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SYMPOSIUM: EMERGING ISSUES IN ELECTION LAW

BIBLIOGRAPHY

O Brave New World? Electronic Voting Machines and Internet Voting: An Annotated Bibliography

Susan M. Boland and Therese Clarke Arado.....313

Since the 2000 presidential election, there has been an explosion of research and literature on voting. This bibliography consists of annotated references to books, reports, periodical articles, and cases examining the brave new world of electronic voting machines and Internet voting and is limited to post-2000 material.

ARTICLES

“Dollars, CPI, and Voter Empowerment”: Public Act 94-976 and its Impact on Local Government Tax Referenda

Shawn P. Flaherty.....377

Units of local government in the State of Illinois are increasingly reliant upon the property tax to support operations. The Property Tax Extension Limitation Law (PTELL) has placed limits on the ability of local governmental units to raise property taxes, and has forced units subject to the PTELL to seek property tax increase referenda to increase tax rates. Public Act 94-976 markedly changed the manner in which property tax increase referenda are presented to the voting public and how successful local governmental units may levy and phase-in approved PTELL referenda increases. This article details the changes caused by this new legislation and studies the impact of the new law on the passage of property tax increase referenda in the November 2006 General Election.

The Almost Rise and Not Quite Fall of the Political Gerrymander

Michael J. Kasper.....409

This article discusses what future, if any, political gerrymandering claims have in light of the Supreme Court's decision in LULAC v. Perry, the Texas redistricting case. The article also examines the various methods and standards that have been proposed, and ultimately rejected, for measuring partisan gerrymandering claims since the Supreme Court first addressed the issue in 1986. Finally, the article considers the effectiveness of the political gerrymander as a method of political party entrenchment.

Taking Voting Rights Seriously: Race and the Integrity of Democracy in America

Steven Ramirez and Aliza Organick.....427

In the end, democratic theory rests upon notions of market efficiency. Elections, like markets, involve the expression of preferences by numerous participants in the hope that collective judgments are a superior means of choosing policies, and ultimately laws, that will best serve the common weal. Yet, like markets, elections can yield distorted outcomes if the fundamental mechanisms of democracy are distorted. In the United States today democracy suffers from manifold distortions. Among these distortions are the role of money in our democracy, the ability of those who govern to manipulate the governed (even to the point of representatives selecting voters through gerrymandering), and flawed media. This article will focus on a more basic and more disturbing distortion—the reluctance of the governing to assure that votes are tabulated in a fair and non-partisan way. It is difficult to imagine a more fundamental breakdown of democracy. This article will show that this foundational flaw plagues American democracy today and seeks to explain why this persists in spite of a history of expansionary democracy. The article concludes that it is likely the outcome of increased inequality in America combined with the impact of racial stigma.

COMMENT

In the Global Market for Justice: Who is Paying the Highest Price for Judicial Independence?

Kelly J. Varsho.....445

Although states have continued to adapt their selection systems, as long as they rely on some form of election, the contests will continue to get nastier, nosier, and costlier, showing the need for reform. This comment surveys foreign countries, and their judicial selection systems, as alternatives to the current selection methods utilized by the states. After laying a foundation by defining independence, impartiality, and their inter-section with accountability, the paper examines the current selection methods used by the states and the various regulations in place concerning judicial selection. The problems caused by judicial elections and their proposed solutions are also examined. Finally, judicial selection methods used by foreign countries are categorized and explored, with an alternative selection method for the judiciary proposed as a conclusion.

NOTE

Harper v. Poway Unified School District: The Wrong Path to the Right Outcome?

Mark A. Perlaky.....519

A case note looking at the case of Harper v. Poway Unified School District, where a high school student wished to wear a t-shirt to school that was derogatory towards homosexual students and was met with discipline by school officials. The note observes the 9th Circuit's holding that Harper had violated the "rights of others" prong of Tinker v. Des Moines Independent School District, while suggesting that the appellate court was not entirely correct in its holdings. The note then examines how other school speech cases, including Bethel School District No. 403 v. Fraser, and Hazelwood School District v. Kuhlmeier, could apply, which would allow the court to reach the same outcome.