these dynamics for welfare policy in the current period will be considered. Satisfies part of the writing requirement if substantial written work is completed. Spr (3). Ms. Brodkin.


PROBLEMS IN SUPREME COURT HISTORY. 572. (Seminar) Law school studies of the work of the Supreme Court of the United States focus too much on doctrinal analysis and constitutional theory. This seminar focuses instead on the Court from a behavioral perspective and utilizes archival collections available at the Manuscript Division of the Library of Congress and various university repositories. Students are expected to formulate a feasible research project with the aid of the instructor, arrange to examine the relevant archives, and to produce a substantial research document. Satisfies part of the writing requirement if substantial work is completed. (3). Mr. Hutchinson. [Not offered in 1998-99.]

PROBLEMS OF INTERNATIONAL LAW: ETHNIC AND REGIONAL CONFLICTS. 576. (Seminar) The seminar will address juridical aspects of the management of ethnic and regional conflicts with special emphasis on the situation in Ireland, Cyprus, Kurdistan, the former Yugoslavia, and the conflict between Israel, her Arab neighbors, and the Palestinians. It will grapple with the circumstances that warrant intervention by the United States and by the United Nations to provide humanitarian assistance and to protect peoples subjected to genocidal attacks. It will consider issues involving the use of force as well as credible collective enforcement strategies. (By permission of the instructor, limited to fifteen students.) Satisfies part of the writing requirements if substantial written work is completed. (3). Mr. Gottlieb. [Not offered in 1998-99.]

PUBLIC CHOICE. 713. This course is about the relationship between modern perspectives on voting and interest groups, on the one hand, and legislation and judicial interventions on the other. The problems associated with collective decision-making
illuminate interactions between legislatures and judges, democracies attempts to solve certain problems (from health care to drunk driving to plant closings), and the roles played by a variety of legal doctrines and constitutional institutions (from takings law and standing and unconstitutional conditions to line-item vetoes and term limits and balanced budget amendments). In short, we will arm ourselves with the literature on interest groups and democratic decisionmaking in order to explore a wide variety of social problems and legal rules. Spr (3). Mr. Levmore.

PUBLIC LAND AND RESOURCES LAW. 445. An introduction to the law governing public lands in the United States, including the preservation and the exploitation of the natural resources on those lands. The course will deal with the administrative structures and the legal doctrines that have been developed to control use of the public lands, and it will take up selected subjects to illustrate how the system works. Among possible subjects for inclusion are: the national parks, timber policy, grazing rights, mining law, the protection of wildlife, and wilderness preservation. (3). Mr. Helmholtz. [Not offered in 1998-99.]

RACISM AND THE LAW. 543. (Seminar) This seminar will examine current problems in American race relations and the role the law has played in structuring the race debate. How have past and present legal approaches to racism fared? Has the continued emphasis on statutory solutions to racism impeded the development of potentially richer political, economic, and cultural approaches, and if so, can minorities afford to shift their emphasis given the continued prevalence of racism in society? Can, and should, the existing concepts of American jurisprudence provide racial minorities more than formal equality through the courts? Students will prepare papers that evaluate how the legal system has dealt with particular incidents of racism and that discuss the comparative merits of litigation, legislation and market solutions to problems of institutional racism in American society. Satisfies part of the writing requirement if substantial written work is completed. Aut (3). Mr. Obama.

RATIONALITY AND PRACTICAL REASON. 517. (Seminar) This seminar will discuss the ideas of "practical reason" and "rationality," in an effort to figure out what it means for a legal or policy decision to be "well-reasoned" or "rational." It will explore utilitarian ideas of rationality, and recent challenges to those ideas. We will also discuss competing theories of legal reasoning. The seminar will examine some practical issues too, including the allocation of taxpayer money to protect against risks to life and health. (3). Mr. Sunstein. [Not offered in 1998-99.]

READINGS IN LEGAL THOUGHT. 570. (Seminar) Students in this seminar will read a selection of important works in the development of Anglo-American legal thought from the eighteenth century to the present. In the past, authors have included Blackstone, Bentham, Mill, Holmes, Llewellyn, Frank, Bickel, Calabresi, Posner, MacKinnon, and members of the Critical Legal Studies movement. Students will submit three comments or questions on each reading prior to its being discussed in class. Grades will be based on those submissions and on class participation. Limited to fourteen students. Satisfies part of the writing requirement if substantial written work is completed. (3). Judge Ginsburg. [Not offered in 1998-99.]
RECENT LITERATURE ON COURTS. 544. (Seminar) This seminar explores important new works in the social science literature on courts. Its objective is to help participants become fully informed about the most recent and important social science work on courts. Because it aims to provide participants with a critical perspective on new work, solid grounding in the literature, as obtained in Law 513 (Law & Politics: U.S. Courts as Political Institutions), is a prerequisite. The reading varies from year to year, depending on what has been written. Win (3). Mr. Rosenberg.

REGULATED INDUSTRIES. 462. This course addresses state and federal regulation of price, quantity, and entry, with an emphasis on the regulation of natural monopolies, cost-of-service rate-making, rate design, and the problem of partial competition within a regulated environment. While the scope of the course precludes a detailed investigation of any particular industry or system of regulation, particular attention is paid to electrical generation and transmission, natural gas, and telecommunications, with exposure to problems of other network industries, such as transportation, broadcasting and electronic payments. This course will emphasize the substantive law of regulated industries, and will pay scant attention to the procedural questions addressed in Administrative Law, which should be taken at some point, but which is not a prerequisite for this course. Win (3). Mr. Picker.

REGULATING FAMILY, SEX, AND GENDER. 443. There are many ways in which the legal system regulates sexuality, sexual identity, and gender. This course will consider such regulation in a number of substantive areas, including marriage laws, custody rules, sodomy laws, and constitutional rights such as free speech, equal protection, and substantive due process. Readings include cases and articles from the legal literature together with work by scholars in other fields on current questions of identity and other theoretical issues. (3). Ms. M. Becker and Mr. Knight. [Not offered in 1998-99.]

REGULATION: WHAT WORKS AND WHAT DOESN'T. 542. (Seminar) One of the most sharply disputed subjects in the area of law and government has to do with the likelihood that government regulation will actually serve its intended purposes. This seminar will explore a variety of efforts by government to regulate private conduct in order to solve social problems. The principal focus will be on social regulation, including such areas as occupational safety and health, communications, safety and health generally, the environment, and discrimination on the basis of race and sex. Principal attention will be given to three topics: (1) what sorts of arguments justify government intervention in these areas? What sort of presumption should be given to "private" ordering?; (2) under what circumstances have regulatory programs actually served their intended purposes?; and (3) is it possible to draw some general conclusions about the relationship between institutional design and successful regulation? The seminar will be highly interdisciplinary, drawing on political theory, law, economics, and empirical work. The ultimate goal is to provide a set of guidelines by which to assess those problems of social regulation that are most likely to arise in the next generation. Satisfies part of the writing requirement if substantial written work is completed. (3). Mr. Sunstein. [Not offered in 1998-99.]
REMEDIES. 414. This course examines the scope of legal and equitable remedies to determine how effective they are in practice. The goal of this course is to emphasize matter not systematically covered elsewhere. The main topics are: (1) the object of an award of damages (including punitive damages), what it does and should achieve; (2) restitutionary remedies to prevent unjust enrichment; (3) injunctive remedies and their enforcement through ancillary remedies; (4) the role of legislated remedies. We will pay particular attention to equitable remedies that cut across and interact with substantive fields of law ranging from intellectual property to civil rights. (3). Ms. Meares. [Not offered in 1998-99.]

RESEARCH IN AMERICAN LEGAL HISTORY. 547. (Seminar) This seminar provides an opportunity for research and writing in American Legal History. The seminar will spend several weeks exploring different methods of doing legal history. Students will then select a topic for research, preparing first an oral report and, later, a final paper. Writing credit offered for papers of appropriate scale and originality. Win (3). Mr. Ross.

RESEARCH IN ENGLISH LEGAL HISTORY. 549. (Seminar) The seminar provides an opportunity for intensive research and writing in the legal history of England. Enrollment is small, research is supervised, and students are encouraged to produce several drafts. The object is to produce work of publishable quality. The first meetings will deal with bibliographic questions and discussion of selected topics designed to give students a general familiarity with the sources. The questions suitable for investigation include: changes in the jury system, relations between the common law and its rivals; comparison of English and Continental law, development and scope of various rules of evidence, the development of the right to defense counsel and other safeguards in the criminal process, how a legal system confronts demands for legal change. Prerequisite: Law 476, Development of Legal Institutions, or the permission of the instructor. Writing is likely to extend over the winter and spring quarters. Satisfies part of the writing requirement if substantial written work is completed. Win (3). Mr. Helmholz.

RIGHTS IN EUROPE. 625. (Seminar) This seminar will consist of two parts. Part one will cover the structure and selected jurisprudence of the European Human Rights system, including the provisions of the European Convention on Human Rights and Fundamental Freedoms and the caselaw of the European Commission and Court of Human Rights. Part two will cover the emerging relationship between human rights and the European Union, and consider the EU’s treatment of citizenship, migration and discrimination issues. Win (3). Ms. Bhabha.

ROMAN LAW. 593. (Seminar) An outline of the sources and procedure of Roman private law, followed by an examination of the Roman institutional system, the basis of most modern civil law codes. Particular emphasis will be given to property and to obligations (contracts and torts). The course is intended to develop skills in analyzing legal problems according to the processes of the Roman civil law, in contrast with those of the common law, and does not purport to give a comprehensive treatment of its detailed workings. No knowledge of Latin is required for the course.
Enrollment is limited to twenty students. Satisfies part of the writing requirement if substantial written work is completed. Spr (3). Mr. Epstein.

**SECURED TRANSACTIONS. 422.** This course deals with the many legal issues that come into play when there collateralized loans for which the collateral is personal property. We focus on Article 9 of the Uniform Commercial Code, the Bankruptcy Code, and other related laws. This form of lending is central to our economy and the applicable legal doctrines are ones that every corporate and commercial lawyer should firmly grasp. The course is a useful, though not absolutely essential, preparation for Bankruptcy. Aut (3). Mr. Baird.

**SELECTED TOPICS IN CHILD DEVELOPMENT AND THE LAW. 625.** (=Psy 349, SSA 537) (Seminar) To a large extent, the law governing children’s rights has developed without regard to children’s cognitive, emotional, and social development. This seminar will consider what role the work of developmental psychologists should play in shaping the rights afforded to children, including their right to legal representation. Enrollment is limited to twenty students and a paper will be required. (3) Ms. Buss. [Not offered in 1998-99.]

**SELECTED TOPICS IN FEDERAL INCOME TAXATION. 558.** (Seminar) This seminar will examine a number of current and perennial issues in taxation from theoretical, practical, and policy perspectives, with particular emphasis on the survival of common law concepts in a codified field. Potential topics (which are subject to change as new issues arise) include tax protesters, the proliferation of hybrid financial instruments, asset securitization transactions, the rise of information reporting, and the audit process. Participants will be expected to complete a substantial paper on one of the topics discussed (or another topic chosen with the instructor’s consent). Taxation of Individual Income is a prerequisite. Satisfies part of the writing requirement if substantial written work is completed. (3). [Not offered in 1998-99.]

**SENECA. 621.** (Seminar) A study of the Roman politician and Stoic philosopher, one of the most complex and influential thinkers of the Roman world. Placing him in the context of both of the Claudian and Neronian courts and the history of Stoic philosophy, we will read in Latin *On Anger* (selections), selected *Moral Epistles*, and one tragedy, probably *Hercules Furens*. Win (3). Ms. Nussbaum.

**SEX EQUALITY. 488.** This course in practical jurisprudence inquires into the relationship between sex inequality in society and sex equality under law. The dominant paradigm of legal equality in terms of sameness and difference is examined and an alternative of dominance and subordination is considered. Concrete issues including comparable worth, sexual harassment, rape, abortion, prostitution, family, pornography, and gay and lesbian rights are examined in sex equality terms. Questions such as the legitimacy of the “intent” requirement in Constitutional cases and the fairness of the burden of proof under Title VII are also considered. Race and class are considered throughout. The course canvasses, examines, criticizes, and aims to expand the law of sex discrimination toward meaningful civil equality for women. Spr (3). Ms. MacKinnon.
SEXUAL HARASSMENT. 585. (Seminar) An in-depth examination of critical issues in this quickly-developing area of sex discrimination law in employment and education. Topics include what makes harassment gender-based, unwelcomeness, standards for hostile environment, institutional accountability (employer and educational), racial harassment comparisons, and same-sex harassment. Emphasis on theoretical analysis, doctrinal development, practical applications, and social change. Prerequisite: Sex Equality (previous or contemporaneous). Spr (3). Ms. MacKinnon.

SLAVERY AND FEDERALISM. 598. (Seminar) This seminar will examine the institution of American slavery through the lens of American federalism. Topics will include: the founding debates and constitutional compromises concerning slavery, the slave trade and the law of nations, the choice of law issues implicated by slavery, and the Dred Scott decision. Students will be asked to write thought papers in response to readings. To take this seminar, students must have taken, or be taking, Constitutional Law I. (3). Mr. Goldsmith. [Not offered in 1998-1999.]

SOCIAL SCIENCE RESEARCH AND LAW. 595. (Seminar) This seminar examines social science research on law-related issues and the influence of this research on legal decisionmakers. Among the topics that the seminar may consider are: pornography, violence in the media, the reliability of eyewitness identification, jury selection, jury size, the comprehensibility of jury instructions, the administration of the death penalty, the death penalty’s possible deterrent effect, the success or failure of programs for rehabilitating criminals, the effects of segregated schools and of efforts to remedy segregation, the harms and benefits of single-sex schools, and the prediction of dangerousness. During the quarter before the seminar, every student will be expected to attend an organizational meeting, select a paper topic, and begin work on a paper. Every student will then be expected to conduct a one-hour discussion of his or her topic during the seminar. No prior training in statistical methodology or in the social sciences is expected. Satisfies part of the writing requirement if substantial written work is completed. (3). Mr. Alschuler. [Not offered in 1998-1999.]

STATE AND LOCAL FINANCE. 622. (Seminar) State and Local Finance will examine the implications of choosing between the various revenue sources available to states and localities. Students will be asked to consider questions of “interjurisdictional equity,” “intergenerational equity,” and “vertical equity” in the context of topics such as public school finance, the use of municipal bonds, tax competition and tax cooperation. Spr (3). Ms. Roin.

STRUCTURING VENTURE CAPITAL AND ENTREPRENEURIAL TRANSACTIONS. 714. This course covers the tax and legal principles applicable to a series of interesting, complex, current entrepreneurial transactions, utilizing venture capital or private equity financing, including (1) a new business start up, (2) a growth equity investment in an existing business enterprise, (3) a leveraged buyout of a private or a public company (including a going-private transaction), (4) use of a flow-through tax entity such as an S corporation, a partnership, or an LLC, for a variety of venture capital or private equity financed transactions, (5) a restructuring of an existing enterprise to provide better incentives to key executives, (6) devising an equity-based executive com-
pensation program, (7) a restructuring or workout (in or out of bankruptcy) for the troubled over-leveraged enterprise, (8) devising an exit scenario for the successful venture capital financed enterprise (such as an IPO, SEC rule 144 sales, or a sale of the company), (9) utilizing an NOL in a venture capital or LBO deal, and (10) forming a new venture capital, LBO, or private equity fund.

Substantive subjects covered include federal income tax, securities regulation, corporate law, partnership law, LLC law, bankruptcy law, fraudulent conveyance law, and other legal doctrines and accounting rules relevant to entrepreneurial transactions (including use of common and preferred stocks, convertible debentures and convertible preferred, warrants, and options). The course reviews these tax, legal, and accounting principals in a transactional context and also considers their policy underpinnings and likely future evolution. There will be an examination (no paper).

There are no specific prerequisites because the appendix to the course book plus assigned supplementary readings contain adequate precedents for an understanding of the material covered by the course. However, Taxation of Individual Income is strongly recommended and Taxation of Business Enterprise I is desirable. In addition, knowledge of corporate law, securities regulation, bankruptcy, and accounting are helpful. Spr (3). Mr. Levin and Mr. Rocap.

SYMPOSIUM: FINANCIAL REGULATION. 455. (= GSB 538) This course will address a number of advanced topics in the regulation of financial markets and institutions, including banking firms and securities, and commodities and futures markets. The first four meetings will consist of lectures on the overall subject matter of the seminar. The remainder of the course will consist of the presentation of student papers on selected topics approved by the instructors and prepared under their supervision. Representative topics include treasury auctions, jurisdictional conflicts between the SEC and the CFTC, regulation of dual trading on exchanges, the pros and cons of open outcry markets, restrictions on trading practices on the floors of exchanges, regulation of off-exchange trading and hybrid instruments, clinical studies about the relationship among laws and developing financial markets and exchanges, regulatory approaches to ensuring solvency, regulatory efforts to expand access to public markets, risk-based deposit insurance premiums, risk-based capital adequacy rules, bank closure and failure regimes, international banking supervision, the dual banking system, and the analysis of systemic risk in financial markets. Satisfies part of the writing requirement if substantial written work is completed. Win (3). Mr. Miller.

TAX REFORM. 623. (Seminar) This seminar will explore current proposals for comprehensive tax reform, including proposals to reform the income tax, such as the Comprehensive Business Income Tax, and proposals to adopt a consumption tax, such as the Flat Tax, the retail sales tax, and the USA tax. The seminar will begin by exploring the differences between taxation of income and consumption and then discuss the details of the various reform proposals, including the economic, distributinal, administrative effects of the various proposals. A substantial written paper will be required. Introductory Taxation is a prerequisite. Win (3). Mr. Weisbach.

TAXATION OF BUSINESS ENTERPRISES I. 448. This course examines income tax aspects of the formation, operation, liquidation, and transfer of business enterprises. The focus of the course will be on the corporate tax, with occasional atten-
tion to partnership tax issues. (Tax-free corporate reorganizations are covered in Taxation of Business Enterprises II, rather than in this course.) Win (3). Mr. Weisbach.

TAXATION OF BUSINESS ENTERPRISES II. 449. This course surveys the taxation of reorganizations and other adjustments involving continuing businesses: mergers, asset and stock acquisitions and other similar shifts of ownership and control, recapitalizations, and divisions. Points of focus are the recognition of gain and loss and the survival and allocation of tax attributes (basis, earnings, and loss carryovers) in these transactions. Spr (3). Mr. Weisbach.

TAXATION OF FINANCIAL INSTRUMENTS. 709. This course will incorporate both technical and policy perspectives when exploring the rules for the taxation of transactions involving financial instruments. It is not just the world of finance that has been transformed by the explosion of financial product offerings; the tax system has been shaken to its core. This course will look at a selection of traditional and non-traditional products to see the challenges they present, how the IRS/Treasury has tried to meet them, and where the solutions fall short. Students will learn how to use a spreadsheet program as part of the course. Spr (3). Ms. Roin.

TELECOMMUNICATIONS LAW. 704. This course will examine the basic legal framework for the regulation of radio, broadcast television, cable, telephone, and, where appropriate, the Internet. After learning the basics, we will focus on some specific problem areas, including the regulation of indecent speech; compelled access in its various forms; and the FCC’s recent auctions of spectrum space. This material significantly overlaps Communications Law, and students therefore may take only one for credit. Aut (3). Mr. Lichtman.

THEORETICAL FOUNDATIONS OF THE REGULATORY STATE. 571. (Seminar) Why does American government do what it does? What should it do instead? This seminar will focus on these questions in the context of an inquiry into the notions of democracy, freedom, and welfare that underlie the modern state. It will place particular emphasis on the law governing the environment, occupational safety and health, and consumer product safety. Though much of the discussion will be theoretical, there will also be attention to practical questions of reform. (3). Mr. Sunstein. [Not offered in 1998-99.]

THEORIES OF INTERNATIONAL JURISDICTION. 589. (Seminar) Although it has become commonplace to recognize that the reach of national regulation often cannot stop at the physical borders of the modern State, it is far more difficult to define the acceptable scope of jurisdiction over activities outside the State that affect activities or persons within it. Theories relying on effects within the regulating State, while becoming more accepted in the international community at large, continue to give rise to significant diplomatic frictions, and the same is true of nationality-based theories. In this seminar, we will examine both the existing U.S. jurisprudence on the subject, with particular emphasis on economic regulation, as well as perspectives from other countries. A substantial paper will be required, the completion of which will satisfy part of the writing requirement. (3). Judge Wood. [Not offered in 1998-99.]
TOPICS IN ADVANCED LAW AND ECONOMICS. 554. (Seminar) This seminar will address a miscellany of issues drawn from recent literature in law and economics, including topics involving insurance law, contracts, the economics of litigation, and international trade. It is intended primarily for students who have taken Price Theory (Economics 301/Law 436) or the equivalent. You should feel comfortable reading the technical literature (employing basic tools of econometrics, multivariate calculus, and game theory). (3). Mr. Sykes. [Not offered in 1998-99.]

TOPICS IN CORPORATE GOVERNANCE. 587. (Seminar) This seminar will explore selected topics in corporate governance that have been the subject of recent institutional investor activism. The seminar begins with an overview of the rise of institutional investor activism and a review of basic agency theory. It then explores various proposals to change the duties, composition, and operation of the board of directors, looking at both academic proposals and the corporate governance plans adopted by large public companies. Following this discussion students will have the opportunity to participate in a board meeting run by a leading Delaware attorney, and will subsequently draft complaints suing the board they sat on for breach of fiduciary duty. Subsequent units will focus on institutional investor reform campaigns at particular companies, the activities of associations of institutional investors, executive compensation, the role (if any) that should be played by employees and other stakeholders in corporate governance, and the question of whether corporations have a social responsibility to local communities. The seminar will conclude by considering two proposals for new directions in corporate governance that have lead to intense debate in both academia and the practicing bar. Students will be required to prepare 2 short (2-3 page) comments, as well as a more substantial paper of 10-15 pages which they will present to the seminar. Grades will be based half on written work and half on class participation. Limit 15 students (any additional students who wish to meet the upper class writing requirement through this seminar may register separately for the seminar). Basic corporations is a prerequisite. (3) Ms. Bernstein. [Not offered in 1998-99.]

TRADEMARKS. 457. This course deals with federal and state laws designed to protect trademarks and to protect against unfair competition, including misappropriation, false and deceptive advertising. The course also examines FTC regulation of advertising and state laws protecting rights to publicity. Aut (3). Mr. Landes.

TRIAL ADVOCACY. 512. (Seminar) A study of advocacy in civil and criminal trials. This intensive course teaches trial preparation and strategy in a courtroom setting. The primary teaching method is student participation followed by instructor critique and demonstration. All aspects of a trial are covered, as procedural and substantive principles of law are presented through litigation techniques. Students in the seminar should have taken Evidence or be taking Evidence concurrently. Completion of this seminar partially satisfies requirement for admission to trial bar of the U.S. District Court, Northern District of Illinois. Students taking Trial Advocacy are not eligible to enroll in Litigation Methods or Major Civil Litigation. The seminar will extend over two quarters. Win (2), Spr (2). Mr. Howlett, Judge Wolfson, and Ms. Wolfson.
TRUSTS AND ESTATES. 452. This course examines various means of family wealth transmission: inter vivos transfers, trusts, wills, and the operation of intestacy statutes. This course will consider both the Illinois Probate Code and the Uniform Probate Code as a means of focusing on both pragmatic and policy issues. Win (3). Mr. Helsingener.

TYRANNY OF ABSTRACTION. 535. (Seminar) This seminar will examine the proper domain of abstract reasoning in substantive criminal law. In particular, we will evaluate the use of theory and non-theoretical moral intuitions as alternative mechanisms for bringing incompletely specified doctrines (e.g., proximate causation, necessity, duress, self-defense, and the voluntary act requirement) to bear on particular facts. Readings will include defenses and critiques of abstract reasoning in moral philosophy and in law generally. We will also assess the adequacy of voluntarism, consequentialism, and other prominent theoretical accounts of substantive criminal law. Satisfies part of the writing requirement if substantial written work (additional 25-page paper) is completed. (3). Mr. Kahan. [Not offered in 1998-99.]

THE UNITED STATES AND THE WORLD ECONOMY. 702. The course will address policies that the U.S. government has pursued and should pursue with regard to the international economy. Using a methodology stressing the normative and positive considerations that govern public decisions, the seminar will confront contemporary issues concerning international trade, investment, exchange rates, finance, technology, immigration and development. The emphasis will be on the policies adopted, both what they are and what they should be, and especially why there is a difference. The course is designed to supplement, rather than substitute for, substantive law courses in the various subject matter areas covered. Aut (3). Mr. Dam.

U.S. CONGRESS AND THE COURTS. 464. An understanding of legislative process and statutory interpretation is increasingly necessary as the influence of statutory law broadens to affect a wide range of legal issues. Solutions to many problems facing today's lawyer involve either a knowledge of how legislation develops in Congress or an understanding of how laws will be interpreted by the judicial and executive branches. Focusing on the federal level, we will examine the contemporary legislative process, including the role of interest groups and the effect of lobbying; the use of legislative history in statutory interpretation; and the legal issues implicated by recent legislative reform proposals. We will also explore topics such as the constitutional law and political theory of representation, campaign finance reform, and term limit proposals. These issues will be discussed from legal, economic, and political perspectives, and theoretical conclusions will be applied to practical examples of actual legislation. (3). Ms. Garrett. [Not offered in 1998-99.]

THE U.S. SUPREME COURT. 503. (Seminar) This seminar will involve the study of eight selected cases currently on the docket of the Supreme Court of the United States. The members of the seminar, after considering the briefs filed with the Supreme Court by the actual parties to the cases, will present oral arguments and discuss the cases, and will draft judicial opinions. Each student will be responsible for writing at least two opinions concerning the cases that they did not argue. Enrollment will be limited, and attendance will be required. Satisfies part of the writing requirement if substantial written work is completed. Aut (3). Mr. Rubinstein.
VOTING RIGHTS AND THE DEMOCRATIC PROCESS. 420. This course will examine the history of voting rights law in the United States, as well as the broader issues surrounding various systems of representative democracy: How should the courts balance the demands of majority rule with the desire to protect minority voices? Does the Voting Rights Act, as amended, promote minority voices, or simply segregate them from the larger political discourse? Are there alternative models, such as cumulative voting, that would better serve majority and minority alike? Do systems of more "direct democracy"—such as ballot initiatives and referenda—empower voters or undermine a more thoughtful deliberative process. And does voting even matter in a complex, modern society where campaigns are dominated by money and issues are framed by lobbyists? In lieu of an exam, students will write a paper that may satisfy part of the writing requirement. Win (3). Mr. Obama.

WORKSHOP IN CRITICAL LEGAL THEORY. 526. (Seminar) In this workshop, scholars will present and discuss their work in critical race, feminist, and lesbian-gay legal theory, considering how changing views of race, gender, and sexuality may reshape law and legal institutions. Students must prepare one- or two-page critiques of each of the six papers presented, and each student must also prepare a paper of his or her own on a specific legal issue or a broader, theoretical issue. Satisfies part of the writing requirement if substantial written work is completed. (3) Ms. M. Becker. [Not offered in 1998-99.]

WORKSHOP IN LAW AND ECONOMICS. 560. (Seminar) This workshop is devoted to the intensive examination of selected problems in the application of economic reasoning to a wide variety of legal questions. Workshop sessions will be devoted to the presentation and discussion of papers by students and by members of the faculty of the University of Chicago and of other institutions. The workshop will meet every other week throughout the academic year. Students enrolled in the workshop will receive five credits for satisfactory completion of a substantial paper. Satisfies part of the writing requirement if substantial written work is completed. Aut (2), Win (2), Spr (1). Mr. Fischel, Mr. Landes.

WORKSHOP IN LAW AND PHILOSOPHY. 615. (Seminar) This workshop, which represents a fusion of the faculty law-philosophy group and the existing legal theory workshop, will meet throughout the year, on alternate Mondays, with a total of about twelve meetings, mostly in the fall and winter. There will be a theme running throughout the year, and we will pursue that theme through both philosophical and legal readings, with a range of visiting speakers and some sessions directed by local faculty. The theme in 1998-9 will be autonomy. We will pursue philosophical readings on the topic, both historical and modern, and examine the implications of philosophical work for issues in constitutional law, criminal law, health law, and other areas. Guest speakers already scheduled include Ronald Dworkin, Jerome Schneewind, Andrews Reath, Dan Brock, Alan Wertheimer, Marilyn Friedman, and Elizabeth Kiss. Students will write short responses to each presentation, and a longer seminar paper. Enrollment is limited to law students and philosophy Ph.D. students, and numbers are limited. Law students who wish to enroll should contact David Strauss, and philosophy students should contact Martha Nussbaum, by October 1. Aut (1), Win (1), Spr (1). Ms. Nussbaum, Mr. Strauss.
WORKSHOP IN LEGAL THEORY. 563. (Seminar) This seminar is an opportunity to write, under supervision, a substantial paper of the sort that a legal academic might do, while attending workshops given by leading scholars in law and allied fields. The workshop will meet as a group several times during the year to hear papers given by invited speakers, often from other universities. The requirements are that students attend those sessions and complete the seminar paper. Paper topics will be suggested but students are free to select their own. The paper should, however, be directed more toward a theoretical subject than a technically legal or doctrinal one. Enrollment may be limited. (3). Mr. Strauss. [Not offered in 1998-99.]

COURSES IN OTHER DEPARTMENTS

Students are also reminded of the opportunity to take up to six course hours of work for Law School credit in other departments and schools of the University. The conditions of the exercise of this option are explained in the section on Requirements and Grading. Courses that may be considered under this option include:


INDEPENDENT STUDY

INDIVIDUAL RESEARCH. 499. In addition to the opportunities for writing research papers afforded in many of the seminars listed, second- and third-year students may earn course credit by independent research under the supervision of a member of the faculty. Such projects (commonly known as “499 papers”) are arranged by consultation between the student and the particular member of the faculty in whose field the proposed topic falls.

Special rules regarding credit, permission, and requirements for submission of written work are set forth in the regulations of the Law School. Students wishing to register for 499 credit should consult the Dean of Students. Students are encouraged to submit outstanding papers for publication in the Law Review or in other legal periodicals.

Before being granted permission to register for 499 work the student must submit a précis of his or her proposed study to the supervising faculty member. In considering possible fields or topics for such projects, students may wish to consider seminars described above but listed as not offered in the current year and to consult the instructors concerned as to the possibility of independent work in those fields.
The following is a non-exclusive listing of most faculty members' preferred areas for supervising written work.

Albert W. Alschuler: criminal law; criminal procedure (especially sentencing, search and seizure, and juries); American legal theory.
Douglas G. Baird: bankruptcy; commercial law; law and economics; game theory.
Mary E. Becker: family law; employment discrimination; feminism; law and social change; trusts and estates.
Lisa E. Bernstein: contracts; alternative dispute resolution.
Locke E. Bowman: death penalty; civil rights law; habeas corpus.
Emily Buss: civil procedure; juvenile law; family law; evidence.
Herschella Conyers: juvenile law; criminal law; gender issues involved in those areas.
David P. Currie: constitutional law; federal jurisdiction.
Kenneth W. Dam: international trade; comparative public law; intellectual property.
Frank H. Easterbrook: antitrust, securities, and interpretation.
Richard A. Epstein: any common law subject; property-related constitutional; issues; law and economics.
Elizabeth Garrett: legislative process; federal budget process; positive political theory; federal tax policy; alternative tax systems.
Jack Goldsmith: conflict of laws, international law, foreign affairs law, federal courts, and cyberspace.
Gidon A. G. Gottlieb: public international law; legal theory; international human rights issues; issues involving foreign conflicts; lawyer’s role as negotiator.
Jill E. Hasday: anti-discrimination; employment discrimination; family law; national security law; women’s legal history; 19th-century legal history.
R. H. Helmholz: English legal history; continental legal history; real property; personal property.
Mark J. Heyrman: rights of the disabled—particularly, the rights of the mentally handicapped, both in institutions and in the community; mentally handicapped in the criminal justice system, including fitness to stand trial, insanity defense, sexual offender laws.
Joseph Isenbergh: domestic and international income and transfer taxation; corporate finance; tax policy; federal jurisdiction.
Dan Kahan: substantive criminal law; constitutional law; administrative law; federal jurisdiction; law and political theory.
John Knight: civil rights litigation; law and social change; homelessness.
William M. Landes: law and economics; intellectual property; torts.
Saul Levmore: public choice, torts, corporations, corporate tax, comparative law.
Douglas Lichtman: intellectual property including copyright, trademark, and patent; information economics; telecommunications; cyberspace; property.
Tracey Meares: criminal justice system and criminal procedure (especially the role of the prosecutor); regulation of attorneys (especially government attorneys); poverty law; race-conscious remedies.

Bernard D. Meltzer: labor law; employment law; evidence.

Martha Nussbaum: moral and political philosophy; jurisprudence; law and literature; ancient Greek philosophy; feminist theory; theories of motivation.

Barack H. Obama: equal protection; due process; voting rights.

Gary H. Palm: federal civil rights litigation; poverty and antipoverty law—child support, job referrals and job training, day care; employment discrimination.

Randal C. Picker: secured transactions; bankruptcy; corporate reorganizations, game theory; environmental law.

Eric Posner: bankruptcy; commercial law; contract law; game theory; law and social norms.

Richard A. Posner: economic analysis of law; judicial behavior; jurisprudence.

Julie Roin: federal taxation; taxation of international transactions; state and local government.

Gerald N. Rosenberg: law and society; law and social change; interest groups, law and the courts; political jurisprudence; empirical approaches to the study of law, courts, and judicial behavior.

Richard Ross: American legal history; property.

Randall D. Schmidt: civil rights; employment discrimination; attorneys’ fees; retroactive application of statutes and/or cases; civil litigation—including discovery, pretrial procedures, trial practice, evidentiary issues, etc.

Stephen J. Schulhofer: criminal law; criminal procedure.

Geoffrey R. Stone: evidence; freedom of speech and press; equal protection; search and seizure.

Randolph N. Stone: criminal justice; ethics; legal profession; poverty; racism; legal services to the poor.

David A. Strauss: constitutional law; federal jurisdiction; legal theory or jurisprudence; criminal procedure; civil procedure; administrative law; employment discrimination.

Cass R. Sunstein: environmental law; occupational safety and health regulation; administrative law; separation of powers; jurisprudence and legal theory; constitutional law; social security and welfare law.

Alan O. Sykes: torts; contracts; insurance; economic analysis of law; private international law.

Adrian Vermeule: legislation; constitutional interpretation; federal jurisdiction and procedure.

David A. Weisbach: taxation.

Diane P. Wood: international antitrust; antitrust; International trade and business; International conflicts of law—private international law.