

# Introduction to Legal Studies

Spring 2007

## Who Makes Law? What Shapes Law?

Discussion Questions for Tuesday, February 6<sup>th</sup>

On Tuesday we will be discussing who makes law and what shapes it. Is law based the will of the people? If so, which people? How are those decisions made and what shapes such decisions? The various authors we'll read for Tuesday's class offer a variety of possible suggestions as to where power resides and the factors that shape it. As you read their arguments think about the following questions and come to class prepared to discuss them. If turning in answers to the questions, you should use a separate sheet of paper.

1. Who should have the power to make law? Why do you think that? How do you think the average American would answer this question?
2. Having read the decision in *Romer v. Evans*, where are the various geographical levels at which the power to make law could reside?
3. Where does the majority of the Supreme Court (represented by Justice Kennedy) believe the power to make the law should reside?
4. In *Romer v. Evans*, where does the minority of the Court (represented by Justice Scalia's dissenting opinion) believe the power to make law should reside?
5. How does the Constitution complicate the idea of majority rule? Do you think majority rule can go too far (that "the people" can have too much power)? How does your answer to this question jibe with the opinions of the Supreme Court in *Romer v. Evans*?
6. Having read the reading and questions on Proposition 215, what forces do you imagine shape the voting decisions of California citizens on this issue? What sorts of requirements/rules might you place on voters or the voting process to afford good decision making?