

5-2005

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Recommended Citation

Cassidy, Suzanne L. (2005) "Judicial Selection: A Selective Bibliography," *Mercer Law Review*. Vol. 56: No. 3, Article 10.

Available at: https://digitalcommons.law.mercer.edu/jour_mlr/vol56/iss3/10

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Judicial Selection: A Selective Bibliography

by Suzanne L. Cassidy*

I. INTRODUCTION

This selective bibliography was compiled to complement this Mercer Law Review symposium issue. The second section contains works that address the history of judicial selection in the United States, followed by a section describing Web sites that are rich sources of information on judicial selection. Section four identifies books and monographs, including American Bar Association reports. Symposia and special journal issues devoted to judicial selection or closely related subjects are contained in section five, which also identifies articles published since 1998. These articles are divided roughly into two categories: (1) elections, including improving or reforming elections, and (2) alternatives to elections. For earlier articles, one should consult the bibliographies cited in the last section. Generally, sources that primarily concern voting rights or diversity in the context of judicial selection have not been included.

II. HISTORY

Larry C. Berkson, *Judicial Selection in the United States: A Special Report* (updated by Seth Anderson, 1999), available at <http://www.ajs.org/js/berkson.pdf> (providing a concise history of judicial selection in the United States).

* Director of the Law Library and Associate Professor of Law, Walter F. George School of Law, Mercer University. Mercer University (J.D., 1981); Florida State University (M.L.I.S., 2003).

Steven P. Croley, *The Majoritarian Difficulty: Elective Judiciaries and the Rule of Law*, 62 U. CHI. L. REV. 689, 714-25 (1995) (discussing the emergence of elective judiciaries in the states).

Kermit L. Hall, *Progressive Reform and the Decline of Democratic Accountability: The Popular Election of State Supreme Court Judges, 1850-1920*, 1984 AM. B. FOUND. RES. J. 345.

Kermit L. Hall, *The Judiciary on Trial: State Constitutional Reform and the Rise of an Elected Judiciary, 1846-1860*, 45 HISTORIAN 337 (May 1983).

EVAN HAYNES, *THE SELECTION AND TENURE OF JUDGES* (Fred B. Rothman & Co. 1981). Originally published in 1944 as part of the Judicial Administration Series under the auspices of the National Conference of Judicial Councils, this is a thorough treatment of the history of state judicial selection. A table at the end of Chapter IV contains the constitutional and statutory history of the selection and tenure of judges in each state, documenting the changes from 1776 to 1944. A table at the end of Chapter II indicates the 1944 methods of selecting judges and their tenure.

Caleb Nelson, *A Re-evaluation of Scholarly Explanations for the Rise of the Elective Judiciary in Antebellum America*, 37 AM. J. LEGAL HIST. 190 (1993).

Joseph H. Smith, *An Independent Judiciary: The Colonial Background*, 124 U. PA. L. REV. 1104 (1976).

III. WEB SITE INFORMATION

The American Judicature Society, *Judicial Selection in the States*, at <http://www.ajs.org/js>.

The American Judicature Society ("AJS") maintains the definitive Web site for current and comprehensive information on judicial selection. The *Judicial Selection in the States* Web site was launched in May 2004.¹

1. Funding was provided by the Open Society Institute, which has also provided grants to the Constitution Project's Courts Initiative (*infra* note 2) and the Justice at Stake Campaign (*infra* note 3). It also supported the National Center for State Courts Symposium on Judicial Campaign Conduct and the First Amendment, discussed in Section II.

"The Open Society Institute (OSI) is a private operating and grantmaking foundation based in New York City that serves as the hub of the Soros founda-

Information for each state and the District of Columbia includes: method of selection and retention; process for filling interim vacancies; successful and failed reform efforts; diversity of the bench; roles of parties, interest groups, and professional organizations in selecting judges; and current selection controversies. Other materials available at this site are: *Judicial Merit Selection: Current Status* (tables); *Judicial Selection in the States: Appellate and General Jurisdiction Courts* (tables); and a schematic of AJS's *Model Merit Selection Plan*.

Constitution Project, *Courts Initiative* at <http://www.constitutionproject.org/ci/>.

"The Courts Initiative is a bipartisan committee of prominent and influential businesspeople, scholars, and former public officials; it promotes public education on the importance of our courts as protectors of Americans' essential constitutional freedoms."² At this site find the *Higher Ground Standards of Conduct for Judicial Candidates*, at <http://www.constitutionproject.org/ci/standards.html> (released September 20, 2000). Also, find *Surveying the Higher Ground: The 2000 Judicial Elections in Five States*, at <http://www.constitutionproject.org/ci/survey/index.html>.

Frontline: Justice for Sale?: An Investigation into How Campaign Cash is Corrupting America's Courts, at <http://www.pbs.org/wgbh/pages/frontline/shows/justice>.

This rich site accompanies a television program originally broadcast on PBS, November 23, 1999. A section titled *How Did We Come to Elect Judges?*³ offers a history with links to Alexander Hamilton's *Federalist Papers No. 78*,⁴ as well as to scholarly articles by Kermit Hall and Caleb Nelson (see History section above). It also includes an excerpt of Bill Moyers's interview with Supreme Court Justices Stephen Breyer and Anthony Kennedy.

tions network, a group of autonomous foundations and organizations in more than [fifty] countries. OSI and the network implement a range of initiatives that aim to promote open societies by shaping government policy and supporting education, media, public health, and human and women's rights, as well as social, legal, and economic reform."

Open Society Institute, About Us, Overview, at <http://www.soros.org/about/overview>.

2. The Constitution Project, *Courts Initiative*, at <http://www.constitutionproject.org/ci/>.

3. *How Did We Come to Elect Judges?* at <http://www.pbs.org/wgbh/pages/frontline/shows/justice/howdid/>.

4. Alexander Hamilton, *Federalist Papers No. 78*, available at <http://www.pbs.org/wgbh/pages/frontline/shows/justice/howdid/hamilton.html>.

Justice at Stake Campaign, at <http://www.faircourts.org>.

“Justice at Stake [‘JAS’] is a nonpartisan campaign working to keep our courts fair and impartial. [JAS] Campaign partners educate the public and work for reforms to keep politics and special interests out of the courtroom—so judges can do their job protecting our Constitution, our rights and the rule of law. [JAS] is currently funded by grants from the Open Society Institute, Carnegie Corporation, and the Joyce Foundation.”⁵

Resources at this site include: *Justice at Stake Frequency Questionnaire*,⁶ a 2001 national survey of, *inter alia*, public attitudes toward state courts; links to online state-sponsored voter guides, nonpartisan voter guides, and bar association resources.

National Center for State Courts, at <http://www.ncsconline.org/>.

National Center for State Courts Civil Justice Reform Initiative, at http://www.ncsconline.org/Projects_Initiatives/CJRI/index.htm.

One of the projects of the National Center for State Courts Civil Justice Reform Initiative is judicial election system reform. This site includes *Call to Action*,⁷ the statement of the National Summit on Improving Judicial Selection, which was held in 2000. The papers and commentaries from the National Summit have been published in the 2001 *Loyola of Los Angeles* symposium issue, cited below. The site also includes the papers and commentaries from its 2001 *Symposium on Judicial Campaign Conduct and the First Amendment*, which have also been published in the 2002 *Indiana Law Review* symposium issue, cited below.

IV. BOOKS AND MONOGRAPHS, INCLUDING AMERICAN BAR ASSOCIATION REPORTS AND STANDARDS

American Bar Association, Commission on Separation of Powers and Judicial Independence, *An Independent Judiciary* (1997), available at <http://www.abanet.org/govaffairs/judiciary/report.html>. Transcripts of the Commission’s hearings are also available at <http://www.abanet.org/govaffairs/judiciary/>.

5. Justice at Stake Campaign, *About the Campaign*, at <http://www.faircourts.org/contentViewer.asp?breadCrumb=8>.

6. Justice at Stake, *Frequency Questionnaire*, at <http://www.justiceatstake.org/files/JASNationalSurveyResults.pdf>.

7. Available at http://www.ncsconline.org/wc/Publications/Reis_JudSel_CallToActionPub.pdf.

COMMISSION ON THE 21ST CENTURY JUDICIARY, AMERICAN BAR ASSOCIATION, *JUSTICE IN JEOPARDY* (2003). In its Principles and Conclusions, the Commission stated that the preferred system of state judicial selection is a commission-based appointive system.⁸ The recommendations of the Commission were approved by the ABA House of Delegates in August 2003.

COMMITTEE ON STANDARDS OF JUDICIAL ADMINISTRATION, AMERICAN BAR ASSOCIATION, SECTION OF JUDICIAL ADMINISTRATION, *MODEL JUDICIAL ARTICLE* (1995). The *Model Judicial Article* was approved by the ABA House of Delegates in February 1995, updating the Article approved in 1978.

SPECIAL COMMITTEE ON EVALUATION OF JUDICIAL PERFORMANCE, AMERICAN BAR ASSOCIATION, *GUIDELINES FOR THE EVALUATION OF JUDICIAL PERFORMANCE* (1985). These Guidelines were approved by the ABA House of Delegates in July 1985. The Lawyers Conference of the American Bar Association's Judicial Division released a draft of revised guidelines on October 4, 2004, *available at* http://www.abanet.org/jd/lawyersconf/pdf/jpec_draft.pdf.

STANDING COMMITTEE ON JUDICIAL INDEPENDENCE, AMERICAN BAR ASSOCIATION, *REPORT OF THE COMMISSION ON PUBLIC FINANCING OF JUDICIAL CAMPAIGNS* (2002), *available at* <http://www.abanet.org/judind/pdf/commissionreport4-03.pdf>. The Commission recommended full public financing systems in states that select judges in contested elections. The recommendations were approved by the ABA House of Delegates in February 2002.

STANDING COMMITTEE ON JUDICIAL INDEPENDENCE, AMERICAN BAR ASSOCIATION, *STANDARDS ON STATE JUDICIAL SELECTION: REPORT OF THE COMMISSION ON STATE JUDICIAL SELECTION STANDARDS* (2001). The Commission recommended full public financing systems in states that select judges in contested elections. The recommendations were approved by the ABA House of Delegates in July 2000.

STANDING COMMITTEE ON JUDICIAL SELECTION, AMERICAN BAR ASSOCIATION, *TENURE AND COMPENSATION, MODEL BY-LAWS FOR STATE AND LOCAL BAR ASSOCIATIONS RESPECTING APPOINTMENT AND ELECTION OF JUDGES* (1971).

8. COMMISSION ON THE 21ST CENTURY JUDICIARY, AMERICAN BAR ASSOCIATION, *JUSTICE IN JEOPARDY* app. A, at 3 (2003).

THEODORE J. BOUTROUS, JR. ET AL., STATE JUDICIARIES AND IMPARTIALITY: JUDGING THE JUDGES (Roger Clegg & James D. Miller eds., National Legal Center for the Public Interest 1996).

SUSAN B. CARBON & LARRY C. BERKSON, JUDICIAL RETENTION ELECTIONS IN THE UNITED STATES (American Judicature Society 1980).

ANTHONY CHAMPAGNE & JUDITH HAYDEL, JUDICIAL REFORM IN THE STATES (Univ. Press of America 1993).

Council of State Governments, *Judicial Democracy* (2003), available at <http://www.csg.org/CSG/Products/trends+alerts/default.htm>.

PHILIP L. DUBOIS, FROM BALLOT TO BENCH: JUDICIAL ELECTIONS AND THE QUEST FOR ACCOUNTABILITY (Univ. of Texas Press 1980).

DEBORAH GOLDBERG & SAMANTHA SANCHEZ, THE NEW POLITICS OF JUDICIAL ELECTIONS 2002: HOW THE THREAT TO FAIR AND IMPARTIAL COURTS SPREAD TO MORE STATES IN 2002 (Justice at Stake Campaign 2004), available at <http://faircourts.org/files/NewPoliticsReport2002.pdf>.

DEBORAH GOLDBERG ET AL., THE NEW POLITICS OF JUDICIAL ELECTIONS: HOW 2000 WAS A WATERSHED YEAR FOR BIG MONEY, SPECIAL INTEREST PRESSURE, AND TV ADVERTISING IN STATE SUPREME COURT CAMPAIGNS (Justice at Stake Campaign 2002), available at <http://www.faircourts.org/files/JASMoneyReport.pdf>.

MARLA N. GREENSTEIN, HANDBOOK FOR JUDICIAL NOMINATING COMMISSIONERS (American Judicature Society 1984).

JAMES H. GUTERMAN & ERROL E. MEIDINGER, IN THE OPINION OF THE BAR: A NATIONAL SURVEY OF BAR POLLING PRACTICES (American Judicature Society 1977).

SARA MATHIAS, ELECTING JUSTICE: A HANDBOOK OF JUDICIAL ELECTION REFORMS (American Judicature Society 1990).

PATRICK M. MCFADDEN, ELECTING JUSTICE: THE LAW AND ETHICS OF JUDICIAL ELECTION CAMPAIGNS (American Judicature Society 1990).

NATIONAL CENTER FOR STATE COURTS, CALL TO ACTION: STATEMENT OF THE NATIONAL SUMMIT ON IMPROVING JUDICIAL SELECTION (National Center for State Courts 2002), *available at* http://www.ncsconline.org/D_Research/CallToActionCommentary.pdf.

SELECTED READINGS: JUDICIAL SELECTION AND TENURE (Glenn R. Winters ed., American Judicature Society 1973).

CHARLES H. SHELDON & LINDA S. MAULE, CHOOSING JUSTICE: THE RECRUITMENT OF STATE AND FEDERAL JUDGES (Washington State Univ. Press 1997).

Paul D. Carrington & Barbara E. Reed, *Choosing Justice: Reforming the Selection of State Judges*, in UNCERTAIN JUSTICE: POLITICS AND AMERICA'S COURTS: THE REPORTS OF THE TASK FORCES OF CITIZENS FOR INDEPENDENT COURTS 98 (The Constitution Project & Century Foundation, Inc. 2000).

LYLE WARRICK, JUDICIAL SELECTION IN THE UNITED STATES: A COMPENDIUM OF PROVISIONS (American Judicature Society 2d ed. 1993).

RICHARD A. WATSON & RONDAL G. DOWNING, THE POLITICS OF THE BENCH AND THE BAR: JUDICIAL SELECTION UNDER THE MISSOURI NONPARTISAN COURT PLAN (Wiley 1969).

V. SYMPOSIA AND SPECIAL JOURNAL ISSUES

A. *Symposia, Conferences, and Special Issues*

The citations to symposia, conferences, and other collections of related articles are listed in reverse chronological order and alphabetically by title within each year. The page number listed is the first page of the introduction, if any, or of the first article. Where symposia issues are specifically divided into sections, these sections are also identified. Citations to specific articles from a symposium may be included in Part B, below.

Allen Chair Symposium 2003: Independence of the Judiciary, 38 U. RICH. L. REV. 565 (2004).

Symposium, Perspectives: Judicial Elections Versus Merit Selection, 67 ALB. L. REV. 763 (2004).

Conference, *Judicial Selection and Evaluation*, 4 NEV. L.J. 35 (2003).

Symposium, *Accountability and Separation of Powers Issues*, 64 OHIO ST. L.J. 149 (2003).

Symposium, *Current State Appellate Judicial Elections*, 39 WILLAMETTE L. REV. 1265 (2003).

Symposium, *Elections and the Challenge to Judicial Autonomy*, 64 OHIO ST. L.J. 3 (2003).

Symposium, *Judicial Campaigns and Voters' Experience*, 39 WILLAMETTE L. REV. 1287 (2003).

Symposium, *Perspectives on Judicial Independence*, 64 OHIO ST. L.J. 1 (2003).

Symposium, *Political Party Affiliation in Partisan and Nonpartisan Judicial Elections*, 39 WILLAMETTE L. REV. 1357 (2003).

Symposium, *Reform Proposals*, 39 WILLAMETTE L. REV. 1425 (2003).

Symposium, *Selection of State Appellate Judges*, 39 WILLAMETTE L. REV. 1251 (2003).

Judicial Selection Symposium, 21 MISS. C. L. REV. 193 (2002).

Symposium on Judicial Campaign Conduct and the First Amendment, 35 IND. L. REV. 649 (2002). The briefing papers and commentary from this symposium are also available at http://www.ncsconline.org/WC/Publications/Res_JudSel_JudCampCondEvtPub.pdf.

Selection of State Judges Symposium, 33 U. TOL. L. REV. 287 (2002).

Symposium on Judicial Elections, 30 CAP. U. L. REV. 437 (2002).

Symposium, *Special Series: Judicial Independence*, 29 FORDHAM URB. L.J. 791 (2002).

Symposium, 106 DICK. L. REV. 679 (2002).

Manhattan Institute for Policy Research, *Judicial Elections: Past, Present, and Future* (April 18, 2001) available at <http://www.manhattan>

institute.org/html/mics_6.htm. This conference was sponsored by the Center for Legal Policy at the Manhattan Institute and the United States Chamber of Commerce Institute for Legal Reform.

Symposium, *National Summit on Improving Judicial Selection*, 34 LOY. L.A. L. REV. 1353 (2001).

Symposium, *The Ethics of Judicial Selection*, 43 S. TEX. L. REV. 1 (2001).

Judicial Independence and Accountability Symposium, 72 S. CAL. L. REV. 311 (1999).

Conference, *Judicial Independence and Accountability*, 61 LAW & CONTEMP. PROBS. 1 (Summer 1998). This issue is comprised of papers presented at the conference, *Bulwarks of the Republic: Judicial Independence and Accountability in the American System of Justice*, held December 4-5, 1998, in Philadelphia, Pennsylvania. The papers are available at <http://www.law.duke.edu/journals/lcp/>.

Symposium, *The Selection of Judges in the United States: Judicial Election and Appointment at the State Level*, 77 KY. L.J. 645 (1989).

USC Symposium on Judicial Election, Selection and Accountability, 61 S. CAL. L. REV. 1555 (1988).

Symposium on Judicial Ethics, 2 GEO. J. LEGAL ETHICS 589 (1988).

Judicial Selection: What Fits Texas? A National Symposium on Judicial Selection and Tenure, 40 SW. L.J. 1 (Special Issue, May 1986).

B. Articles

Included herein are articles published since 1998, roughly divided into two categories: (1) elections, including improving and reforming elections, and (2) alternatives to elections. The articles are listed alphabetically by author. If an author has more than one article listed, they are arranged in reverse chronological order. Additionally, articles written after the Supreme Court's 2002 decision in *Republican Party of Minnesota v. White*⁹ are identified parenthetically—(post-*Republican Party of Minnesota v. White*).

9. 536 U.S. 765 (2002).

1. Elections, Including Improving and Reforming Elections

Owen G. Abbe & Paul S. Herrnson, *How Judicial Election Campaigns Have Changed*, 85 JUDICATURE 286 (2002).

Kathryn Abrams, *Some Realism About Electoralism: Rethinking Judicial Campaign Finance*, 72 S. CAL. L. REV. 505 (1999).

James J. Alfini & Jarrett Gable, *The Role of the Organized Bar in State Judicial Selection Reform: The Year 2000 Standards*, 106 DICK. L. REV. 683 (2002). (The authors served as Reporter and Assistant Reporter for the American Bar Association Commission on State Judicial Selection Standards. The Standards are cited in Section III, above.)

Seth S. Anderson, *Judicial Retention Evaluation Programs*, 34 LOY. L.A. L. REV. 1375 (2001).

Kelley Armitage, *Denial Ain't Just a River in Egypt: A Thorough Review of Judicial Elections, Merit Selection and the Role of State Judges in Society*, 29 CAP. U. L. REV. 625 (2002).

Larry Aspin, *Trends in Judicial Retention Elections, 1964-1998*, 83 JUDICATURE 79 (1999).

David Barnhizer, *"On the Make": Campaign Funding and the Corrupting of the American Judiciary*, 50 CATH. U. L. REV. 361 (2001).

Lillian R. BeVier, *A Commentary on Public Funds or Publicly Funded Benefits and the Regulation of Judicial Campaigns*, 35 IND. L. REV. 845 (2002).

Luke Bierman, *Beyond Merit Selection*, 29 FORDHAM URB. L.J. 851 (2002).

Richard Briffault, *Public Funds and the Regulation of Judicial Campaigns*, 35 IND. L. REV. 819 (2002).

David C. Brody, *The Relationship between Judicial Performance Evaluations and Judicial Elections*, 87 JUDICATURE 168 (2004) (post-*Republican Party of Minnesota v. White*).

Call to Action: Statement of the National Summit on Improving Judicial Selection, 34 LOY. L.A. L. REV. 1353 (2001). This summit resulted in twenty recommendations for reform in four areas: (1) partisan elections and terms of elective office; (2) judicial election campaign conduct; (3) voter awareness and participation in judicial elections; and (4) campaign finance in judicial election campaigns. The *Call to Action* is also available at http://www.ncsconline.org/WC/Publications/Res_JudSel_CallToActionPub.pdf.

Cynthia Canary, *Know Before You Go: A Case for Publicly Funded Voters' Guides*, 64 OHIO ST. L.J. 81 (2003) (post-*Republican Party of Minnesota v. White*).

Alfred P. Carlton, Jr., *Preserving Judicial Independence—An Exegesis*, 29 FORDHAM URB. L.J. 835 (2002).

Paul D. Carrington, *Judicial Independence and Democratic Accountability in Highest State Courts*, 61 LAW & CONTEMP. PROBS. 79 (Summer 1998).

Anthony Champagne, *Interest Groups and Judicial Elections*, 34 LOY. L.A. L. REV. 1391 (2001).

B. Michael Dann & Randall M. Hansen, *Judicial Retention Elections*, 34 LOY. L.A. L. REV. 1429 (2001).

Michael R. Dimino, *Pay No Attention to That Man Behind the Robe: Judicial Elections, the First Amendment, and Judges as Politicians*, 21 YALE L. & POL'Y REV. 301 (2003) (post-*Republican Party of Minnesota v. White*).

Federalist Society, White Paper Task Force, *The Case for Partisan Judicial Elections*, 33 U. TOL. L. REV. 393 (2002), available at <http://www.fed-soc.org/Publications/White%20Papers/judiciaelection.htm>.

Charles Gardner Geyh, *Publicly Financed Judicial Elections: An Overview*, 34 LOY. L.A. L. REV. 1467 (2001).

Deborah Goldberg, *Public Funding of Judicial Elections: The Roles of Judges and the Rules of Campaign Finance*, 64 OHIO ST. L.J. 95 (2003) (post-*Republican Party of Minnesota v. White*).

Elizabeth A. Larkin, *Judicial Selection Methods: Judicial Independence and Popular Democracy*, 79 DENV. U. L. REV. 65 (2001).

Steven Lubet, *Judicial Campaign Conduct Committees: Some Reservations About an Elegant Solution*, 35 IND. L. REV. 807 (2002).

Alan B. Morrison, *The Judge Has No Robes: Keeping the Electorate in the Dark about What Judges Think about the Issues*, 36 IND. L. REV. 719 (2003) (post-Republican Party of *Minnesota v. White*).

D. Dudley Oldham & Seth S. Anderson, *Commentary: The Role of the Organized Bar in Promoting an Independent and Accountable Judiciary*, 64 OHIO ST. L.J. 341 (2003) (post-Republican Party of *Minnesota v. White*).

The Honorable Peter Paul Olszewski, Sr., *Who's Judging Whom? Why Popular Elections are Preferable to Merit Selection Systems*, 109 PENN ST. L. REV. 1 (2004) (post-Republican Party of *Minnesota v. White*).

Thomas R. Phillips, *Comment*, 61 LAW & CONTEMP. PROBS. 127 (Summer 1998). This is a response to Carrington's *Judicial Independence and Democratic Accountability in Highest State Courts*.

Ofer Raban, *Judicial Impartiality and the Regulation of Judicial Election Campaigns*, 15 U. FLA. J.L. & PUB. POL'Y 205 (2004) (post-Republican Party of *Minnesota v. White*).

Barbara Reed & Roy A. Schotland, *Judicial Campaign Conduct Committees*, 35 IND. L. REV. 781 (2002).

Traci V. Reid, *The Politicization of Retention Elections: Lessons from the Defeat of Justices Lanphier and White*, 83 JUDICATURE 68 (1999).

David B. Rottman & Roy A. Schotland, *What Makes Judicial Elections Unique?*, 34 LOY. L.A. L. REV. 1369 (2001).

Roy [A.] Schotland, *Proposed Legislation on Judicial Election Campaign Finance*, 64 OHIO ST. L.J. 127 (2003) (post-Republican Party of *Minnesota v. White*).

Roy A. Schotland, *To the Endangered Species List, Add: Nonpartisan Judicial Elections*, 39 WILLAMETTE L. REV. 1397 (2003) (post-Republican Party of *Minnesota v. White*).

Roy A. Schotland, *Should Judges be More Like Politicians?*, 39 CT. REV. 8 (Spring 2002) (post-*Republican Party of Minnesota v. White*).

Roy A. Schotland, *Myth, Reality Past and Present, and Judicial Elections*, 35 IND. L. REV. 659 (2002).

Roy A. Schotland, *Introduction: Personal Views*, 34 LOY. L.A. L. REV. 1361 (2001).

Roy A. Schotland, *Campaign Finance in Judicial Elections*, 34 LOY. L.A. L. REV. 1489 (2001).

Roy A. Schotland, *Financing Judicial Elections, 2000: Change and Challenge*, 2001 L. REV. M.S.U.-D.C.L. 849.

Roy A. Schotland, *Comment*, 61 LAW & CONTEMP. PROBS. 149 (Summer 1998). This is a response to Carrington's *Judicial Independence and Democratic Accountability in Highest State Courts*.

Harold See, *Comment: Judicial Selection and Decisional Independence*, 61 LAW & CONTEMP. PROBS. 141 (Summer 1998).

Cathy R. Silak & Aaron C. Charrier, *The Future of Judicial Elections: A Campaign Conduct Commission Proposal*, 39 IDAHO L. REV. 357 (2003) (post-*Republican Party of Minnesota v. White*).

Penny J. White, *Judging Judges: Securing Judicial Independence by Use of Judicial Performance Evaluations*, 29 FORDHAM URB. L.J. 1053 (2002).

2. Alternatives to Elections

Seth Andersen, *Examining the Decline in Support for Merit Selection in the States*, 67 ALB. L. REV. 793 (2004) (post-*Republican Party of Minnesota v. White*).

Mark A. Behrens & Cary Silverman, *The Case for Adopting Appointive Judicial Selection Systems for State Court Judges*, 11 CORNELL J.L. & PUB. POL'Y 273 (2002).

Luke Bierman, *Beyond Merit Selection*, 29 FORDHAM URB. L.J. 851 (2002).

Alfred P. Carlton, Jr., *Preserving Judicial Independence—An Exegesis*, 29 FORDHAM URB. L.J. 835 (2002).

Paul D. Carrington, *Judicial Independence and Democratic Accountability in Highest State Courts*, 61 LAW & CONTEMP. PROBS. 79 (Summer 1998).

Michael R. Dimino, *The Futile Quest for a System of Judicial “Merit” Selection*, 67 ALB. L. REV. 803 (2004) (post-*Republican Party of Minnesota v. White*).

Federalist Society, Judicial Appointments White Paper Task Force, *The Case for Judicial Appointments*, 33 U. TOL. L. REV. 353 (2002), available at [http://www.fed-soc.org/Publications/White%20Papers/judicial appointments.htm](http://www.fed-soc.org/Publications/White%20Papers/judicial%20appointments.htm).

Charles Gardner Geyh, *Why Judicial Elections Stink*, 64 OHIO ST. L.J. 43 (2003) (post-*Republican Party of Minnesota v. White*).

Malia Reddick, *Merit Selection: A Review of the Social Scientific Literature*, 106 DICK. L. REV. 729 (2002).

Penny J. White, *Judging Judges: Securing Judicial Independence by Use of Judicial Performance Evaluations*, 29 FORDHAM URB. L.J. 1053 (2002).

VI. BIBLIOGRAPHIES

Amy B. Atchison et al., *Judicial Independence and Judicial Accountability: A Selected Bibliography*, 72 S. CAL. L. REV. 723 (1999). This bibliography is divided into three parts: (1) General works; (2) Subject-specific works; and (3) Foreign, comparative, and international law works.¹⁰ Part II(J) of this bibliography is titled *Judicial Selection and Retention: Appointment, Election, and Recall of State Judges*.¹¹

NANCY CHINN & LARRY BERKSON, *LITERATURE ON JUDICIAL SELECTION* (American Judicature Society 1980).

10. Amy B. Atchinson et al., *Judicial Independence and Judicial Accountability: A Selected Bibliography*, 72 S. CAL. L. REV. 726-28 (1999).

11. *Id.* at 770.

PHILIP L. DUBOIS, *FROM BALLOT TO BENCH: JUDICIAL ELECTIONS AND THE QUEST FOR ACCOUNTABILITY* 297 (Univ. of Texas Press 1980).

SELECTED READINGS: *JUDICIAL SELECTION AND TENURE* 232 (Glenn R. Winters ed., American Judicature Society 1973). This bibliography is divided into four parts: (1) An Overview; (2) Non-Partisan Merit Selection and the Missouri Experience; (3) Judicial Selection and Tenure in Other States; and (4) The Federal System.
