June 1, 2009

Extract from Richard Albert's Syllabus for "Law of Democracy" (Boston College Law School, Fall 2009), assigning Levinson-Tillman exchange, and Calabresi-Tillman exchange

Seth Barrett Tillman

Available at: https://works.bepress.com/seth_barrett_tillman/191/
THE LAW OF DEMOCRACY
LL 974.01
FALL 2009

CONTACT INFORMATION

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Office Hours: T 1:00-3:00pm, T 5:00-6:00pm, or by appointment

Invitation: I hope to get to know each student enrolled in this course. I invite students to join me for a casual lunch in small groups of two or three. Please contact my Faculty Support Assistant, Heather Coe-Smith, to schedule our lunch. Heather may be reached by telephone at (617) 552-4143 or by email at coesmith@bc.edu.

COURSE INFORMATION

Description: This course explores the intersection of the United States Constitution and the political process—specifically in selecting and regulating the nation’s democratic leadership, amending the constitution, and defining the respective functions of the three branches of government—and analyzes in these settings how constitutional politics inform and constrain the laws of democracy in the United States.

The Constitution governs the political process even as its contours are themselves shaped by the political process. This enduring and always evolving relationship stands at base of the American project of democracy—and it is the font from which spring the values and principles that underpin the political process.

This course examines the foundational values and principles of democracy in America through the lens of historical and contemporary constitutional politics. Topics will include the Electoral College, presidential succession, vice presidential selection, gubernatorial appointments to federal office, constitutional transformation and social change, the popular initiative, continuity of government, the administration and judicial review of elections, judicial confirmation and tenure, the Incompatibility Clause and the fusion of powers.
COURSE INFORMATION (cont’d)

Meetings: T 3:00-4:50pm

Credits: 2

Evaluation: Take-home final examination. Class participation and performance may also be considered to adjust final grades either up or down one grade increment.

Attendance: Students are expected to abide by the ABA requirement of “regular and punctual class attendance,” in ABA Standard 304(e). Please inform me or the Dean for Students of any anticipated absence(s) prior to the class you expect to miss.

Media: Laptops are permitted but discouraged. Class discussions will be more enjoyable and useful for all of us if we pledge to commit our undivided attention to each other. No recording devices may be used without permission.

READING MATERIALS

Readings will average 90 pages per week. At the first class meeting, students will be instructed as to which readings on the syllabus must be “read carefully” or which may be “skimmed.”

The following required materials are available for purchase at the law school bookstore:


Other required materials will be made available electronically.

Students wishing to explore subjects related to this course may find the following non-required and entirely optional text both interesting and illuminating:


TOPICAL OUTLINE

I. ELECTION & APPOINTMENT

A. Continuity of Government (Pages: 40)
B. The Twelfth Amendment (Pages: 50)

C. Presidential Succession (Pages: 64)

D. Vice Presidential Selection (Pages: 88)

E. Judicial Confirmation (Pages: 103)

F. The Seventeenth Amendment (Pages: 80)
   2. S.J. Res. 7 and H.J. Res. 21: A Constitutional Amendment Concerning Senate Vacancies: Hearing Before the Subcommittee on the Constitution of the Senate Committee on the Judiciary, 111th Cong. (Mar. 11, 2009), available at http://judiciary.senate.gov/hearings/hearing.cfm?id=3705. [Please read all six statements by sitting Senators (the Honorable Sheila Jackson Lee, the Honorable John Conyers, the Honorable F. James Sensenbrenner Jr., the Honourable Russ Feingold, the Honorable Richard J. Durbin, and the Honourable Tom Coburn) and the testimony of all ten witnesses (Pamela Karlan, Vikram Amar, Bob Edgar, Kevin Kennedy, Thomas H. Neale, David Segal, Matthew Spalding, the Honourable David Dreier, the Honourable Aaron Schock and the Honourable Mark Begich).]

G. The Administration of Elections (Pages: 142)
II. REGENERATION & RENEWAL

A. Amending the Constitution (Pages: 56)
3. Sanford Levinson, How Many Times has the United States Constitution Been Amended? (A) <26; (B) 26; (C) 27; (D) >27: Accounting for Constitutional Change, in RESPONDING TO IMPERFECTION: THE THEORY AND PRACTICE OF CONSTITUTIONAL AMENDMENT 13, 13-36 (Sanford Levinson ed., 1995)

B. The Popular Initiative (Pages: 228)

C. Judicial Tenure (Pages: 129)

III. BOUNDARIES & PREROGATIVES

A. The Fusion of Powers (Pages: 128)
2. Steven G. Calabresi, The Virtues of Presidential Government: Why Professor Ackerman is Wrong to Prefer the German to the U.S. Constitution, 18 CONST. COMMENT. 51, 51-104 (2001)

B. Judicial Review of Elections (Pages: 108)
C. The Incompatibility Clause (Pages: 26)