Destabilizing Democracy

Samuel Issacharoff, Pamela S. Karlan, Richard H. Pildes
The Law of Democracy: The Legal Structure of the Political Process
Foundation Press 1997

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I'm buying this book for my election law course with the same feeling I get tuning in to National Public Radio – I know there is a bias I don't like, but the quality is too good to pass up. Samuel Issacharoff, Pamela Karlan, and Richard Pildes have put together a fine election law survey casebook that seems certain to sell well in this fast-growing area of legal study. This is a carefully thought out volume that includes original background material to provide context, excerpts from important articles, and practical experience from the trenches of election law litigation. Teachers and students will love it.

More open to debate is whether the book will have a salutary effect on young legal minds during an era in which, as the authors put it, "[t]he foundations of democracy are being thrown open for examination today as they have been at only a few previous moments in political history" (p. v). The authors begin with a "general disclaimer to warn readers that we are not disinterested observers" (p. viii). They acknowledge up front that some "central points" the book aims to convey are (1) that existing political structures should not be accepted because of tradition, for the choice of political structures is itself a critical part of political debate; (2) that those holding power in existing structures are likely to "shape, manipulate, and distort democratic processes" for "self-interested aims" resulting in a lockup of the political process; and (3) that in many instances "the judiciary emerges as the sole branch of government capable of destabilizing an apparently unshakable lock-up of the political process" (p. 3).

Any observer of current voting rights dis-

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putes would have to agree that the judiciary has destabilized the political process. Taking this book as a whole, one hears the message that reexamining the basic structure of American elections would be a good idea, and that the best direction for the current destabilization is toward abandonment of the majoritarian "first past the post" system of district-based elections in favor of some form of proportional representation ("PR"). That direction is depicted as having special benefits for the United States because it is said to be an attractive way of dealing with the vexing problem of racial minority representation in the political process.

For all of my enthusiasm about this book and the engaging way it presents election law issues for students, I think this message is a dangerous one that has things exactly backwards.

I

As the authors point out, formal courses in what they call "the law of democracy" have long been mysteriously absent from course catalogs despite the centrality of democratic politics in so many areas of public law (p. vi). That is starting to change. Many law schools have begun to offer courses in the subject, and law review articles on election law issues continue to multiply. This new casebook marks the second commercial venture into the area. (Daniel Lowenstein published his fine *Election Law* casebook in 1995, and it may be a good choice for anyone with a particular interest in party politics, as opposed to the racial aspects of election law.)

Especially in the "voting rights" aspects of the subject, it would be impossible to find three better-qualified casebook authors than Issacharoff, Karlan, and Pildes. These three have not only written widely in the field, but also gotten their hands dirty litigating a number of the leading cases. Their practical experience makes a difference, and this book is all the better for it.

Following a thoughtful introductory chapter, the book covers the basic constitutional framework of representation, including residency requirements, registration, felon disenfranchisement, and the like. The book next addresses the one-person, one-vote line of cases, followed by introductory material on the role of political parties. The authors group the pre-Voting Rights Act (VRA) cases on black enfranchisement (including the *White Primary Cases*) within the introductory chapters, rather than as an introduction to the three chapters of VRA material that follow. Although this material might provide a better transition to the voting rights chapters, placing it in the middle of the "general" introduction section recognizes a fundamental fact of election law – that race is central to any understanding of the basic structure of American election law, like it or not.

The Voting Rights Act gets three chapters of its own – one on § 5 and preclearance, one on vote dilution prior to the 1982 Amendments and the political process leading up to the Amendments, and one on vote dilution cases since 1982. Interestingly, the recent equal protection cases dealing with race-based electoral districts are treated separately from the rest of the VRA material, located instead in a broader chapter on "Redistricting and Representation" which also covers political gerrymandering. This too seems to recognize a fundamental fact – that politics is now at the heart of voting cases that involve race, like it or not.

Following the chapters on race and redistricting, the book moves on to the role of money in politics, giving a very condensed introduction to campaign finance issues. This is not a book for anyone wanting to learn the nuts and bolts of campaign finance compliance. While mastering that field is one of the few ways to earn a full-time living in the pri-

vate practice of election law, campaign finance issues are presented here for the purpose of considering their broader impact on electoral systems. That makes sense, and while this chapter gives short shrift to the substantial reasons why government limitation of political speaking and spending can be a bad idea, the materials here are more than adequate for an election law survey course.

Before ending with a pæan to proportional representation (about which more later) the book includes a terrific chapter on "direct democracy," in which the authors successfully tie together many themes arising from ballot initiatives, such as anti-gay rights provisions, Proposition 209, and term limits proposals. Ballot initiatives provide the cleanest cases in which to examine the tension between allowing the will of the majority to find expression free of political "lock-ups" and protecting minority rights. Where, as in *Evans v. Romer*, 116 S. Ct. 1620 (1996), courts invalidate ballot initiatives on grounds that they disfavor minority groups not considered suspect classes, the danger arises of thwarting popular will by means of a judicial "lock-up" based upon the policy preferences of judges. On the other hand, direct democracy has long been thought (as illustrated with historical materials from *The Federalist* and elsewhere) a device particularly susceptible to abuse by temporary majorities seeking to trample property rights and the rights of minorities. This chapter provides rich material for discussing these issues.

The book's use of historical background materials is a real strong point, particularly on racial issues. Conveying the harsh truth about the history of racial discrimination to students in the politically correct 1990's is not easy. The authors use historical material to address this problem. For example, they include a typical "literacy test" containing questions such as: "Appropriation of money for the armed services can be only for a period limited to ___ years" and "Of the original 13 states, the one with the largest representation in the first Congress was _____" (p. 99-100). In the same vein is their discussion of an Alabama constitutional amendment permitting the state to abolish Macon County altogether "if the uppity Negroes there continue pestering for the vote" (p. 102). The authors also recognize that what matters in real life is not what Supreme Court opinions say, but what happens on the ground. Displaying a wealth of knowledge from both voting rights history and current disputes, they recite numerous case histories following remand and make good use of many lower court opinions.

This book is at its best in the extensive discussion notes concerning the multitude of vexing questions raised by the 1982 Amendments to the VRA and litigation under the amended statute. While the commentary not surprisingly tilts in favor of racial districting and other debatable aspects of § 2, the authors are pretty even-handed in providing material from which teachers can fairly address the fundamental questions the 1982 Amendments raised, even questions about their very constitutionality (p. 463). The introductory notes are concise and packed with useful material, as in the introduction to the historical legal treatment of "block voting" and the statistical techniques that are used to prove it (p. 464-72). It would not be hard to spend several rewarding weeks in class discussion about the material presented in these excellent Chapters 6 and 7 alone.

A few suspicious editorial choices in these sections merit mention. For example, Justice Harlan's opinion in *Allen v. State Board of Elections*, 393 U.S. 544 (1969) (p. 291) is edited to omit his famous question about the concept of vote dilution: How do we know whether minority voters are better off with some influence over the election of more officials or with more influence over the selection of fewer officials, and how can courts intelligently compare the alternatives? With such a large per-

centage of the book devoted to racial issues, it is also odd that Justice Douglas' dissent in *Wright v. Rockefeller*, 376 U.S. 52 (1964), which harshly condemns the concept of drawing race-based electoral districts and the notion that voters can adequately be represented only by a member of their own race, gets not even a mention. This book acknowledges many tough questions about vote dilution, but seems reluctant to admit that some of the toughest have so long and distinguished a pedigree.

II

My unease with the message this book appears designed to send students about the American electoral system built up gradually as I made my way through the chapters to the final one, titled "Alternative Democratic Structures." The authors early on make plain their view that "voting rights are frequently better understood as group-based rights. They focus on whether one group's political power is being inappropriately diluted or enhanced at the expense of other groups" (p. 16). The book questions at the outset whether our current electoral systems are up to the task: "Particularly in this arena of democratic institutional design, the American Constitution reveals its age" (p. 20). One can almost picture the eager student raising her hand to shout, "there must be a better way!"

The book devotes plenty of space to documenting the supposed "disadvantages" of our current district-based, first-past-the-post, two-party political system. There is said to be "nothing inevitable about a two-party system," nor is a two-party system "necessary for a robust democracy," citing Israel, the Netherlands, and Finland as counter-examples (p. 245). The book notes that major parties "engage in a variety of behaviors designed to perpetuate their privileged positions," leading to a "two party monopoly" (p. 245, 252).

Missing from all this is any recognition of the contrary view, that the weakness of major party organizations is what really saps the vitality of our current system. The notion that the two major political parties are all-powerful monoliths at which courts and voters can merely chip away is at best debatable. Scholars have documented the decreasing ability of parties to impose discipline upon their members and thereby offer a coherent ideological position on which voters can judge candidates. Writers of the "Responsible Party Government" school suggest that the weakness of parties is responsible for the lack of accountability in politics, the rise of single-issue groups, and growing public disillusionment. Instead of a balanced discussion of the debate over the role of parties, this book offers a one-sided view of major parties as entrenched defenders of the status quo standing in the way of progress.

Having set up the two-party system as one of our big problems, the book next turns to the system that produces two-party governance – the so-called Westminster first-past-the-post system of elections in which the winner of 51% of the vote in a particular district (or less, where more than two candidates are running and the rules do not require a majority) wins the seat outright notwithstanding the fact that 49% of the voters opposed him. Applied across an entire jurisdiction, a party that wins 51% of the votes in every district gets 100% of the seats, while other parties get no representation and their votes are "wasted." A strong incentive is thus created to embrace policies that appeal to the greatest number of voters.

Using the model of two stores serving a town in which the population is evenly spread out along one street, the authors illustrate why "standard political science accounts suggest a strong propensity toward a two-party system in jurisdictions that use single-member districting systems" (p. 261). Although, according to this model, the townspeople (voters) would

be best served by having each store (party) one third of the way from the end of the street (political spectrum), the quest to appeal to a majority of customers drives both stores to the center of town. Third stores have a hard time because they end up fighting for customers only with the store between them and the town center. Thus, the authors posit, the American system "unfortunately" suffers from "pressures toward centrism" as a result of the single member district, first-past-the-post system. In contrast to centrist major parties in a majoritarian system, "third parties are usually ideologically driven" (p. 254). The suggestion presumably is that our "town" would be better served by several ideologically distinct "stores" spaced at various spots from end to end of the street. Some form of proportional representation system of voting could accomplish this goal.

And that's not all. In a lopsided presentation of "the debate between majoritarian systems and proportional representation" the authors leave no doubt about the superiority of the latter. Reminding readers that the "current system has the kind of costs exposed throughout this casebook," the authors serve up a one-sided "voting quiz" to illustrate their view that our majoritarian voting system is in need of an overhaul (p. 714). Proportional representation, it is suggested, correlates with "fairer" representation of voter preferences in the legislature, more female office-holders, higher voter turnout, and more voter satisfaction with government. The authors stop just short of implying that proportional representation would cure the common cold.

Basic objections to proportional representation get mentioned only so they can be summarily dismissed. Thus, to the charge that PR produces unstable governments, the casebook quotes "leading election-law scholar" Douglas Amy (who happens also to be a leading PR advocate) to establish that "the charge of instability is one of the great myths surrounding PR," and another author baldly stating that "there is no evidence whatsoever that proportional representation is likely to lead to instability" (p. 774). Similarly, the charge that PR legitimizes fringe groups by giving them political office is dismissed with the statement that "as a practical matter, PR does not appear to have facilitated the rise of extremist parties in European countries" (p. 776). Examples of PR disasters in France and Italy (53 and 51 governments, respectively, between 1945 and 1992) and Israel are dismissed "not as stemming from PR per se, but the peculiar versions of it they use" (p. 779).

But even if another system is so much better, is there any particularly urgent reason to try so radical a change? It would appear that the reason is to be found in the current controversy over race-based districting. Seeking to remedy apparent violations of the Voting Rights Act, jurisdictions have resorted to drawing single-member districts on the basis of race in order to assure "representation" for members of racial minority groups. This in turn has been attacked by the Supreme Court in *Shaw v. Reno*, 509 U.S. 630 (1993), and its progeny as repugnant to the equal protection clause in that it relies upon racial stereotypes to group voters together on the theory that black voters will think alike and vote alike.

Enter cumulative voting (multicandidate elections in which voters can cast a vote for each candidate, cast all their votes for one candidate, or anything in between), the single transferable vote (in which voters rank order their preferences), and other forms of proportional representation. The final chapter of this book describes all these systems, trumpeting their supposed advantage of "fairer" representation of a wider range of viewpoints in the legislature. A system in which seats are allocated in proportion to votes received, it is argued, would allow smaller parties to thrive, prevent voters not in the majority from being "shut out," and of course prevent racial minor-

ities from having their votes "submerged" in the larger sea of white votes, resulting in none of their candidates making it to the legislature.

It is this last point that supposedly would make proportional representation such a good deal for the United States. If voters could aggregate their preferences through some form of proportional representation scheme, then no question of stereotyping black voters by grouping them through "electoral apartheid" into geographic districts would ever arise. If black voters really do have distinct political interests, then such a system would allow them voluntarily to group together and win representation for those interests. Minorities are thus protected from "racial vote dilution" without unsightly gerrymandered districts resembling "a bug splattered on a windshield" or the "mark of Zorro." This viewpoint is cogently presented in an excerpt from a 1993 *New Republic* article by Pildes (p. 723).

In order to figure out whether PR would be helpful in healing racial division in American, we need to consider what type of politics PR systems favor. First and foremost, all systems of PR are aimed at ensuring that voters whose views constitute a minority in the electorate will nonetheless have candidates representing their views elected to the legislature. Cumulative voting systems allow voters with intense preferences to be represented by elected officials even if the great majority of voters reject those preferences. PR systems tend to break down the two-party organization found in majoritarian systems, leading to the formation of additional parties (p. 717). If you think that the race of voters provides a good proxy for their political views, and that frequent defeat of candidates favored by minority voters should be viewed as racial discrimination in the electoral process, then cumulative voting or other PR systems probably seem like good ways to ensure "fair" minority representation for the reasons Pildes mentions.

But if there are good reasons for believing the law should treat the race of voters as a proxy for their political views, VRA § 2 litigation under the plurality opinion in *Thornburg v. Gingles*, 478 U.S. 30 (1986), certainly doesn't provide them. As an initial matter, vote dilution litigation under § 2 ought to be the last place one would turn for an impetus toward PR. Liberal commentators rail against Justice Thomas' opinion in *Holder v. Hall*, 512 U.S. 874 (1994), that § 2 can be construed not to cover vote dilution, noting that the one clear thing about the debate over amending § 2 was the intent to cover vote dilution. But there was another clear thing established in the debate – that § 2 should not be construed to require proportional representation. It is no coincidence that the installation of PR and cumulative voting systems pursuant to § 2 has come in cases where local governments unable to afford expensive litigation have admitted to § 2 "violations" and then negotiated consent decrees to appease plaintiffs. Indeed, the observation that cumulative voting is being used as a VRA remedy "where it is more difficult to devise districts that concentrate black voters into a majority in particular districts" (p. 726) sounds like a tacit admission that it is being used as a remedy where there is really no violation, given *Gingles'* requirement that minority voters be sufficiently numerous to constitute a majority in a reasonably compact district.

If so radical a change as moving to PR is to be justified by invoking the moral imperative of racial justice, then we need to grapple honestly with the question whether there is truly an "African-American" political viewpoint that needs expression in the first place. To be fair, there is (as the authors note, p. 497) a wealth of empirical evidence that black and white voters vote differently, with black voters disproportionately (though by no means monolithically) favoring liberal Democrats. But without knowing whether divergent black and white voting is fairly viewed as showing

racial discrimination, it cannot fairly be said that minority voters are being denied "fair" representation on account of race, rather than as a result of picking political losers.

Under the vote dilution jurisprudence that existed prior to the 1982 Amendments, the focus upon the so-called "*White-Zimmer* factors" concerning past governmental discrimination, educational segregation, access to party activities, racial campaign appeals, and the like ensured that findings of vote dilution could be at least somewhat tied to racial discrimination in the classic sense. Justice White's decision in *Whitcomb v. Chavis*, 403 U.S. 124 (1974), stood guard to ensure that racial vote dilution did not become a "mere euphemism for political defeat at the polls" where minority voters did not have their candidates elected simply because the party they preferred was in the political minority. Under the application of Justice Brennan's plurality opinion in *Gingles*, however, the mere fact of strong black support for unsuccessful candidates became powerful proof of "vote dilution." The *White-Zimmer* factors took a back seat to statistical evidence, and findings of § 2 violations mushroomed.

The pendulum has come back somewhat, as shown by excerpts from Judge Higginbotham's decision in *LULAC v. Clements*, 999 F.2d 831 (5th Cir.) (en banc), cert. denied, 510 U.S. 1071 (1994), in which the Fifth Circuit held that a vote dilution claim might fail for inability to show "white bloc voting" in cases "where partisan affiliation, not race best explains the divergent voting patterns among minority and white citizens." Resurrecting *Whitcomb*, the court held that § 2 is implicated only where "Democrats lose because they are black, not where blacks lose because they are Democrats." The authors, however, question whether drawing a distinction between racial and political motivations in this way "makes sense" given the great difficulties explaining (as opposed to predicting) voting patterns in any meaningful way. Looking at the "white bloc voting" requirement in this way, they say, will almost always be fatal to plaintiffs, for "as long as some whites vote with minorities for the Democratic candidate, political affiliation will always be a better predictor of election outcomes than will race" (p. 499).

Indeed, an excerpt from one of Karlan's articles suggests that American politics today might loosely be thought of in terms of "Pro-black" and "Antiblack" parties, with "most blacks finding their interests better represented by the Democratic party" (p. 498). But if this is the type of correlation that suffices to invoke statutory prohibitions on "racial discrimination" in the voting process, then the flip side must be that white voters' rejection of liberal policy preferences can meaningfully be described as evidence of racial discrimination – which, after all, is what a finding of § 2 liability is understood to be. That would be a tough idea for most people to swallow. To the extent voters differ on issues such as defense spending or environmental protection, it is hard to see the moral force behind the claim that candidates advocating views on these issues that a majority of black voters support should get an electoral advantage because of the color of those supporters. Even on modern civil rights legislation, which the authors describe as "the easiest measure of substantive representation" for minority voters (p. 600), such votes in the 1990's are not likely to present moral questions over which people of good faith cannot disagree, regardless of their pigmentation.

Perhaps the greatest inadequacy of current vote dilution law in providing a valid basis for change to electoral systems is the lack of teeth in the requirement that "political cohesion" of minority voters be shown in order to make out a violation based upon electoral results. The authors edited out the part of Justice Thomas' opinion in *Holder* where he noted that the *Gingles* standard for "cohesion," which demands only the support of a "significant

number of minority voters," is meaningless. Justice Thomas pointed out examples of minority cohesion being found based upon "49% to 67%" of black voters supporting a particular candidate. Can it seriously be suggested (except by those who believe some African-Americans are "authentic" and some aren't) that 33% of black voters in these cases were voting "against" their race?

In extreme cases courts have even required extra-high black populations in minority-majority districts to overcome the possibility that "black crossover voting" combined with white votes might prevent the "black preferred candidate" from being elected. Think about that one for a minute, then about whether a vote dilution jurisprudence administered in this way could ever provide a foundation for changing the basic structure of our electoral system in the name of racial fairness, as opposed to some unstated political agenda. Do you think there was a 33% "crossover" of black citizens who believed blacks should not be allowed to register, or that they should be the victim of discriminatory literacy tests? Without at least an extremely high degree of cohesion among black voters, it is hard to see how divergent electoral preferences can show racial unfairness, absent barriers to participation.

The notion that the collision between *Gingles*-driven district drawing and the *Shaw* line of cases demands the elegant solution of proportional representation as a matter of racial electoral justice is an emperor with no clothes. An honest discussion of proportional representation in the racial context calls for asking whether overlaying the known results and incentives of proportional representation systems upon America's racial circumstances would make things better or worse. If our goal is movement toward racial harmony and shared interests as opposed to heightened racial awareness and separatism, the answer is not difficult. America's racial problems make PR a particularly bad idea for this country.

Race remains an issue that evokes intense passions. White racism is not dead. African-American calls for separatism grow. Given that PR (with variations depending upon the particular system) favors the establishment of smaller, more ideological parties, and favors the election of candidates supported by small groups of intense partisans over candidates favored by larger groups of less strident supporters, PR would surely worsen these tendencies. Coalition-building is a far better way to move forward, as African-American candidates, even liberal ones, learn that they can be elected statewide, and white Republicans like Jim Gilmore of Virginia demonstrate that reaching out to black voters is a winning strategy. It is odd that Carol Moseley-Braun, Doug Wilder, and J.C. Watts don't even get a mention in this casebook.

Those who believe that PR would be a neat way to let African-American voters elect more minority representatives without racial gerrymandering also seem to forget that other groups would get to play the new game, and that some of these groups are not nice. The same system that would allow a candidate to seek cumulative votes from black voters sympathetic to a Louis Farrakhan agenda would allow another candidate to seek votes for a David Duke agenda. And the trouble with PR is that the rest of the voters might get the pleasure of having both in their legislative delegation, using public office as a soapbox for their extreme views. Frankly, the fact that there is no prospect of a National Front candidate winning a congressional seat in the United States doesn't exactly make me fret over the "wasted votes" of those who would like to support one. Race is the banner around which we least need political alliances formed.

These problems with PR go beyond racial issues. Return for a moment to the "town" analogy, which the authors used to suggest we might be better off with several shops all along the street rather than two large stores near the

center of town. This sounds appealing as long as we don't look at where folks live along the street. Does the town model analogy work well if most people actually live near the center of town? Or does this model elevate the needs of those at the edge of town over those in the center? In which town do you think it would be easier to meet the basic needs of life – one in which a political Wal-Mart and Costco stood near the center of town, or one with only small specialty shops, say a gun shop, two bitterly competing abortion shops, a Chamber of Commerce, a Nature Company, a farmers' cooperative, an African heritage boutique, and a skinhead barbershop? The second town might be an exciting place to visit, but I wouldn't want to live there.

Of course, there are countries using PR with less fractured political systems. But Walter Bagehot's observations about the fundamental problems with PR remain valid – allowing people to form "voluntary constituencies" will produce highly ideological representatives subject to tight control by party bosses. Voters who take the trouble to master complex and confusing PR voting rules to get their policy preferences represented will demand that their representatives take those preferences very seriously. Independent thinking in pursuit of the common good will be the surest way for a legislator to find herself out on the street. Nobody would suggest we now enjoy a Congress full of Edmund Burkes exercising their best judgment on behalf of the Electors of Bristol. But would we be better off with the NRA representative, the NARAL representative, the Earth First! representative and the Aryan Nation representative waiting by their fax machine for voting instructions from headquarters?

The idea that PR is "fairer" to voters because they have more "real" choices is an academic ideal, not a political reality. It is no coincidence that the only jurisdiction voluntarily using PR is Cambridge, Massachusetts. Without a two-party majoritarian system, getting a legislative majority requires coalition building. Inevitably, the balance of power will fall from time to time with the most small and extreme party represented in the legislature. Voters will be unable to cast their votes to help one party achieve legislative majority, and the link between popular support and actual legislative power would likely be diminished. The perceived unfairness of wasted votes for losing candidates pales in comparison to that of a tiny fringe party with minuscule support holding the balance of power.

Who then would do better under PR than under the present system? Those who find that their views are not represented by the "mainstream" of American politics, but instead despair that the "real" left (or right) cannot get its views seriously considered in the governing process. (It is telling that this casebook cites PR advocate Lani Guinier's nomination to head the Civil Rights Division of the U.S. Justice Department as bringing "widespread national attention" to cumulative voting (p. 725), but neglects to mention what happened next.) Given the premium "voluntary constituency" politics under PR puts on ideological party leadership, the biggest beneficiaries are those most likely to occupy positions of political power or intellectual leadership in the political fringe groups that PR would bring into the legislature. They pine for PR because they know that, once there, "self-interested minorities tend to do disproportionately well in the legislative arena" (p. 169). If you want to know who thinks we need PR, just visit the web page of the Center for Voting and Democracy (the leading PR advocacy group), <http://www.igc.apc.org>, then click on the link to CVD west coast director Steven Hill's article, "Left" Out in the Cold, Without Proportional Representation, <http://www.igc.org/enVision/nation.htm>, arguing that only a switch to PR can allow real "leftist" representatives to gain public office.

If you are an election law teacher who thinks my critical comments are a bunch of baloney, then buy the Issacharoff, Karlan, and Pildes casebook. You will enjoy teaching from the book and your students will love you for choosing it. If you are sympathetic to the views expressed here, then buy the book anyway. Casebooks of such high quality are hard to come by. You will still enjoy teaching from the book and the students will still love you for it. Just be sure to supplement the casebook with some outside reading and critical questions. One more thing. Be sure to tell your students up front that if it is really true that there are no preordained or neutral rules for election systems, and if everybody who advocates a particular structure for election law is really doing it to advance their own political agenda, then that observation applies to the authors of this casebook too.