



LAW MATTERS

Educating the Public About the Law

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LAW MATTERS
Educating the Public About the Law

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▼ TURNING OUT THE VOTE

FREEDOM'S ANSWER SMASHES VOTER TURNOUT GOAL ▶▶▶

Freedom's Answer, a nonpartisan, nonprofit effort led by an unprecedented coalition of high-school student organizations, met and smashed its ambitious goal of the highest voter turnout in the history of midterm elections.

The previous voter turnout record of 75.114 million was set in 1994. When all votes are certified, the 2002 total will exceed 78 million, according to Curtis Gans of the Committee for the Study of the American Electorate.

Students sought pledges to vote from their parents, relatives, neighbors, and friends on November 5, 2002—the first nationwide election since the terror attacks—to honor America's armed forces fighting for our freedom, including the right to vote, and to send a message to the world that America is alive and well.

In celebrating their success on their Web site (www.FreedomsAnswer.net), the student leaders said: "Watch out, America! A new generation has arrived. We, the September 11 Generation, have delivered



ABA President A.P. Carlton speaks at a press conference at the Dirksen Senate Office Building, briefing members of Congress on the Freedom's Answer initiative.

millions of votes in a declaration against apathy. American politics may never be the same again."

The project's National Leadership Council is composed of over 200 high-school student leaders from all fifty states, representing close to 15 million students. The council has representatives from the

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IMPORTANT REPORT URGES CIVIC EDUCATION ▶ ▶ ▶



The Carnegie Corporation of New York and Center for Information & Research on Civic Learning & Engagement (CIRCLE) have released a major new report on civic education titled “The Civic Mission of Schools.” The report summarizes the evidence in favor of civic education in K–12 schools; analyzes trends in political and civic engagement; identifies promising approaches to civic education; and offers recommendations to educators, policymakers, funders, and researchers, among others.

“As our nation’s schools continue to be more diverse, with growing numbers of children born outside the United States, the questions of what is democracy, and what it means to be an American, become even more dramatic,” said Vartan Gregorian, president of the Carnegie Corporation of New York. “Since the critical learning community for this new generation of Americans is the school, it is imperative for this country’s future and each child’s education that schools transmit and demand not only mastery

of reading and writing skills but, as well, that of civic skills.”

“The Civic Mission of Schools” was written by fifty-seven authors/endorsers, including several individual NACE members and representatives of organizations such as the American Federation of Teachers, American Political Science Association, American Bar Association, Center for Civic Education, National Conference of the Social Studies, and Education Commission of the States. “Our research shows that the decline in youth civic participation is real and worsening,” said William A. Galston, director of CIRCLE. “[T]he best research and the best minds of those on the front lines make it clear that civic education must be at the heart of strategies to improve the civic engagement of young people.”

Free copies of “The Civic Mission of Schools” are available at www.civicmissionofschools.org, or link from www.cived.net/rsrc_civkno.html or www.cived.net/about_advocstates.htm.

Utah State Bar Celebrates Marbury v. Madison

On February 24, 2003, the Utah State Bar sponsored educational events to celebrate the bicentennial of the U.S. Supreme Court decision in *Marbury v. Madison*, which established the principle of judicial review. Events focused on these three messages:

- “We the People” support the rule of law.
- The three co-equal branches ensure the balance of power in U.S. government.
- The courts have a constitutional responsibility to interpret the law.



Events included discussions in the state’s schools about *Marbury v. Madison*’s history and significance, and students from each



William Marbury

high school were invited to spend part of the day with a legislator, in the governor’s office or with a judge in their area.

Supporting the celebration was the Utah State Bar’s Web site “Celebrating 200 Years

of Constitutional Balance” (www.utahbar.org/madisonmarbury/Welcome.html). Features include materials on the case itself, the people involved, and the consequences of the case. See the Web site for educational

aids for grades 4–6 (“Introducing Students to Early American Courts”) and grades 7–12 (“The Facts Behind the Case”).

The Utah Education Network also offers a *Marbury v. Madison* resource page with lessons and online links to information about the case, the judicial branch, the U.S. Constitution, and related information. On February 24, 2003, Utah’s KUED Channel 7 and KULC Channel 9 will broadcast a panel discussion on the 200th anniversary of *Marbury v. Madison*.

For more information (in downloadable .pdf format), visit the ABA Division for Public Education Web site at www.abanet.org/publiced/lawday/marbury.pdf.

SEE HERE FOR NEW PROGRAMS AND RESOURCES ▶ ▶ ▶



ABA National Issues Forum

The ABA Coalition for Justice will bring National Issues Forums (NIF) to cities around the country, giving citizens an opportunity to participate in a nationwide network of locally sponsored forums designed to explore the concerns people have about the administration of justice. Community organizations, state and local bars, courts, and others can organize local discussions using ABA/NIF program materials that were developed by the Coalition and the ABA Standing Committee on Judicial Independence with assistance from the Kettering Foundation. To download and review related online resources, visit www.abanet.org/justice/nif/home.html. NIF is an ideal companion to the Dialogue on Freedom program, which encourages judges and lawyers to organize discussions with high-school students about the meaning of democracy. For details, visit www.dialogueonfreedom.org.

Focus on Law Studies

The newest edition of *Focus* considers civic engagement on college and university campuses. Articles address links between legal studies programs and civic engagement, challenges to promoting civic engagement campuswide, government programs' role in encouraging civic engagement, and experiences with civic engagement programs at Portland State University, Sweet Briar College, and the University of Pennsylvania Law School. Download at www.abanet.org/publiced/focus/fall_02.pdf.

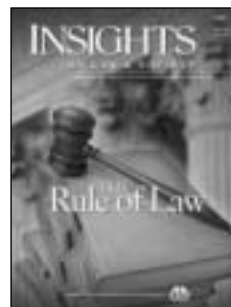
Gideon Lesson Plan

The National Association of Criminal Defense Lawyers (NACDL) has created a lesson plan for high-school history, civics, government, and social studies classes for use in 2003 to commemorate the fortieth anniversary of the U.S. Supreme Court's landmark decision in *Gideon v. Wainwright*. "Gideon at 40: Understanding the Right to Counsel" contains background, activities, colorful illustrations, reproducible homework sheets and answer keys, additional resources, and a script

for presenting the case. The lesson plan appears as a twelve-page pullout section in NACDL's *The Champion* 27.1 (Jan./Feb. 2003). It can also be downloaded at www.nacdl.org/gideon. To order copies, call (202) 872-8600, x248.

Insights Rule of Law Edition

Insights on Law & Society's winter 2003 Rule of Law Edition is dedicated to helping students and the general public understand the rule of law's many



dimensions and the way this hard-to-define, yet dynamic, force in American life influences our public institutions, arts and media, everyday practices, and even international contexts.

Stories about the success and failure of the rule of law in the United States are featured, as well as the views of educators, scholars, and others who are devoted to promoting an understanding of—and to safeguarding—the rule of law. For ordering information, see back cover or visit insightsmagazine.org.

www.regulation.gov: Online Portal to Rulemaking

The Bush administration has introduced www.regulation.gov, which is designed to foster the growing interest among Americans



in using the Internet to participate in the federal regulatory process. The goal is to enable anyone with a computer and Internet access to locate every federal regulation that is open for comment, read it, and submit views. Future plans include incorporating features that will allow not only comment submission but the capability of seeing other people's comments as well as background information on the proposed regulation.



FLORIDA SUPREME COURT VISITS CLASSROOMS ▶ ▶ ▶

Hands were raised as high as their little fingers could reach, and the fifth-graders were jumping up and down in their seats. The students were participating in a U.S. Constitution exercise. They had even given up their recess to meet with Florida Supreme Court Justice R. Fred Lewis.

No stranger to Florida's public schools, Justice Lewis was visiting Beauclerc Elementary in Jacksonville with Annette Boyd Pitts, executive director of The Florida Law Related Education Association, Inc., and Sonya Hoener, a local attorney. Julie Hayden, a fifth-grade teacher at Beauclerc, hosted the visit.

According to many polls and studies, most Americans are woefully deficient in understanding the Constitution. But in this classroom, interest was high and minds were alert. The presentation was lively—filled with interactive questions, historical situations, and contemporary issues. Students had to “think constitutionally,” imagine themselves as adults, and form groups to reach a national consensus on which rights to keep, knowing some would be lost. “The exercise helped the students understand how important it is to know your rights and their impact on your life,” said Boyd Pitts.

“All our rights are related,” stated one fifth-grader. “You shouldn’t want to give up any of your rights.”

Rade, from Croatia, recited the Preamble to the U.S. Constitution and the Declaration of Independence for Justice Lewis. “I love living in this country,” he said.

Year-Round Program

The justices visit many classrooms all year to teach about the courts and the Constitution, using effective law-related-education teaching techniques. “This is one of my greatest joys,” said Justice Lewis, who visits schools three or more times a month. During Constitution Week, justices went to elementary, middle, and high schools, as well as juvenile justice facilities.

Justices Barbara Pariente and Peggy Quince visited female juvenile offenders at the Florida Institute for Girls, where students shared their experiences in the judicial system. The tables were turned as the girls



Justice R. Fred Lewis helps fifth-graders “think constitutionally” at Sabal Palm Elementary School in Tallahassee.

became the judges in a Fourth Amendment search-and-seizure exercise. Bright, articulate, and eager to learn, they participated in a healthy debate about balancing society's safety and protection with individual rights. Many had very positive comments about the judges who sentenced them, seeing them as caring and interested. A large number had been victims of abuse, each with a different life but a not-so-different story. All seemed committed to turning their lives around.

Supreme Court Simulation

Chief Justice Harry Anstead visited a class at Leon High School in Tallahassee, where students explored a real case and simulated a Supreme Court conference activity. While they were unable to come back with a unanimous decision, according to Boyd Pitts, they were able to tackle some of the difficult issues that the courts faced: “We didn’t expect ... a unanimous decision; we wanted them to experience the process thoroughly and discuss the issues.”

Students were touched by Chief Justice Anstead's life story and the way he became a Supreme Court justice. “This kind of dialogue helps people see a human side of the courts,” said Boyd Pitts. “Students have very few opportunities to interact with high-level government officials. These types of exchanges are valuable to students and judges alike.”

Justice Charles Wells visited ninth- to twelfth-grade law students at his alma mater, Boone High School, in Orlando. He conducted a lively, substantive program in a campus courtroom dedicated in his honor earlier in the year.

For more information about the Florida program or to schedule a school visit, contact Annette Boyd Pitts, Executive Director, The Florida Law Related Education Association, Inc., 625 Metropolitan Circle, Suite B, Tallahassee, FL 32308, or e-mail ABPflreaED@aol.com.

THE DEMOCRACY READER

Edited by Sondra Myers ▶ ▶ ▶

There is much wisdom in *The Democracy Reader*, but perhaps nowhere more than in Annan's lecture when he continues:

"People of different religions and cultures live side by side in almost every part of the world, and most of us have overlapping identities that unite us with very different groups. We can love what we are, without hating what—and who—we are not. We can thrive in our own traditions, even as we learn from others and come to respect their teachings."



Edward L. O'Brien is the executive director of Street Law, Inc., in Washington, D.C.

Book Review by Edward L. O'Brien

Sondra Myers's *The Democracy Reader* is a unique anthology of excerpts from essays, articles, and books that represent a rich diversity of cultures and countries. Published in 2002 by the International Debate Education Association, the book clearly and cogently documents the sweeping changes in modern thinking about democracy that have occurred over the past fifteen years.

One of the book's great charms is its freshness. Myers captures perspectives not only from a wide range of cultures but from many types of people, from eminent leaders to the "person in the street." Readers will find progressive conceptualizations of democracy from Nelson Mandela and Václav Havel; the struggles of Mayor Ledluca Orlando of Palermo, Sicily, who tirelessly fought against the corruption of the Mafia; and the story of Serbian student Vladica Mircic, whose T-shirt inscribed with the word *change* ended up playing a role in the democratic revolution against Slobodan Milosevic. The number of ideas and writers in Myers's book that were new to me, a thirty-year veteran in democracy education, was striking. She obviously searched exhaustively—and successfully—for new voices and viewpoints.

The Democracy Reader has two parts: "Album of Civic Stories" contains narratives of individuals struggling to put democratic ideals into action, while each chapter in "Handbook [on democracy]" centers around a democratic principle such as the role of citizens, freedom of expression, or rule of law.

"Handbook" begins with an introduction by a well-known writer, followed by discussion questions that help focus reader attention on vital points in the two to four readings on that chapter's topic. This structure works well for the student or layperson, as it introduces complex new principles in an engaging story format and then allows the reader to enter into dialogue with leaders in the field while clarifying

and commenting on these principles. Some of the material has been previously published in Myers's *Democracy Is a Discussion: Civic Engagement in Old and New Democracies*. That book, as well as this one, has been translated and used in many countries under sponsorship from the U.S. State Department.

One of the more thought-provoking essays in the "Album of Civic Stories" is Earl Shorris's "Richer than Rockefeller," in which he describes founding the Clemente Course in the Humanities in New York in the mid-1990s. Now available at many sites throughout the United States and in several other countries, this program brought together 400 poor, uneducated young people for a summer of classes in art, philosophy, history, and literature. Shorris challenges the

reader to reflect on the language our society uses to refer to its youths of different classes: to the children of Bill Gates and the Kennedys, teachers and guidance counselors stress the importance of "education" in the humanities; to the children of the poor, they emphasize the usefulness—and inexpensiveness—of "training." Such reflection, Shorris maintains, is necessary to the nation's moral survival: "How long a

country that forsakes the ethical and intellectual strength of reflective thinking can continue to prosper is open to question." This book is filled with such statements that invite the reader to reflect and to learn.

Sondra Myers has an eye for the elegant detail: the alert reader will note how the book's organization, in a sense, brings its content full circle. Appropriately, one of the first "Civic Stories" is from Eleanor Roosevelt, who speaks on the importance of human rights—perhaps the most important ingredient of a true democracy. The last excerpt in "Handbook" is from Kofi Annan's powerful 2001 Nobel Lecture, in which the UN secretary-general reaffirms Mrs. Roosevelt's human rights plea, reminding us that "[E]ach of us is fully worthy of the respect and dignity essential to our humanity."



MIDTERM REPORT ▶▶▶

To Follow the Supreme Court

Order *PREVIEW* of *United States Supreme Court Cases*. Eight issues per term analyze each case given plenary review and digest all decisions. See back cover for ordering information.



Center: Chief Justice Rehnquist. Clockwise from center: Justices Stevens, Scalia, Bader Ginsburg, Souter, Thomas, Breyer, Kennedy, O'Connor.



The 2002–2003 term took a turn toward the dramatic this December when the Supreme Court agreed to clarify the constitutional limits on affirmative action policies in higher education and heard arguments over whether Native American tribes can ever hold the federal government liable for violations of its trust responsibility.

Affirmative Action

Two cases scheduled for argument April 1 challenge the University of Michigan's use of race in its admissions processes. The first case, *Grutter v. Bollinger*, No. 02-241, was brought by Barbara Grutter, an unsuccessful white applicant to the university's law school. The second case, *Gratz v. Bollinger*, No. 02-516, was brought by Jennifer Gratz and Patrick Hamacher, unsuccessful white applicants to the university's undergraduate school.

Together, these cases will mark the justices' first return to the question of affirmative action in higher education since 1978. That's when a badly fractured Court ruled 5-4 in *Regents of the University of California v. Bakke*, 438 U.S. 265, that the Constitution's equal-protection clause forbid the University of California Medical School at Davis from setting aside spaces for which only minority applicants could compete but (according to Justice Powell's controlling opinion) allowed it to treat membership in a minority race as a "plus factor" in the admissions criteria.

Interestingly, both the white petitioners and the university respondents say they agree that a diverse student body is an important and valid goal for institutions of higher education. The parties strongly disagree, however, about whether racial diversity can be achieved without giving any weight to minority applicants' race.

Native American Rights

The Court heard back-to-back arguments in two important Native American rights cases December 2 that ask the Court to clarify what, if any, remedy tribes may have when the government violates its

"trust relationship" with Native American tribes. In *United States v. White Mountain Apache Tribe*, No. 01-1067, the White Mountain Apache Tribe is suing the United States for the damages caused by the government's failure to preserve and repair Fort Apache, the historic site it held in trust for the tribe. The government responds that it cannot be made to pay damages because the law that created its trust relationship with the tribe did not specifically say it could be subjected to such liability.

Similarly, in the second case argued that day, *United States v. Navajo Nation*, No. 01-1375, the United States has argued that, even if it did mismanage a tribal mineral lease as the Navajo people allege, it still cannot be made to pay damages because the laws that created the government's trust relationship with the tribe didn't mention that remedy.

Forced Medication

Slated for argument on March 3, *Sell v. United States*, No. 02-5664, asks whether allowing the government to administer antipsychotic medication to a defendant against his will solely to render him competent to stand trial for nonviolent offenses could violate his rights under the First, Fifth, and Sixth Amendments.

First Amendment

Slated for argument on March 5, *United States et al. v. American Library Assn., Inc. et al.*, No. 02-361, asks whether the Children's Internet Protection Act induces public libraries to violate the First Amendment, thereby exceeding Congress's power under the Spending Clause. The act provides that a library may not receive special federal assistance for Internet access unless the library has a policy that includes the operation of a "technology protection measure" on Internet-connected computers that protects against access by all persons to "visual depictions" that are "obscene" or "child pornography," and that protects against access by minors to "visual depictions" that are "harmful to minors."

CALENDAR

April 10 ALA Awards Nominations Deadline: Law-Related Education Teacher of the Year and Law-Related Education Resource

April 11–13 National Youth Service Day

April 21–25 American Educational Research Association's Eighty-Fourth Annual Meeting, "Accountability for Educational Quality: Shared Responsibility," Chicago

May 1 Law Day

June 12–15 2nd Annual Hawaii International Conference on Social Sciences, Honolulu

June 28–July 1 National Media Education Conference 2003, "Literacy and Liberty: Rights, Roles and Responsibilities in a Media Age," Baltimore, Md.

July 13–19 Third Annual Summer Institute for Teachers, hosted by the Bill of Rights Institute at George Mason University, Arlington, Va.

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National Association of Student Councils, Boys Nation, Girls Nation, Junior State of America, Hugh O'Brian Youth Leadership, Youth Team of America's Promise, Boys and Girls Clubs of America, YMCA Youth-in-Government, and the Junior ROTC.

"This new record was set, in large measure, through the extraordinary dedication of students too young to vote themselves, but not too young to lead their elders toward recognizing the responsibilities of freedom in the wake of September 11," said Doug Bailey, former Republican political consultant and cofounder of Freedom's Answer with Mike McCurry, President Clinton's former press secretary. "Freedom's Answer is truly the largest nonpartisan voter turnout effort in history, and more important, has introduced a new generation to the electoral process, which can only serve the nation well.

"We look forward to expanding on the successes of 2002 to get even more young people involved in the years ahead."

In January, ceremonies honored the top performing schools and students in Washington, D.C., and state capitals, respectively.

The students are now busy writing a book about their voter turnout effort that, through a compilation of



Zach Clayton, a North Carolina student representing the National Association of Student Councils, joins A.P. Carlton at the Freedom's Answer press conference.

emotionally moving stories and e-mail, will detail the September 11 Generation's first step in participating in the electoral process

"We are committed to documenting the phenomenal story of Freedom's Answer. Students were empowered nationwide to make a difference, a history-making difference," said Zach Clayton, chair of the National Association of Student Councils. "Not only will Freedom's Answer get stronger as more students become involved, but America will be stronger as young people become a part of our great democracy."

A host of education, media, civic, business, and youth groups support the students, as well as the Republican and Democratic Parties. To talk with students in your area who participated in Freedom's Answer, contact Betsy White at (202) 785-5920.

Dialogue on Freedom to Receive Award

In June, the ABA program Dialogue on Freedom will receive an Award for Excellence from the American Society of Association Executives (ASAE).

According to the ASAE, Dialogue on Freedom truly embodies the spirit of that group's Associations Advance America Campaign. Conceived by U.S. Supreme Court Justice Anthony Kennedy following the September 11 attacks, Dialogue on Freedom brings together high-school students and legal professionals in discussions of democratic principles and the meaning of democracy.

The ASAE, known as the association of associations, is considered the advocate for the nonprofit


sector. The society is dedicated to advancing the value of voluntary associations to society and supporting the professionalism of the individuals who lead them. Founded in 1920 as the American Trade Association Executives, ASAE now has 25,000 individual members who manage leading trade, professional, and philanthropic associations. The organization represents approximately 10,000 associations serving more than 287 million persons and companies worldwide and vendors that offer products and services to the association community.

For more information about the ASAE, visit its Web site at www.asaenet.org/meet/. For more on the Dialogue on Freedom program, visit www.dialogueonfreedom.org.



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▼ CHAIR'S NOTE

May 1 is Law Day—a celebration of America and the rule of law. This year's theme is "Independent Courts Protect Our Liberties." Nothing is more central to the American ideal of the rule of law than a fair and impartial judiciary.

For everything you'll need to plan a memorable Law Day program, including hundreds of program and project ideas, visit www.lawday.org, or call (800) 285-2221 for your free copy of the *Law Day 2003 Planning Guide*.

Law Day 2003 gives us an opportunity to improve public understanding that judicial independence is an essential component of the rule of law, one that ensures the fair and impartial judicial decision making that is needed to sustain American democracy and freedom. And Law Day permits us to improve civic

education by elucidating important concepts such as separation of powers.

"Independent Courts Protect Our Liberties" is also the theme of this year's Images of Freedom Student Photography Competition. The first-place winner will be announced on April 30 at "Conversations with Leaders in Law and Media," an annual Law Day program in conjunction with the Close-Up Foundation. The program will air on C-SPAN on May 2 and be rebroadcast four to six times throughout the next week.



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