

WWS 516a: Topics in Law and Public Policy: The Law of the Political Process

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Class meets Monday, 1- 4 pm

Description/Objectives:

This course will examine the legal structure of the electoral process. Specific topics will include the right to vote, legislative apportionment, the role of race in representation, partisan gerrymandering, the constitutional status of political parties and the two-party system, campaign finance regulation, and the role of the courts in resolving the 2000 presidential election.

The course materials will consist primarily of court decisions and legislative materials, like the Voting Rights Act, the Federal Election Campaign Act, and the Bipartisan Campaign Reform Act. The goal is to see how the Constitution, the Supreme Court and Congress have together created a law of democracy.

Requirements:

Students have the option of either writing a research paper or taking a final examination.

Readings:

Materials: Samuel Issacharoff, Pamela Karlan & Richard H. Pildes.
The Law of Democracy: Legal Structure of the Political Process
(Foundation Press, Revised 2d. ed. 2002) (“Text”)
Issacharoff, Karlan, & Pildes, The Law of Democracy, 2005 Supplement
 (“Supp. ”)
Anthony Corrado, Thomas E. Mann, Daniel R. Ortiz & Trevor Potter,
The New Campaign Finance Sourcebook (Brookings Inst. Press
2005) (“Sourcebook”)
Additional Cases and Handouts

Assignments

Class #1: Feb 6, **The Emergence of the Right to Vote**

- The evolution of the franchise
- The modern constitutional framework
- Voter registration
- Current issues

Briffault, "The Contested Right to Vote" 100 Mich. L. Rev. 1506-31*
Text Pp. 20-72, 129-140, Supp. 8-10

Class #2: Feb 13,

Legislative Apportionment: The One Person, One Vote Doctrine

- The justiciability question
- Equal population and representation

Text Pp. 141-171, 3-15, 177-192, Supp. 11-13

Class #3: February 20, **Race and the Right to Vote**

- Racial exclusion and the struggle for black enfranchisement
- The Voting Rights Act of 1965
- The concept of minority vote dilution
- The problem of multi-member districts and at-large elections

Text Pp. 90-102, 117-124, 546-557, 571-580, 672-691

Class #4 February 27, **Race and Representation – I**

- Vote dilution under the constitution
- The significance of the 1982 amendments to the Voting Rights Act

Text Pp. 691-741, 746-768

Class #5 March 6, **Race and Representation - II**

- Race and legislative districting
- The *Shaw v. Reno* doctrine
- *Georgia v. Ashcroft*

Text Pp. 125-129, 897-924, 934-962

Supp Pp. 71-95, 187-191

* This assignment, which must be read for the first class, will be available for pick up from the instructor's office, 410 Robertson Hall, after January 25, 2006

Class #6 March 13, **Legislative Apportionment -- Partisan Gerrymandering**

- Justiciability again
- *Vieth v. Jubelirer*: Gerrymandering, representation, and competition

Text Pp. 867-889

Supp. Pp. 129-187

Spring Break

Class #7 March 27, **Political Parties and the Constitution**

- Parties as state actors: the *White Primary Cases*
- The right to participate in party activities
- Protection of party autonomy under the First Amendment

Text Pp. 103-117, 373-416

Clingman v. Beaver, 125 S.Ct. 2029 (2005)

Class #8 April 3, **The Constitution and the Two-Party System**

- Access to the ballot for third parties and independents
- Legal protections for the two-party system

Text Pp. 346-73, 417-448

Campaign Finance – I: Introduction

- History of federal campaign finance law
- Current state of campaign finance law

Sourcebook: Pp. 7-90

Class #9 April 10, **Campaign Finance – II: The Doctrinal Framework**

- Campaign finance and the First Amendment
- The contribution/expenditure distinction
- Disclosure
- The special status of corporations and unions

Sourcebook: Pp. 91-122

Buckley v. Valeo, 424 U.S. 1 (1976)

Text Pp. 499-513

Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990)

Class #10 April 17,
Campaign Finance – III: Regulating Soft Money and Issue Advocacy

- Campaign finance and political parties
- The origins of soft money and issue advocacy
- The Bipartisan Campaign Reform Act of 2002
- *McConnell v FEC*

Sourcebook: Pp. 161-79, 205-31
Supp. Pp. 29-70

Class #11 April 24, **Campaign Finance – IV: Current Issues**

- Spending limits
- Public funding
- Campaign finance and the Internet
- The FEC

Randall v. Sorrell
Sourcebook: Pp. 180-204, 232-279

Class #12 May 1, ***Bush v. Gore* and the Limits of the Judicial Role**

- The federal interest in election procedures
- The special case of presidential elections
- The Florida 2000 recount and *Bush v Gore*
- The judicial role in elections after *Bush v. Gore*

Text Pp. 217-323