

LAW OF POLITICS

GOVERNMENT 357 AT UNIVERSITY OF TEXAS

DR.ALAN SAGER

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Syllabus

The Law of Politics

Government 357 J

Fall 2024

Required books and other materials:

Main Text

Election Law: Cases and Materials 7th Edition 2021 Daniel Hays Lowenstein and Richard L. Hasen, Daniel P. Tokaji (Carolina Academic Press) Earlier editions can be used. Using them will require students to read unedited cases that have been decided after that edition. Cases can be found on Soctus Blog and Oyez website

Supplementary Texts

Mollie Hemingway Rigged How the Media, Big Tech, and the Democrats Seized Our Election

The book has 19 5 star reviews on Barnes and Noble and 11 1 star reviews. On Amazon with 2834 global reviews it has 87% 5 star reviews and 3% 2 stars or less. You will have an opportunity to judge for yourself. As best you can be sure to check her data and its sources.

By the way, is there a difference between a "Rigged" election and a "fraudulent" election? She had a previous best seller, Justice on Trial, which was about the Kavanaugh hearings.

(Available in paperback and on Kindle)

Movies to view during the course. This is also the order in which we will view and discuss them. Two will be covered on each of the three exams.

1. Mr. Smith Goes To Washington(1939) with James Stewart and Greer Garson.

Appointed to fill a vacancy in the U.S. Senate, a starry eyed, naive idealistic young man attempts to do something for the children of America in Washington. He soon learns the rules and that people inside the beltway are not what he had thought of or imagined. Though dated, one might ask what has changed since the movie was made?

2 All The Kings Men the main character who is a metaphor of a member of the Long family that controlled Louisiana politics for years becomes Governor of Louisiana prior to WWII. He rose from virtually nothing to become a powerful force and demagogue in Louisiana politics in the 30's and early 40's. The "Longs" controlled Louisiana politics for a couple of decades.

3. All The President's Men(1976) with Dustin Hoffman and Robert Redford. It is an adaptation of a book about the work of Bob Woodward and Carl Bernstein who, as young reporters for the Washington Post, tracked down and developed the stories about the break-in at Democratic Headquarters at the Watergate Hotel that eventually led to the resignation of President Nixon. Not sure journalists today would have what it takes to do what they did. The movie lost the Oscar for best Picture in 1976 to **Rocky**

4. Primary Colors (1998)with John Travolta as a Bill Clinton character and Emma Thompson as Hillary. Another supposedly fictional story that really is about Clinton's first presidential campaign. While the names are changed to protect the writers from unpredictable Clinton wrath, you can figure out the characters and points of view if you

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Billy Bob Thornton is the the Jame Carville character, [Watched](#)

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Clinton consultant from Louisiana married to the former Republican consultant Mary Matalin. In May 2016 she switched to the libertarian party. She was a consultant to the H.W. Bush campaign.

5. Our Brand is Crisis(2015) Sandra Bullock and Billy Bob Thornton as American political consultants fighting each in a Bolivian election. Billy Bob also plays a James Carville type character in this movie. Can't help but make comparisons with our elections and candidates. Very good until you get past the election outcome at which time, like the end of **The Campaign**, you get 10 minutes of moralizing why the liberal side was better. I missed this movie the first time. A couple I have known for 19 years told me about it. I remember when they got started in political consulting in 2002 and they expanded from local to national consultants. They are now living in Budapest and mainly work elections in foreign countries. They vouched for the accuracy of some of the themes.

6. The Campaign(2012) with Will Ferrell and Zack Galifianakis. This is a story about the evil Koch Brothers (meant to be parodies of the Koch Brothers when they were strong Republicans) trying to control a North Carolina congressional election between cool Will, the Democrat, and nerdy Zack, the Republican. R rated for sexual content, language and brief nudity. It is Hollywood's appeal for overruling the infamous [Citizens United v. FEC](#) case, a case we will study in detail late in the semester. It has some very funny scenes and it contains some universal truths about politics, politicians and elections. I do not particularly like its attack on or parodies of Christians and Christianity in a couple of scenes. Since it is so directly about campaign speech and finance, I think it is worth watching. I also think it is a double edged sword for the values Hollywood thinks it is promoting.

All videos are available for free or a small cost on web. I suggest you watch with a group and share the cost. The most I have seen a video cost is \$16 which can be shared down to 2-3\$ per watcher.

then the group can discuss the pluses and minuses of the movie over beer or whatever.

Other Videos

On the class website videopage there are links to a number of videos relevant to the course. I have collected them over the years. Some are no longer available and I am in the process of deleting those as I review these videos. Some will be assigned before various classes and others are there for your edification.

[How To Brief A Case](#)

(Click on the above for a description of the case briefing process)

- [Sample Brief I:](#) Lucas v. Colorado Assembly
- [Sample Brief: II](#) Minor v. Happerset

Both of these cases will be covered in class during the semester. These briefs are a bit more extensive than you will need as part of your daily class preparation. You will need your briefs to prepare for the exams.

Class Project and Papers

1. First paper

3-4 page brief on an old or recent case on the subject of this course

Due around the 4th week of the semester. Case will be assigned by 2nd week

2. Second paper (***tentative***)

3-4 page paper. Due 2nd near last week of semester, just before Thanksgiving. In the past everyone has done 6 hours of observation as a poll watcher during early voting at various locations in Travis County and then written a paper about it. *If you are not registered to vote in Travis County, you cannot be a poll watcher.* The alternate project will be some original empirical research about topics covered in this course **such as** why people do not vote, whether there is media bias, and how much money is being spent in particular campaigns around the country and its effect. If students who end up doing this alternate project want to create their own empirical research project, it is certainly possible.

[\(Edit\)](#)

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Assignments

The Law of Politics The Legal Structure of Democracy Fall 2024

Dr. Alan Sager

All cases assigned should be briefed. It is best if you write brief for each case and bring it to class unless you can commit your brief to memory in a way that you can answer questions about it. Other reading assignments should be summarized in writing and also brought to class.

NOTE: As we move through the semester, assignments are subject to modification. Check this page on a regular basis.

For each class day, prepare the following assignments in the Hasen et. al. **Election Law** textbook and supplementary materials linked on this page. Don't assume that because we are behind in class, you won't be called upon to discuss the current day's assignments.

Remember: When briefing cases, make sure when you read dissents and concurrences, you can identify what complaints or arguments these opinions have with majority or plurality that decides the case, This will get easier and easier as you go through the class. Also, you might skim first few notes before you read the case because notes often highlight most important parts of case.

Class 1 Monday August 26th

Read pp 1-21 in Election Law textbook Ellis piece on Pluralism is more detailed than we need. Data in note 9 to Ellis piece is interesting

Basic Political Theory

Read Federalist 10 We will look at notes and questions 1-5 as well. (Presumably, most students have read this at one time or another.) This can easily be found on web as well. Here is summary of notes and questions 1-5 in case you do not have text yet:

1. What is Madison's the definition of faction and can you easily identify groups to which the word refers?
2. The Kristol piece focuses on the public interest as a goal or a process. It quotes a political scientist Peter Shuck who says "To understand the role of special interest groups in the American polity today, then, we must define faction in a way that does not depend—as Madison's definition manifestly does—on a transcendent conception of the public interest that no longer elicits strong defense or justification, even from those who most vehemently condemn pluralism's processes and policies. All definitions of "special" interests can be criticized for being under-inclusive, arbitrary, or subjective."
3. All laws benefit some faction and perhaps are a detriment to some other faction. That is most laws have a zero sum effect though the people making them may make a claim that this is not true. How does this relate to Madison's view of factions and is it true?
4. "According to Madison, factions can consist of a majority or a minority of the population, but only a majority faction is likely to have its way under a republican constitution Why? Many contemporary reformers, both conservative and liberal, believe minority interests too often can veto or bring about changes in a manner contrary to the public interest and opposed by the majority. Are these reformers wrong? Was Madison wrong? Have

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nt ways since Madison's time? What conditions? from Hasen

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Chapter 1?

5. What is for Madison the difference between a democracy and a republic.

Note: The textbook pages for all assignments are based on the 7th Edition of the Lowenstein et. al textbook. If you have an earlier edition, the pages will be different. We will cover recent Supreme Court cases that may not be in the 6th addition. You will have to go to the full text of more recent cases which can be found on the OYEZ and SCOTUS Blog websites among others.

On Burke speech. We will look at notes and questions 1-5 (This is also a very famous piece. Know the categories of representation set out by Burke) The full version of this speech to the Electors of Bristol can be found on the web. Here is one link [Click here](#). Version in this textbook is 1 page or so.

Some other views of the electoral systems and elections.

Read for main points the following 3 articles. (One of the skills that should come out of this class is to learn to state briefly and succinctly the main points in case briefs (especially the facts and opinions), as well as assigned articles, movies and so on.

Angelo Codeville "Americas Ruling Class, The Perils of Democracy" ([click here](#)) This is a long article that can be summarized in many ways. Read it quickly to get the main point which is about the title. The article is 14 years old and foreshadowed Trump's ascent in 2016. Obviously, there are counter arguments to his position.

Irving Kristol on idolatry of democratic machinery 1 page ([click here](#))

Judge Napolitano "What If Democracy Is A Fraud" 2.5 pages ([click here](#))

If you want to know how Congressman Lloyd Doggett got his start in politics, check out this article from a 1973 issue of the Texas Observer entitled "Polling for Doggett" by Dr. Sager. It is a step by step description of the work Dr. Sager and his then firm Political Research Associates did as pollsters and consultants for Lloyd Doggett who was running in his first race.

He ran for State Senator in a special election in July 1973 and then won a runoff in August 1973. ([click here](#))

Class 2 Wednesday August 28th

We will spend a little more time on the articles assigned for Class 1.

II. Right To vote 1. Read Brief History pp 31-54 Read Note 5 pp 52 It contains some data. Are the conclusions from the data correct? Why or why not?

The notes after each case will help students focus on important arguments, ideas, concepts, words, etc. in the case. Notes generally go into far more detail than we need for this class. Dr. Sager will discuss more about using the notes as we go through the first several assigned cases.

Generally only the first few notes will be assigned.

Brief [Harper v. Virginia State Board of Education](#) 54-58 Read Notes 1,2, 3 and 4 Pp 59-61

Brief [Skafte v. Rorex](#) 63-65 Read Notes 1 and 2 Pp 65-66

Brief [Kramer v. Union Free School District](#) 74-80 Read Notes 1, 2 and 3 Pp 80-81

Class 3 Wednesday September 4th

Chapter 3 Representation and Redistricting 86-88

Brief [Reynolds v. Simms](#) Pp 88-95

Brief [Lucas v. 44th Colorado Assembly of Colorado](#) Pages 95-99 Red notes 2 , 3 and 10.

See Dr. Sager's brief of case on syllabus page. it is more detailed than you need to be with your daily briefs

Brief [Avery v Midland County](#) Pp 115-121 Read Notes 1 and 3 Pp 121 and 123

Class 4 Monday September 9th

Representation and Redistricting II

Brief [Sayler Land v. Tulare Lake Basin](#) Pp 124-131 Read Notes 1, 2 and 3 Pp 131-132

Read Pp 138-147 Districting Criteria

Chapter 4 Partisan gerrymandering and Political Competition

Read Defining and Identifying Gerymandering Pp 149-150, Read Notes 1 , 2 and 3 Pp 151-154

Discussion of movie: [Mr Smith Goes To Washington](#). What views about elections, Congress and representation are depicted. Does this 1939 film have anything to say to us today?

Class 5 Wednesday September 11th

Partisan Gerrymandering and Competition II

Defining Gerrymandering Pp 149-150 Read Notes 1, 2 and 3 Pp 151-154

Gerrymanderinng and the Constitution Pp 160-164

Competition and Election Law Pp 160-165 Read Notes 1, 2 nd 3 Pp 165-166

The Long Partisan Gerrymandering Interegrum Pp 168-175

Brief [Rucho v. Common Cause](#) Pp 175-202 Make sure you know the various arguments between majority and various dissents.

Today you will be assigned a Supreme Court case related to this course to brief in 3 pages, 900 words at most. While I recommend you get it out of the way before the first exam, it will not be due until Class 12,

Class 6 Monday September 16th

Competition and Election Law Pp 209-214

Brief [Miller v Cunningham](#) Pp214-216 Read Notes 1,2, and 3 Pp 216-218

Race and Redistricting Section 5 of Voting Rights Act Pp 221-222

Brief [Allen v. Board of Elections](#) Pp 222-225 Read Notes 1,2 and 3 pp 225-226

Brief [Beer v United States](#) Pp 226-229 and **Read Notes 1,2,3,4 and 5 Pp 229-234**

Dr. Sager will discuss [Georgia v Ashcroft](#) which is the subject of note 5.

Brief [Shelby County v. Holder](#) Pp 242-261 Read Notes 1, 2, 3 and 4 Pp 261-264

Read and get a "kick" out of a modern day reference to Mr Smith entitled "Mr Smith Tried To Go To Nashville" ([click here](#))

The writer's blog is "Misrule of Law" and is a friend. He is U.T. law graduate and had a long career as a corporate lawyer in California.

We will discuss Hemingway book **Rigged. Chapters 1-3** Good idea not to wait till night before class to read. If you fact check anything in book, let class know what you did and what you found. She has a point of view as she goes through the events leading up Election Day 2020 and their impact on it. She also has a point of view about those events as they happened. For the Washington Post review of book ([click here](#)) Here is the Guardian critique of the book ([click here](#))

For MSNBC indirect comments on book ([click here](#))

Class 7 Wednesday September 18th

Race and Redistricting II

Section 2 of Voting Rights Act Pp 265-266

Brief [White v Regester Pp 267-269](#) Read Notes 1,2 P 269 and note 5 Pp 271-272

Brief [Thornburg v. Gingles Pp 275-291](#) Dr. Sager will brief case with you. know Gingle test which is created in case. Reads Notes 1,2 , 3 and 4 291-297, Read Note 8 Pp 299-300

Brief [League of Latin American Voters v. Perry Pp 303-309](#) Read Notes 1, 2 and 4, Pp 309-312

Class Discussion movie **All The King's Men.** Another old movie that won many awards based on a historical novel about the Long family that dominated Louisiana politics in the first half of the 20th century. Where does this fit in if at all, with what we have covered so far and how does it relate, if at all to the first movie.

Class 8 Monday September 23rd

Race and Redistricting III

Section II of Voting Rights Act II

Brief [Bartlette v. Strickland Pp 315-323](#) Read Notes 1,2 pp 323, Read Notes 8 and 9 Pp 327

Brief [Johnson v. DeGrandy Pp 330-335](#) Read Notes 1 and 2 P 336

Brief [Holder v. Hall Pp 338-346.](#)

Brief Thomas opinion in Holder v Hall Make sure you know the other Justices' opinions based on the note in textbook on page before Thomas opinion. p 338.

Use this brief for the rest of the case [Click Here](#)

Class 9 Wednesday September 25th

Exam #1

Exam will cover assigned reading and cases through Class 8, example briefs on **Minor v. Happersett**, **Lucas v. Colorado Assembly** and **Holder v. Hall** plus .movies **Mr. Smith Goes to Washington** and **All The King's Men.** For cases with multiple opinions students are expected to know the positions of various justices. **Ashcroft v Georgia** will not be

covered on the exam. **Ball v. James** discussed in connection with Sayler maybe. Students are also expected to know the content of the major Amendments affecting voting and elections as well as the appropriate parts of the Voting Rights Act. Lastly first 3 Chapters of Hemingway book will have some general questions on exam.

Class 10 Monday September 30

Race and Redistricting IV

Racial Gerrymandering

Brief [Shaw v. Reno Pp 349-360](#) Read Notes 1,2, and 3 Pp 360-363

Post Shaw Decisions. Summarize Pp 365-379

Brief [Alabama Legislative Black Caucus v. Alabama Pp 379-383](#)

Read Notes 383-384

For those doing the poll watching assignment for their 2nd paper later in the course, you have to take a short online course which I did in a short time the last time I taught the course. <https://www.sos.state.tx.us/elections/onlinepollworker.shtml>

Also

Class 11 Wednesday October 2

Election Administration and Remedies

Constitutional Claims

Read Pp 391-394

Brief [Bush v. Gore](#) Pp 394-409 As an active participant in some events related to Bush v., Gore, Dr. Sager will cover cases leading up to Bush v Gore and notes afterwards
Read [Voting Technology](#) 416-420 Also be sure to have read first 3 chapters and Hemingway book. She talks about the history of voting methods and expectations in the Trump administration on election night 2020. Did the Bush team have similar expectations in 2000?

Voter Identification and Other Burdens On Voting

Brief [Crawford v. Marion County](#) Pp 420-436. Read Notes 1, 2, and 3 Pp 437-438 Dr. Sager will briefly discuss some of his experiences with recounts and the handling of ballots.

For a summary of data on voter i.d. laws affect on fraud and turnout read this article from Vox ([click here](#))

Is this study compatible with Note 5 Pp 440-441 . If not, who is right. Should the author have noted contrary findings? Does this tell you anything about the authors?

How does this fit in with the election administration section of the book related to remedies and Dr. Sager's summary of other cases on judicial remedies.

For the Bush v Gore Chronology ([click here](#)) (As noted above, Dr. Sager will cover this. However, you should be acquainted with cases leading up to Bush v. Gore, Read 8 Views from Cathedral which contains very short summaries of various views of academics and judges of Bush v. Gore. Notice Alan Deershowitz position then and what he is supporting now ([click here](#))

Class 12 Monday October 7th

Election Administration and Remedies I

Race Discrimination

Brief [Brnovich v. Democratic National Committee](#) Pp 443-465 Read Notes 1-2 Pp 463-464

Briefing Assignment due today.

Class 13 Wednesday October 9th

Law and Turnout

Read and summarize pp 469-488

Also for this class, read the Texas poll watchers guide if you have never done so.. <https://www.sos.state.tx.us/elections/forms/pollwatchers-guide.pdf>

Read Mollie Hemingway [Rigged: How the Media, Big Tech, and the Democrats Seized Our Elections](#) Chapter 4-6 We will discuss in class.

Be clear: If you are registered to vote in Travis County your assignment for the 2nd paper is to be a poll watcher at an early voting location. Poll watching assignment sheets will be handed out on Wednesday at Class 17. There can only be 7 poll watchers per location so signup for various locations will take place on Wednesday as well. I will be checking to be sure the 7 watcher limit applies to early voting as well.

Class 14 Monday October 14th

Election Administration and Remedies III

Judicial Remedies

Read Pp 488-491

Brief [Pabey v. Pastrick](#) Pp 491-499 Read Notes 1.2.3 and 4 P498

Other Remedies when election fraud is uncovered

Dr. Sager will discuss some other cases dealing with remedies, namely what can courts do to remedy voter fraud or election violations when an election is over. Hasen finally added

a case like Pabey in this edition. For some reason remedies had been left out of earlier editions. Any ideas as to why? For summary of additional remedy cases ([click here](#))

Be prepared to argue either side of the voter fraud issue in class.

Read about the Georgia Voter I.D. law and its impact ([click here](#))

Read about voter i.d. and **Bush v. Gore** problems in Real Clear Investigations piece entitled "Oh, for the Good Old Days of Hanging Chads: The Legal Snarls of 2020" ([click here](#))

The Heritage Foundation has put up a website that contains information of proven instances of voter fraud. ([Click here](#))

For another point of view see The Brennan's Center article The Myth of Voter Fraud ([click here](#))

Also read Slate article on myths about 1960 Nixon Kennedy election ([click here](#))

Be prepared to discuss the movie **All The President's Men** the Hollywood version of the Woodward Bernstein on the Watergate scandal. Led by Dustin Hoffman and Robert Redford among others. the movie won 4 Academy Awards. It covers the scandal up to Nixon's reelection. Compare it to our previous movies on concepts as role of the press, party loyalty, nature and importance of charges, view of the political and electoral process, behavior of main character etc.. Dr. Sager first met Richard Nixon at a political event in 1965. For a variety of reasons he did not vote for him in 1968 or 1972. If time allow , he will tell about the phone call he was cut into by mistake while in graduate school in 1968 involving what was likely a bribe during election.

Chapter 7 Ballot Propositions

Pros and Cons

Read and summarize Ellis article pp 505-514 Read Notes 1,2,3,4, and 5 Pp 516-522

Class 15 Wednesday October 16th

Please bring a pencil to do an interim evaluation on the class so far.

Ballot Propositions II

Brief [People's Advocate v. Superior Court](#) Pp 529-534

Brief [In Re Advisory Opinion to the Attorney General](#) Pp547-548

Read and summarize The Separate Vote Requirement and Academic Criticism of the Single Subject Rule pp 559-562

Dr. Sager will discuss and summarize Procedural Requirement and Judicial Review pp 562-581

We will discuss **All The President's Men**. Contrast and compare to previous two movies at least on the view of the press and elections, politicians motive, the roles of people around political candidates and officeholders, outcomes. impacts of the main character.

Dr. Sager first met Richard Nixon at a political event in 1965. For a variety of reasons some he did not vote for him in 1968 or 1972. If time, he will tell about the phone call he was cut into by mistake while in graduate school in 1968.

Class 16 Monday October 21st.

Chapter 8 Major Political Parties

The Party and the Political Process and Obligations of Parties Under the Constitution

Read and summarize pp 582-560

Dr. Sager will discuss The Texas White Primary cases [Nixon v. Herndon](#), [Nixon v. Condon](#) [Grove v. Townsend](#) [Smith v. Allright](#) [Terry v. Adams](#)

Dr. Sager's summary of these cases ([click here](#))

Read Associational Rights of Parties Pp 597-603

Does any of this material tell us about the lawful validity of the recent switch in the Democrat presidential candidate.

Brief [Tashjian v Republican Party of Connecticut](#) PP 614-623, Read notes 1,2,3,4 and 5 Pp 623-625

Read Parties and Patronage Pp 640-642

Brief [Elrod v Burns](#) Pp 643-651 Read notes

Class 17 Wednesday October 23rd

Finish up Patronage

Read notes Pp651-658

Read note 1 Pp 658-659

Dr. Sager will briefly summarize Chapter 9 Third Parties and Independent Candidate

Chapter 10 Campaigns

What We Know About American Political Campaigns

Read Pp 715-722

Regulating Campaign Speech

Brief [281 Care Committee v Arneson PP 722-734](#). Read notes 1 and 2 734-736

Read about **Susan B. Anthony League(SBAL) v. Driehaus** ([click here](#)) Read only the two page summary at the beginning of the Supreme Court case> From the opinion just be sure you fully understand the facts and the Ohio law in question. At this point in the litigation, the only question before the Court was whether the SBAL had standing to bring the suit. A similar question was before the Court in the Crawford case. A Federal District Court in Ohio held the Ohio law in this case unconstitutional on the merits. See the following newspaper article([click here](#)), for a report on that decision. The 6th Circuit reversed and the Supreme Court unanimously reversed the 6th Circuit and said SBAL made a claim that should be heard by the lower court that the 1st Amendment might be violated.

Regulating Judicial Campaigns

Dr. Sager will briefly discuss [Republican Party of Minnesota v. White](#) and [Williams Yulee v. Florida Bar](#) and [Caperton v. Massey](#),

all of which are covered in more detail in his Judicial Process class in Spring

We will discuss Primary Colors with John Travolta as Bill Clinton during the 1992 primaries.

Class 18 Monday October 28th

Exam #2

Will cover all cases and readings since Exam 1

Movies **All The President's Men** and **Primary Colors**

Hemming way book Rigged through Chapter 4 through 7

Class 19 Wednesday October 30th

Bribery

Read Pp 801 -802

Write out the elements of bribery and read each case with regard to what element is being covered. Notice whether you personally think the fact situation shows bribery or activities that ought to be punished by the law.

Bribery of Candidates

Brief [People v. Hochberg Pp 803-808](#) Notes 1, 2 and 3

Bribery of Public Officials Read Pp 811-815

Brief [People ex rel Dickinson v. Van de Carr Pp 816-817](#) Read notes 1,2, 3 and 4 P 818

Intent to Influence

Read Pp 819-821

Brief [State v Agan Pp821-824](#) Read notes 1, 2 and 3 Pp 824-827

Brief [McCormick v United States Pp827-831](#) Read notes 1,2,3, and 4 Pp 831-833

Brief [United States v Sun Diamond Growers Pp836-838](#) Note 1,2 and P 839

Class 20 Monday November 4th

Bribery

Official Act

Brief [McDonnell v United States Pp 840-849](#) Read notes 1,2,3,4, and 5 Pp 849-851

Dr. Sager to discuss United States v. Ted Stevens if he has not mentioned it yet. (The Late Senator from Alaska)([click here](#)) A while ago then President Trump tweeted something that Greg Jarrett a lawyer and Fox contributor said about Bruce Ohr of FBI fame and his wife Nellie of Fusion GPS fame. Namely, they may have violated federal bribery and related federal statutes while in their jobs. [Click here](#) for Greg Jarrett piece. Suggestion about this in section entitled Nellie Ohr, about 2/3 of way down page. What do you think?

Campaign Finance

The Buckley Framework

Introduction: Basic Facts and Figures about Campaign Finance Pp 853-856

Buckley v Valeo: The Foundation of American Campaign Jurisprudence Pp 857-859

Brief [Buckley v. Valeo](#) Pp 860-879 Read Notes 1,2,3,4, and 5 Pp 879-887

Class 21 Wednesday November 6th

Buckley v Valeo

Notes and Questions on the Courts Differing Treatment

of Contribution and Spending Limits Notes 1,2,3, and 4 Pp 887-892

Read Empirical Observations Pp 892-900

Preventing Corruption

On Campaign Finance Reform: The Root of All Evil Is Deeply Rooted Read Pp 900-905

Promoting Equality

Equal Dollars Per Voter Read Pp 907-916

Spending :Limits

Brief [First National Bank of Boston v Bellotti](#) Pp 925-937

Make sure you understand the arguments on all sides of the issue. Here are some of the questions we will consider. **Read** introductory notes and 807-814 **Read** Begin to acquaint yourself with some of the empirical and theoretical justifications for campaign finance regulation in the notes.

These notes consider some of the following questions raised in Buckley

1. What are the first amendment issues with campaign finance?
2. What is the difference between an expenditure and a contribution?
3. What are the rationales for even regulating campaign financing?
4. Does regulation of campaign financing actually work?
5. How do various ideologies or theories of the how the United States does and should operate view the campaign finance issue, Republicans v. Democrats, pluralists, progressives, conservatives and so on?
6. Can you have a fair campaign finance law?
7. What campaign finance issues can you think of that are not covered by the Buckley opinion.

Class 22 Monday November 11th

Limiting Spending and the Citizens United Revolution Read Pp 957-960

Brief [Citizens United v. FEC](#) pp 960 – 982 Read notes 1 through 10 Pp 988

This case is well known and either loved or reviled by different sides of the political spectrum. Former President Obama, no stranger to large sums of money, in an unprecedented act, criticized the case during his 2010 State of the Union speech, attended by most members of the Supreme Court at the time. Justice Alito just shook his head for national t.v. audiences. For one PolitiFacts take on what the President said [click here](#), though you might wait till you read the full case to view this column. This is a case about whether the campaign finance laws cover a corporation that makes a movie for the 2012 election cycle about Hillary Clinton. Late in the movie, an argument against voting for her is made. You are assigned to read (or listen to) the oral argument and reargument (Court had it re-argued which is very unusual. See if you can figure out something that may have been said in the original oral argument that might suggest case needs to be argued again) Try to write a brief or take notes on the various arguments

made. I am also including a link to myriad number of briefs filed by various political groups across the political spectrum on behalf of one side or the other. You might take a look at the first two pages of some of the briefs. The first two pages contain in big print, the arguments made in the brief. Usually, there are only 1 or 2 arguments made. We will read the edited case in the casebook for the next class. Also students should watch the movie **The Campaign** by the 2nd of these two classes since it is Hollywood's not so veiled attack on the **Citizens United** case. **You are in the process of learning the language of campaign finance law and civil liberties law.** To help further acquaint you with the terms used in oral argument I have linked a glossary of terms and a brief summary of cases argued about in the oral argument. Try to get the main points in the arguments. Notice that future Justice Elana Kagan argues the case for the FEC in the re-argument. In part this was due to the incompetence, or better bungling of an important argument by the FEC attorney, Mr. Stewart, in the first case. See if you agree with my assessment.

Read or listen to the oral argument and re-argument in Citizens United v. FEC Original Argument Transcript ([click here](#)) Rearguments Transcript ([Click here](#)). For MP3 oral argument and reargument ([click here](#)) (This is the case page on the Oyez website. It has links to all parts of the case including the MP3 recording of the arguments) Glossary of Terms including some cases used in oral argument ([click here](#))

Class 23 Wednesday November 13th

Brief [American Tradition Partnership v Bullock](#) Pp 989-990

Contribution Limits

Campaign Contribution In Ballot Measure Elections Read Pp 991-995 Read Notes 1,2,3 and 4 PP 995-999

Think about hypothetical at end of notes.

When are Contribution Limits Too Low Read Pp 999-1000

Brief [Randall v Sorrells](#) Pp 1000 – 1018 Read notes 1 and 2 1018-1020

Campaign Contributions and Political Parties Read Pp 1023-1027 Read notes 1027-1031

For a lawsuit over spending limits in Austin City Council races and limitations on when campaigning for city office can begin. ([click here](#))

We will discuss the movie "**Our Brand is Crisis.**"

Class 24 Monday November 18

The Growth of Superpacs and Other Outside Groups Read Pp 1032-1034

Brief [SpeechNow.org v FEC](#) Pp 1035-1039 and notes

The New Skepticism

Brief [McCutcheon v. FEC](#) Pp 1040 – 1066 Read notes 1 through 9 Pp 1066-1073

Become acquainted with this glossary of terms about campaign finance which includes case summaries as well as many words and terms used in the opinions([click here](#))

Class 25 Wednesday November 20th

Chapter 15 Public Financing

Read and summarize pp 1078-1101

Brief [Arizona Free Enterprise Club v. Bennett](#) Pp 1104- 1131 Read notes 1 to 8 1131-1133.

Discussion: The movie The Campaign with Will Farrell, Zach Galifianakis Warning there are several strongly antiChristian scenes, foul language scenes and sexually

explicit scenes and language. However, film did well, grossing over \$100 million in 2012. It is Hollywood's attack on both the Koch brothers, political contributions, and Citizen's United as you will see near the end of the film. The critics have a variety of viewpoints including saying the film is politically well balanced and it points our problems. One says "While many audience members may be suffering from political fatigue this election year, **The Campaign** exposes the process for the circus it truly is." You decide for yourself. We will also discuss Hemingway chapters on Hunter Biden, Mark Zuckerberg and Epilogue. Read this recent article about some social science research <https://dailycaller.com/2022/11/06/robert-epstein-2022-midterm-elections-google-bing/> The questions always are: (1) What is misinformation and should something be done if it exists? (2) What are the constitutional limitations on controlling lies and false statements. These will be big issues in my Civil Liberties class I expect to teach in Spring of 26.

Class 26 Monday December 2

Disclosure

Read Pp 135-1136

Brief *Buckley v Valeo* Pp 1136-1145

Brief *McIntyre v. Ohio Elections* Pp1145-1161 Read Note 2 P 1161

The New Skepticism

Read Pp 1164-65

Brief *Americans for Prosperity v Bonta* Pp 1166-1188 Read notes 1,2,4 and 5 Pp 1188-1189

Why might this opinion be so long? The secret is out but you probably missed it a major newspaper.

Discussion: **The movie The Campaign with Will Farrell**, Zach Galifianakis Warning there are several strongly antiChristian scenes, foul language scenes and sexually explicit scenes and language.

However, film did well, grossing over \$100 million in 2012. It is Hollywood's attack on both the Koch brothers, political contributions, and Citizen's United as you will see near the end of the film. the critics have a variety of viewpoint including saying the film is politically well balances points our problem

Class 27 Wednesday December 4th

Exam #3

All cases since 2nd Exam. Also articles discussed in class related to those cases. Last 3 chapters of Rigged Chapters 8 to 10 and Epilogue

Movies Our Brand is Crisis The Campaign

Class 28 Monday December 5th

This class will take place at Dr. Sager's home. It is the End of the Semester Awards Dinner. Special Speaker to be announced

[\(Edit\)](#)