Saint Louis University Public Law Review

Volume 32
Number 2 *General Issue (Volume XXXII, No. 2)*

Article 3

2013

Foreword

Jonathan E. Skrabacz
skrabacz@slu.edu

Lindsay L. McClure-Hartman

FOREWORD

The *Saint Louis University Public Law Review* has been a publication focused on public interest law since 1981. Throughout the years, its symposia and publications have focused on topics ranging from abortion to urban renewal and development. We have had the honor and privilege of publishing distinguished authors ranging from United States Supreme Court justices to eminent law professors who are experts in their field of study. The *Public Law Review* was created to provide an open forum for legal scholars, practicing attorneys, legislators, and public interest advocates to debate and discuss current topics that are significant in the area of public interest law and public policy.

The *Public Law Review* is now in its thirty-second year of publication, and the focus on public interest law has been, and still remains, the driving force behind each publication. It is this focus that provided the guidance for this Volume XXXII, Issue Number 2. We set out to compile articles that address the area of public interest law in timely, interesting, and various ways. It is our hope that the contributions of these articles will have a lasting impact on the area of public interest law.

Melinda A. Marbes, in her article *Refocusing Recusals: How the Bias Blind Spot Affects Disqualification Disputes and Should Reshape Recusal Reform*, provides an examination of the issue of judicial recusal. In her article, Marbes argues that recusal reform is necessary to avoid a judge or justice, in effect, becoming a "judge in his own cause" by determining whether or not he is too biased to preside over a case. Using the case of *Caperton v. A.T. Massey Coal Co., Inc.*, she examines how the Bias Blind Spot can affect jurists in ways that prevent them from seeing their own biases in cases where reasonable others may see obvious bias at play. By examining this phenomenon, she argues that the current practice of allowing jurists to determine their own bias, for purposes of recusal, is in serious need of reform.

Dr. Christopher Smith and April Sanford, in their article *The Roberts Court and Wrongful Convictions*, offer a critique of the current Supreme Court's stance on an important public interest area of the law—post-conviction exoneration. By examining specific cases and past decisions by the Court, the article comments on how the current Supreme Court, led by Chief Justice John Roberts, should treat cases where justice for those wrongly convicted of a crime was not the paramount concern. In light of technological improvements that make exonerations of mistaken convictions more prevalent, this article is a

timely piece shedding light on an intensely important area of public policy and public interest law.

Robert E. Mensel, in his article *Jurisdiction in Nineteenth Century International Law and Its Meaning in the Citizenship Clause of the Fourteenth Amendment*, discusses the meaning of the citizenship clauses of the Civil Rights Act of 1866 and the Fourteenth Amendment. Mensel examines the meaning of those clauses through an historical lens, which can help our modern day understanding of the meaning of citizenship in our country. This article weighs in on an issue—immigration—that is currently the subject of intense debate in law and politics.

Daniel M. Braun, in his article *Constitutional Fracticality: Structure and Coherence in the Nation's Supreme Law*, provides a unique examination of the U.S. Constitution. Braun provides an analysis of the Constitution's structure, and argues that the metaphor of fractals—mathematical patterns found throughout nature—can deepen our understanding of our nation's most important document. By examining the Constitution as an example of fracticality at work, Braun posits that popular sovereignty, the guiding principle of the Constitution, can be found in fractal-like structure throughout the document. Braun's work casts our nation's most cherished document in a new and exciting light.

In her Comment, *Is the Customer Always Right? Department of Health and Human Services' Proposed Regulations Allow Institutional Review Boards to Place Customer Service Ahead of the Welfare of Research Participants*, Colleen O'Hare Zern argues that greater consumer protections are necessary for research studies involving human participants. Zern explains that current policies do not adequately protect research-subjects, and greater regulation is necessary to provide for the public safety. This public policy analysis is exceedingly pertinent as a result of current healthcare reforms taking place in this country.

In her Comment, *The Goals of Marriage and Divorce in Missouri: The State's Interest in Regulating Marriage, Privatizing Dependency, and Allowing Same-Sex Divorce*, Sarah Bollasina Fandrey delves into the issue of gay divorce as it pertains to the current and ongoing debate over gay marriage. Fandrey argues that Missouri should recognize and allow gay divorce because it is the state's policy to deny gay couples the right to marry in the first place. Fandrey's Comment is a timely and important comment on an issue that has become central to recent political and public policy discussions.

In his Note, *Leveling the Playing Field: Reconsidering Campaign Finance Reform in the Wake of* Arizona Free Enterprise, Jonathan Skrabacz provides a critique of the recent Supreme Court decision *Arizona Free Enterprise*. In the Note, Skrabacz argues that "leveling the playing field"—as it relates to campaign finance expenditures—is and should be a compelling state interest able to withstand constitutional attack on its own. Skrabacz takes issue with the

Court's majority and dissenting opinions, arguing for a reversal in a trend that has set precedent for allowing ever-increasing campaign spending, especially in high profile, national elections.

The *Public Law Review* would like to sincerely thank all of the authors for sharing their wonderful contributions with our publication. The expertise, enthusiasm, and patience each author provided during the publication process is deeply appreciated. Many thanks are also extended to the *Public Law Review* Editors and Staff for their hard work and dedication. Professor Samuel Jordan, in his first year as faculty supervisor for the *Public Law Review*, has served as a dedicated advocate for our publication, and his support is sincerely appreciated. Finally, we would like to thank Susie Lee for her diligent efforts to make the *Public Law Review* a continued success.

JONATHAN E. SKRABACZ
MANAGING EDITOR

LINDSAY L. MCCLURE-HARTMAN
EDITOR-IN-CHIEF