

Saint Louis University Law Journal

Volume 56
Number 3 *Teaching Election Law (Spring 2012)*

Article 9

2012

When and How to Teach Election Law in the Undergraduate Classroom

Paul Gronke
Reed College, gronke@reed.edu

Follow this and additional works at: <https://scholarship.law.slu.edu/lj>



Part of the [Law Commons](#)

Recommended Citation

Paul Gronke, *When and How to Teach Election Law in the Undergraduate Classroom*, 56 St. Louis U. L.J. (2012).

Available at: <https://scholarship.law.slu.edu/lj/vol56/iss3/9>

This Article is brought to you for free and open access by Scholarship Commons. It has been accepted for inclusion in Saint Louis University Law Journal by an authorized editor of Scholarship Commons. For more information, please contact [Susie Lee](#).

WHEN AND HOW TO TEACH ELECTION LAW IN THE UNDERGRADUATE CLASSROOM

PAUL GRONKE*

INTRODUCTION

Election law is often described as the law or legal construction of American democracy. As such, it certainly merits a place in the undergraduate curriculum. However, it is not easy to find Election Law offerings at the undergraduate level, either explicitly as a self-standing course or even implicitly as a component of courses within pre-law or political science.¹ What accounts for the dearth of offerings? Is it a simple matter of division of labor, with election law falling under the guise of professional legal training, akin to courses in Torts or Contracts? If so, then there is little to worry about. On the other hand, it is possible that there is something else going on, where Election Law falls into an academic gray zone, insufficiently “institutional” or theoretical for political science, and insufficiently developed (and perhaps insufficiently lucrative) to create a critical mass among lawyers, and thus lamentably overlooked at both the pre- and professional levels.

I lament the oversight because election law does merit a place in the undergraduate political science classroom. Its absence is due more to what Heather Gerken has deemed the overt “tribalism” of academic disciplines² than its relevance to political scientists (indeed, some of the leaders in the election law field, for better or worse, share a tribal membership in political science).³

* Director, Early Voting Information Center and Professor, Reed College. The author would like to thank Richard Hasen and Daniel Hays Lowenstein for very constructive criticism.

1. A brief review of syllabi archives reveals few listings or resources at the undergraduate level. One post to the Election Law Blog is a notable exception. Rick Hasen, *Undergraduate Election Law Course Syllabi*, ELECTION L. BLOG (Oct. 6, 2011 8:44 AM), <http://electionlawblog.org/?p=23929>.

2. Gerken uses this phrase often in public lectures, but the concept likely comes from Kenneth Minogue. See KENNETH MINOGUE, *THE CONCEPT OF A UNIVERSITY* 65 (Transaction Publishers 2005) (arguing that a feature of the academic world is “tribalism,” in which strong-minded university intellectuals surround themselves not with fellow scholars, but with people having “the religious character of being disciples”).

3. Rick Hasen (University of California, Irvine Law School) has a Ph.D. from UCLA and Nathaniel Persily (Columbia Law School) has a Ph.D. from the University of California, Berkeley.

The challenge for election law, I would argue, is to position itself as a field of inquiry that political scientists *must* attend to in order to help them understand and explain the political world on their disciplinary terms. As Dan Lowenstein aptly notes, this means that election law must demonstrate its appeal to a discipline that is highly *institutionalist* in its orientation, preferring to focus on norms, rules, and standard operating procedures—in short, the “rules of the game” that so often animate political action and help explain the allocation of political power, yet also demonstrate its appeal to the empirically-minded scholars who have dominated political science scholarship on elections.⁴

“[E]lection law falls at junctures formed by other subjects,” especially constitutional law in law schools and public law and American politics in political science departments.⁵ Its lineage has been described by a leading legal scholar as “a subject in its own right, related to but apart from its very different parents, constitutional law and political science: *res ipsa loquitur*.”⁶ Meanwhile, one of the best-known political scientists in the field wonders whether the field is best described as an area of law or an area of political regulation.⁷ He further notes that, at least as empirical political science is concerned, election law consists of at least two quite distinct areas.⁸ The first is voting, representation, and equal protection: areas where empirical scholarship has played an important role.⁹ The second is corruption and freedom of association: First Amendment challenges that often fall outside the scope of empirical research.¹⁰ I would further add to this list other subfields such as legislative politics, campaigns, and state and local politics, and other disciplines such as public administration and geography. Election law is truly an interdisciplinary enterprise, but this creates a challenge for academic disciplines such as political science that can be particularly loyal to their tribal interests.¹¹

4. Daniel H. Lowenstein, *Election Law as a Subject—A Subjective Account*, 32 LOY. L.A. L. REV. 1199, 1200 n.6 (1999).

5. DANIEL HAYS LOWENSTEIN, RICHARD L. HASEN & DANIEL P. TOKAJI, *ELECTION LAW: CASES AND MATERIALS* xxi (4th ed. 2008).

6. Richard L. Hasen, *Introduction: Election Law at Puberty: Optimism and Words of Caution*, 32 LOY. L.A. L. REV. 1095, 1095 (1999); see also Richard L. Hasen, *Introduction: Developments in Election Law*, 42 LOY. L.A. L. REV. 565, 565–66 (2009).

7. Bruce E. Cain, *Election Law as a Field: A Political Scientist's Perspective*, 32 LOY. L.A. L. REV. 1105, 1118–19 (1999).

8. *Id.* at 1106–07.

9. *Id.*

10. *Id.*

11. Dan Lowenstein speculates that the hurdle may be even higher, because courses in American politics are broken up into topical areas—elections, Congress, constitutional law, etc.—and many of the broader issues of election law have no interest outside of these narrow contexts. Personal correspondence with Daniel Hays Lowenstein, Professor Emeritus, UCLA Sch. of Law (Sept. 23, 2011) (on file with author) [hereinafter Correspondence with Lowenstein].

How then, to demonstrate the relevance of election law as a subject of inquiry to political science, and to thereby encourage inclusion of at least some of the subject matter in the undergraduate classroom? The hurdles are much lower than they first appear, because election law as a field of study is already part and parcel of much of political science, it just suffers from a labeling problem. The primary components of election law already are being taught to undergraduates, just under different guises, such as “representation,” “campaigns and elections,” “state and local politics,” and “election reform.” Overcoming the resistance to practical and policy wisdom among political scientists may end up being the higher hurdle.

I. ELECTION LAW’S LATE EMERGENCE AS A “SUBJECT”

Election Law as a separate field of study, distinct from Constitutional Law and distinct from Political Science but typically described as drawing on both, is seldom offered at the undergraduate level. This is unsurprising since Election Law did not even appear in many law school curricula until the early 1980s, was first claimed as a “subject” in 1983, and suffered from a 124-year hiatus in comprehensive casebooks.¹² The *Election Law Journal*, the only peer-reviewed journal dedicated to scholarly research in the area, just recently celebrated its ten-year anniversary.¹³

The three primary casebooks further illustrate the still formative nature of the field; one is titled *Election Law: Cases and Materials*, a second *Voting Rights and Election Law*, while the third is somewhat boldly titled *The Law of Democracy: Legal Structures of the Political Process*.¹⁴ Unlike casebooks in many areas of law, which are often interchangeable, adopting Lowenstein, Dimino, or Issacharoff changes the focus and topical coverage of a course quite substantially, as illustrated by the three tables of contents.¹⁵ Lowenstein and colleagues start with the right to vote, but quickly move on to issues of redistricting, minority vote dilution, campaign spending, ballot propositions, the legal position of political parties, and even “bribery.”¹⁶ Issacharoff and colleagues focus much more resolutely on individual and minority voting rights—the right to “participate” and not only vote—and racial vote dilution

12. An able history of the field is offered by Daniel Hays Lowenstein. See Lowenstein, *supra* note 4, at 1202.

13. *Overview*, ELECTION L.J.: RULES, POL. & POL’Y, <http://www.liebertpub.com/products/product.aspx?pid=101> (last visited Mar. 2, 2012).

14. See LOWENSTEIN, HASEN & TOKAJI, *supra* note 5; MICHAEL DIMINO, MICHAEL E. SOLIMINE & BRADLEY A. SMITH, *VOTING RIGHTS AND ELECTION LAW* (2010); SAMUEL ISSACHAROFF, PAMELA S. KARLAN & RICHARD H. PILDES, *THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS* (2007).

15. LOWENSTEIN, HASEN & TOKAJI, *supra* note 5, at ix–xiv; DIMINO, SOLIMINE & SMITH, *supra* note 14, at vii–xv; ISSACHAROFF, KARLAN & PILDES, *supra* note 14, at xix–xxvi.

16. LOWENSTEIN, HASEN & TOKAJI, *supra* note 5, at ix–xii.

and redistricting constitute the bulk of the coverage, while issues of campaign finance and direct democracy play a distinctly secondary role.¹⁷ Dimino is closer to a traditional law school casebook. It addresses voter qualifications and political questions in the first two chapters, and then marches through legal questions that have arisen in the courts such as retrogression, anonymous speech, and counting the votes.¹⁸ As such, it is probably of least interest to undergraduate educators but provides a very useful reference volume.

When we move beyond casebooks to other potential targets for classroom adoption, the centrality of voting rights and the dual impact of the Voting Rights Act and the *Bush v. Gore* decision becomes clear—titles such as *When Elections Go Bad*, *The Supreme Court and Election Law*, and *The U.S. Supreme Court and the Electoral Process* predominate.¹⁹ It seems that much of the field did not exist prior to 2000, or at least did not enter our consciousness much more often than during decennial reapportionment controversies, and could fade away a decade later.

Thus arises the first challenge in teaching election law in the undergraduate classroom: it is unlikely that many political scientists are familiar with it as a field of inquiry even though they are likely to be intimately familiar with many of the topics field. This is what I have referred to above as the labeling problem. Many of the most active areas of scholarship in election law do in fact overlap with active areas in political science, but they are simply labeled differently by the two fields (see Table 1).

Political Science Topics and Course Titles	Election Law Topics and Course Titles
Campaigns and elections	Campaign finance, voting rights
Representation, liberal political theory	Reapportionment, majority rule
State and local politics	Direct democracy
Political parties, interest groups	Political parties, third parties

TABLE 1

Ironically, the co-disciplinary interest in “political parties” ought to link the two fields, but here the problem is less one of labeling than one of translation. Political science is primarily interested in parties as intermediate institutions

17. ISSACHAROFF, KARLAN & PILDES, *supra* note 14, at xix–xxvi.

18. DIMINO, SOLIMINE & SMITH, *supra* note 14, at vii–xv.

19. RICK HASEN, *THE SUPREME COURT AND ELECTION LAW: JUDGING EQUALITY FROM BAKER V. CARR TO BUSH V. GORE* (2003); SAMUEL ISSACHAROFF, PAMELA S. KARLAN & RICHARD H. PILDES, *WHEN ELECTIONS GO BAD* (2001); *THE U.S. SUPREME COURT AND THE ELECTORAL PROCESS* (David K. Ryden ed., 2d ed. 2002).

designed to aggregate and translate public desires into governmental action, while election law scholars focus on parties as constitutionally problematic entities. One would expect that the constitutionalism ought to be translatable into functionalism, but few scholars attempt to do so.²⁰

Some attempts are made in the casebooks to overcome the labeling and translation challenge, but these attempts are all too brief (admittedly each casebook exceeds 1000 pages and weighs in over five pounds). The Lowenstein casebook, for instance, includes the requisite readings from the Federalist Papers (such as Federalist 10 on factions), a selection from Richard Ellis on pluralism, and a reading from Edmund Burke, thereby setting up the classic contrast between delegate and trustee models of representation.²¹ The problem for many political science teachers, for better or worse, is that empirically minded political scientists who might be interested in election law topics use a different set of notions of representation and view differently the role of groups in politics.²² The Federalist Papers are still taught, of course, but usually in introductory survey courses and upper-division courses on American Political Thought or Liberal Political Theory. More complex images of groups, interests, and political action appear in the citations to individual cases.²³ Readings by political science scholars such as Richard Niemi, Bernard Grofman, Lani Guinier, Gary Jacobson, and John Aldrich are much more recognizable to political science readers, and while they are in the textbook, those readings are buried in the footnotes.²⁴

The Issacharoff text provides a different focus, and one that feels more comfortable to this political scientist. This text provides an elegant and subversive description of the interdependence between existing legal and administrative arrangements and the self-interests of political actors: “[b]ecause democratic politics is not autonomous of existing law and

20. The reference to “structural-functionalism” is a social scientific approach popularized in the 1960s that identified certain “functions” as fundamental to democracy (for example, interest aggregation), and associated particular “structures” with those functions. *See, e.g.*, GABRIEL A. ALMOND & G. BINGHAM POWELL, JR., *COMPARATIVE POLITICS: A DEVELOPMENTAL APPROACH* 98–100 (1966).

21. LOWENSTEIN, HASEN & TOKAJI, *supra* note 5, at 4–18.

22. *See, e.g.*, FRANK R. BAUMGARTNER & BETH L. LEECH, *BASIC INTERESTS: THE IMPORTANCE OF GROUPS IN POLITICS AND IN POLITICAL SCIENCE* (1998); BERNARD MANIN, *THE PRINCIPLES OF REPRESENTATIVE GOVERNMENT* (1997); MANCUR OLSON, JR., *THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS* (1965); Correspondence with Lowenstein, *supra* note 11.

23. *See* for instance the sourcing for Minority Vote Dilution (chapter 5), Voter Turnout (chapter 7, section IV.A), or Parties in the Political System (chapter 9, section I).

24. *See, e.g.*, LOWENSTEIN, HASEN & TOKAJI, *supra* note 5, at 149 n.n (citing BERNARD GROFMAN, LISA HANDLEY & RICHARD G. NIEMI, *MINORITY REPRESENTATION AND THE QUEST FOR VOTING EQUALITY* (1992)).

institutions, those who control existing arrangements have the capacity to shape, manipulate, and distort democratic processes.”²⁵ These ideas can be distilled down to two words—“rules matter”—a mantra drilled into the minds of virtually every introductory student of American elections. In another expression of our tribalism, however, the “rules” that we most often teach about are the “rules of the game” in Congress. What coverage there is of elections is almost always comparative and focuses on the behavioral and electoral consequences of different formulae for translating votes into seats.²⁶ Isaacharoff is to be commended for making students wrestle with these issues in the opening chapter, which includes a short “voting quiz” that compares international and American electoral arrangements,²⁷ but they do not return to these difficult questions until the final chapter.²⁸ It is, after all, a casebook designed for American students specializing in the American legal process, and if election law only recently emerged as a field in the United States, it is even less developed as a subject of comparative case law.

The labeling problem is not an insurmountable hurdle to the integration of election law topics into the undergraduate classroom. Political scientists may need to pick and choose, but there is a wealth of material to draw upon. The first step would be to get the Election Law casebooks onto the bookshelves and the second step is to communicate to political scientists the relevance of the content.²⁹

II. BRIDGING THEORY AND PRACTICE

If we take Table 1 above as a guide to translation and labeling between the two fields, one challenge to integrating election law into the undergraduate classroom is overcome. A second challenge remains, one possibly larger than the first: political science’s aversion to practical wisdom. For better or ill, political science has been engaged for a half century in a disciplinary identity struggle, represented in the last decade by the “perestroika” movement.³⁰

25. ISSACHAROFF, HASEN & TOKAJI, *supra* note 14, at 2.

26. PIPPA NORRIS, *ELECTORAL ENGINEERING: VOTING RULES AND POLITICAL BEHAVIOR* (2004); GARY W. COX, *MAKING VOTES COUNT: STRATEGIC COORDINATION IN THE WORLD’S ELECTORAL SYSTEMS* (1997).

27. ISSACHAROFF, HASEN & TOKAJI, *supra* note 14, at 4.

28. *Id.* at 1128.

29. Library access may be a larger barrier than it seems on first blush. For example, of the thirty-six Oregon and Washington colleges and universities with libraries in the Orbis Cascade Alliance, only Reed College and Lewis & Clark College own the most recent edition of the Lowenstein textbook, only Reed College and Willamette University own the most recent edition of the Issacharoff textbook, and only the University of Washington owns the Dimino textbook. The Orbis Cascade Alliance Summit search function is available at <http://summit.worldcat.org/>.

30. Kristen Renwick Monroe, *Introduction*, in *PERESTROIKA!: THE RAUCOUS REBELLION IN POLITICAL SCIENCE 1–5* (Kristen Renwick Monroe ed., 2007).

However, battles between empiricists and theorists, behavioralists and institutionalists, and “number crunchers” and “soakers and pokers” have animated the social sciences for decades;³¹ political science (and voting theory in particular) just seems especially prone to these internecine struggles.³²

The end result has been a retreat from what might be called “practical” or “applied” approaches to understanding politics and political action in favor of more “theory driven” approaches. While this may have provided methodological focus to the discipline, there is little doubt that it has narrowed the subject matter and drawn scholars away from topics that involve current debate in law and policy. To take one example, public administration, a field whose “fundamental goal . . . is to advance management and policies so government can function,”³³ has its own professional schools, its own journals, and its own professional societies, but remains to some a “sub-discipline of political science.”³⁴

Election law is therefore doubly disadvantaged; as a field of study, it remains interdisciplinary, drawing on law, public administration, and political science; and in application, much of the subject matter can seem to be about the “nuts and bolts” of election administration rather than the grand issues of equality or constitutional rights (although many of the scholars cited here would rightfully object to this characterization). Of course, all of this has changed with the rise of voting rights litigation in the 1960s,³⁵ campaign finance and free speech litigation in the 1970s,³⁶ and of course the aftermath of *Bush v. Gore*.³⁷ Still, controversies of “hanging chads” or inaccurately marked absentee ballots can appear awfully “nuts and bolts,” even if they do implicate

31. E.g., Christian Bay, *Politics and Pseudopolitics: A Critical Evaluation of Some Behavioral Literature*, 59 AM. POL. SCI. REV. 39, 42 (1965); Robert A. Dahl, *The Behavioral Approach in Political Science: Epitaph for a Monument to a Successful Protest*, 55 AM. POL. SCI. REV. 763, 763 (1961). The reflections of scholars from other social science disciplines can be found in AMERICAN ACADEMIC CULTURE IN TRANSFORMATION: FIFTY YEARS, FOUR DISCIPLINES (Thomas Bender & Carl E. Schorske, eds. 1997).

32. A wide ranging criticism of rational choice approaches to politics and voting theory can be found in DONALD P. GREEN & IAN SHAPIRO, PATHOLOGIES OF RATIONAL CHOICE THEORY: A CRITIQUE OF APPLICATIONS IN POLITICAL SCIENCE (1994).

33. HANDBOOK OF PUBLIC ADMINISTRATION iii (Jack Rabin et al. eds., 1989).

34. DONALD F. KETTL & JAMES W. FESLER, THE POLITICS OF THE ADMINISTRATIVE PROCESS 38 (4th ed. 2009).

35. Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 445 (codified as amended at 42 U.S.C. §§ 1971, 1973 to 1973bb-1 (2006)).

36. E.g., *Buckley v. Valeo*, 424 U.S. 1 (1975).

37. *Bush v. Gore*, 531 U.S. 98 (2000) (per curiam).

much larger issues.³⁸ Furthermore, it has not helped that many of the important cases have remained at the state court level.³⁹

However, if there is anywhere in academia where policy and practice play a greater role in the political science curriculum, it is at the undergraduate level; it is here that we can make the most headway in introducing topics of election law to our students. In the admittedly idiosyncratic guide that follows, I elaborate on Table 1 provided above, suggesting readings, exercises, and techniques for incorporating election law topics into mainstream political science courses. While the focus is on undergraduate teaching, much of the material would be applicable to the graduate level.

III. THE WHEN AND THE WHERE

I start by asking “when” and “where” to incorporate election law topics in the political science curriculum. I will take on these questions in reverse order. The “where” is difficult to wrap into a neat package, because the answer is “anywhere where it seems relevant or related.” As previously noted, the primary topics in election law already reflect the interests of political scientists, even if they are not recognized as such.⁴⁰

For example, virtually every political science department offers courses titled Congress or Legislative Politics, and virtually all these courses touch upon, in some manner, questions of representation. While most political scientists today rely on Manin or Pitkin rather than Madison and Burke,⁴¹ the working concepts remain the same: How do we translate public desires, as reflected in vote totals, into seats in the legislature? It is here where basic case law on representation, the right to vote, minority/majority districts, and gerrymandering can be easily integrated.⁴² Less obvious, perhaps, but just as relevant would be classes on Race and Politics, Ethnic Politics, and Interest Groups.

Perhaps an even more popular offering in political science departments are courses on Campaigns, Elections, or Electoral Behavior. This subfield will prove to be a harder nut to crack, however. As Lowenstein noted in his review

38. See, e.g., Edward B. Foley, *How Fair Can Be Faster: The Lessons of Coleman v. Franken*, 10 ELECTION L.J. 187 (2011).

39. Daniel P. Tokaji, *Leave it to the Lower Courts: On Judicial Intervention in Election Administration*, 68 OHIO ST. L.J. 1065, 1066–68 (2007).

40. Much of what follows results from a reading and analysis of a number of online syllabi collections, for instance the American Political Science Association’s online political science syllabi collections, available at http://www.apsanet.org/content_3807.cfm.

41. MANIN, *supra* note 22; HANNA FENICHEL PITKIN, *THE CONCEPT OF REPRESENTATION* (1967).

42. What makes the case law books particularly valuable in the classroom, in fact, is that they have such a rich set of discussion questions and ancillary materials, something sorely lacking in many political science texts.

essay, empirical scholars who focus primarily on individual voting behavior and rely on mass sample surveys, something missing in much of the research in election law, dominate political science.⁴³ The topic matters overlap, of course—questions of turnout, for instance, animate both fields—but the disciplinary exchanges have been few and far between. This is unfortunate since, simply as a target, the Elections, Public Opinion, and Voting Behavior section of the American Political Science Association (“APSA”) is among the largest sections (nearly 800 members) and would seem to provide the most subject matter relevance.⁴⁴ The goal here would be to find readings by scholars who bridge both fields and speak the language of political science.⁴⁵

Another growing area of interest in political science is state and local politics. In fact, the organized section in APSA has grown to over 400 members,⁴⁶ and the section journal, *State Politics and Policy Quarterly*, ranks 77th out of 141 political science journals.⁴⁷ Members of this section include scholars who study direct democracy, referenda and initiatives, and state-level political reform.⁴⁸ Unfortunately, at present, there is little representation of election law topics in the journals, textbooks, or state politics curricula.⁴⁹

Finally, it seems to me that classes in political theory that deal with abstract questions of citizenship, representation, rights, and freedoms, would do well to attend to how these issues are debated and resolved in the legal arena. All of the casebooks do a marvelous job addressing these issues. Additionally, Keyssar’s masterly treatment of the history of voting rights in the United States, *The Right to Vote: The Contested History of Democracy in the United States*, is well-written, provocative, and easily digested by undergraduates.⁵⁰ It has a nice mix of history, law, and current affairs and

43. Lowenstein, *supra* note 4, at 1200 n.6.

44. *Organized Section Membership Counts*, AM. POL. SCI. ASS’N, <http://www.apsanet.org/sectioncounts.cfm> (last updated Mar. 1, 2012) [hereinafter *APSA Section Membership*].

45. A short list of potential readings, see Stephen Ansolabehere & Nathaniel Persily, *Vote Fraud in the Eye of the Beholder: The Role of Public Opinion in the Challenge to Voter Identification Requirements*, 121 HARV. L. REV. 1737 (2008); Richard L. Hasen, “High Court Wrongly Elected”: A Public Choice Model of Judging and Its Implications for the Voting Rights Act, 75 N.C. L. REV. 1305 (1997); Nathaniel A. Persily, *The Peculiar Geography of Direct Democracy: Why the Initiative, Referendum, and Recall Developed in the American West*, 2 MICH. L. & POL’Y REV. 11 (1997).

46. *APSA Section Membership*, *supra* note 44.

47. ST. POL. & POL’Y Q., <http://spa.sagepub.com> (last visited Mar. 2, 2012).

48. See *State Politics and Policy*, AM. POL. SCI. ASS’N, http://www.apsanet.org/content_5146.cfm?navID=199 (last visited Mar. 2, 2012).

49. A notable exception is DEMOCRACY IN THE STATES: EXPERIMENTS IN ELECTION REFORM (Bruce E. Cain, Todd Donovan & Caroline J. Tolbert eds., 2008).

50. ALEXANDER KEYSAR, THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES (2000).

would be my starting point for an undergraduate Election Law course (see the Lieberman syllabus in the Appendix).

As to the “when,” this is also difficult to answer for individual teachers, but my own experience has been that questions of constitutional rights and liberties are most appropriately presented in the first few weeks of a semester. This is how most political scientists will view election law topics, and this is where most political scientists already cover basic and fundamental questions of the “rules of the game.”

A final pragmatic suggestion to publishers, editors, and the legal community, drawn from my experience as co-editor of the *Election Law Journal*: to a degree often not recognized, the legal community publishes in journals that do not get indexed in the electronic databases most commonly used by social scientists (Academic Search Premier, WorldCat, and the ubiquitous JSTOR). Westlaw and SSRN, meanwhile, are commonly utilized by legal scholars, but seldom by social scientists. This means that online searches conducted by social scientists may not return relevant law review articles, and legal scholars may overlook works in the social sciences. While this may seem to be a far too grounded and pragmatic concern, it stands as a significant barrier to interdisciplinary efforts. Because the field is interdisciplinary at its core, this database difference should be of particular concern to scholars of election law.

APPENDIX: A SURVEY OF UNDERGRADUATE ELECTION LAW SYLLABI⁵¹

Title	Primary Texts	Comments
<p>“Campaign Finance in American Elections and Public Policy”</p> <p>R. Sam Garrett American University</p>	<p>Political science books on campaign finance; individual legal cases</p>	<p>Primarily a course on campaign finance viewed through the political science lens, with some coverage of BCRA, FEC, and disclosure</p>
<p>“Supreme Courts and Elections: American and International Experience”</p> <p>Kieran Williams Drake University</p>	<p>Donald Kommers et al., <i>American Constitutional Law Volume 1: Governmental Powers and Democracy</i> (3d ed. 2009); legal cases in the U.S. and abroad</p>	<p>Unique course in that it covers both domestic and international case law</p>
<p>“Seminar: Election Law”</p> <p>Ken Mayer, University of Wisconsin, Madison</p>	<p>Issacharoff et al., <i>The Law of Democracy: The Legal Structure of the Political Process</i>; articles from <i>Election Law Review</i> and other law reviews</p>	<p>Follows the chapter organization of the textbook closely</p>
<p>“Voting Rights & Election Law”</p> <p>Denise Lieberman Washington University</p>	<p>Alexandar Keyssar, <i>The Right to Vote: The Contested History of Democracy in the United States</i> (2000); legal cases</p>	<p>Mainly a course on voting rights, but has three weeks of coverage of election administration, voter ID, technology</p>
<p>“Voting Rights”</p> <p>Denise Lieberman Washington University</p>	<p>Individual legal cases</p>	<p>Unique course in that it includes a substantial service learning component (voter education, election monitoring)</p>

51. The list of syllabi resulted from a query posted on the Election Law listserv (<http://department-lists.uci.edu/mailman/listinfo/law-election>) in September 2011. I am indebted to the various scholars for their willingness to share their materials. The list of syllabi and topics is only suggestive and is not comprehensive. These materials can be found at the Election Law repository of teaching materials (<http://electionlawblog.org/?p=23929>). Additional syllabi will be posted as they become available.

