

Legal Studies 138

The Supreme Court and Public Policy

Syllabus

This course examines a number of leading U. S. Supreme Court decisions in terms of what policy alternatives were available to the Court and which ones it chose. Prospective costs and benefits of these alternatives and who will pay the costs and who gets the benefits of them are considered. Among the areas considered are economic development, government regulation of business, national security, freedom of speech and discrimination. Readings consist solely of Supreme Court decisions. The grade in the course will be based on a mid-term exam (25% of grade) and a final exam (75% of grade).

Topics and Readings

Four class hours will be devoted to each topic, except for legislative districting, freedom of speech and the religion clauses. Six hours of class time will be devoted to each of these three topics.

1. Economic development: creation of infrastructure

Charles River Bridge v. Warren Bridge (1837)

2. Maintaining a federal system in a nationalizing economy

United States v. E.C. Knight Co. (1895)

Wickard v. Filburn (1942)

3. Government regulation of business in free markets

Lochner v. New York (1905)

4. Response to high risks: making security policy under considerations of high risk and uncertainty

Korematsu v. United States (1944)

5. Is the Supreme Court capable of achieving major social change?

Brown v. Board of Education I & II (1954, 1955)

6. What constitutes democratically acceptable legislative districting?

Baker v. Carr (1962)

Reynolds v. Sims (1964)

Davis v. Brandemer (1986)

Hunt v. Cromartie (2001)

7. Pornography: freedom of speech as a non-absolute right. What limits should government place on freedom of speech?

Dennis v. United States (1966)

Brandenburg v. Ohio (1969)

8. The tensions between the no establishment and free exercise clauses

Sherbert v. Verner (1963)

Lemon v. Kurtzman (1971)

Agostini v. Felton (1997)

Zelman v. Simmons-Harris (2002)

9. Planned parenthood. Can the Court settle highly divisive policy questions?

Griswold v. Connecticut (1965)

Roe v. Wade (1973)