

The Kansas Voter



February 2006

League of Women Voters of Kansas

Working together...for Kansas

Judicial Independence and Merit Selection of Judges

■ A long-held League position in Kansas

For the past year, there has been a spotlight, both nationally and in Kansas, on the Supreme Courts, their justices, and the process of becoming justices. This focus has provided an opportunity for a refresher course in civics and government. The court focus has also served as a platform for partisan rhetoric on the part of both political parties. This rhetoric has often been filled with misunderstandings and misinformation regarding separation of powers and the process of nominating Supreme Court Justices.

Our Kansas League has a long-held position on "merit selection of judges." Just what does that mean?

Kansas has 31 judicial districts; about half use merit selection and half have partisan election of judges.

To fully appreciate the importance of merit selection, a bit of history is in order. Prior to 1958, Kansas elected justices to serve on our state Supreme Court in partisan elections. In the late 1950s, the Chief Justice of the Kansas Supreme Court resigned, and immediately, the incumbent Governor, who had been defeated for re-election in his party's primary, resigned as Governor. The Lieutenant Governor, upon becoming Governor,

immediately appointed his predecessor to the vacancy on the Supreme Court. This famous "triple play" led the voters in 1958 to approve a constitutional amendment that implemented merit selection of Supreme Court Justices.

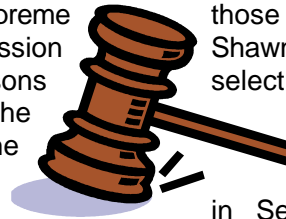
In Kansas, we have seven Supreme Court Justices and 12 Appeals Court Judges. A Supreme Court Nominating Commission comprised of nine persons selects candidates for the Supreme Court and the Appeals Court. The commission is chaired by an attorney elected by his/her peers from attorneys in Kansas who are licensed to practice law. The remaining members include one peer-elected attorney from each Congressional district and one lay person from each Congressional district appointed by the Governor. When a vacancy occurs on these Courts, all licensed attorneys are notified and invited to submit an application. The Commission reviews the applications, contacts references, reviews other relevant materials, and then meets as a group to select three persons for final consideration. The three names are submitted to the Governor, who selects the appointee. The current Supreme Court Justices represent the selections of five different Governors. Unlike federal court judges who have lifetime appointments, Kansas

Supreme Court and Appeals Court Judges must stand for retention election every six years, and at any time they can be impeached by the Kansas Legislature.

The state has 31 judicial districts, with a varying number of District Court Judges serving each district. About half the districts in Kansas, including those in Johnson, Douglas, and Shawnee Counties, use the merit selection process for district judges, and the remaining District Court Judges, including those in Sedgwick and Wyandotte Counties, are elected on a partisan ticket. For District Court Judges in merit selection districts, the process is the same as for the upper courts and is accomplished via a Judicial Nominating Commission comprised of an equal number of attorneys elected by their peers and lay persons appointed by the County Commissioners from the counties making up the district. District Judges also stand for retention election.

The District Courts are trial courts which hear evidence, gather facts, etc.; the Supreme Court and the Appeals Court are appellate courts. Much of the work of the Supreme and Appeals Courts consists of deciding whether to take appeals, hearing oral arguments on an appealed case,

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League Notes from All Over

First Call to Council 2006

The 2006 State Council, *Planting the Seeds of Democracy*, will be held on Saturday, April 29, 2006. The Lawrence/Douglas County League will host us for Council at Lawrence High School, 19th and Louisiana. Each local League is entitled to three voting delegates, and each MAL Unit is entitled to one voting delegate. Other members are invited and encouraged to attend. Mark your calendars now, and look for detailed information in mid-March. **3**

Thanks to Some Unsung Heroines...and Heroes

You are the Voter Editors across our state! As LWVK President, I receive Voters from your Leagues, and I continue to be impressed with the information you provide to your members and your community. I speak not only from the perspective of being a reader of each of your issues, but also from having been the Voter Editor for my local League for several years. I know the work and organizational skill it takes, the vision it requires, the prodding that's sometimes needed and the fine line you walk as you edit others' words. So thank you for all you do to keep so many people abreast of League issues and activities. **3** *Janis McMillen*

Day at the Capitol

Thursday, March 9, is scheduled for the 2006 Day at the Capitol. Specific information will be sent via the February issue of *Notes to Local Leagues*. For now, be aware that we will begin at 8:30 a.m. in Willard Hall of the First Presbyterian Church for breakfast pastries, coffee, and a discussion of hot legislative topics. We will return from the Capitol around noon for lunch and to hear the

featured speaker. Our hope is to have an individual speak to us on Health Care issues in the state—from the consumer's point of view. Stay tuned! **3**

Update on State Study: Mental Health Care in Kansas

State League Day on September 24, 2005, featured talks on the evolution of the mental health care system in Kansas by Dr. Roy Menninger, on client population and needs by Dr. Ty Porter, and on funding streams by Dr. Bob Day. Three panel presentations offered perspectives on the Kansas mental health delivery system, consumer issues, and critical policy directions. Video tapes of the day's presentations will soon be available and will be mailed to local Leagues.

Local Leagues will also be receiving a packet from the State Study Committee before the end of January. It will contain possible study questions and suggestions for work at the local level, including interviewing tips. The State Study Committee plans to send a second packet on side issues (such as physical health problems that affect mental health care consumers) in February or March, and a third packet on funding in May. Consensus questions will be sent to local Leagues by fall 2006. Questions may be addressed to Co-Chairs Liz Smith at 785-842-7927, e-mail lww.ks.study@gmail.com, or Gwen Elliott, 785-267-4037, e-mail thekt1@aol.com. **3**

***Have you
invited someone
to a League meeting
lately?***

Judicial Independence

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determining whether the original decision has a sound basis in law and was reached in a proceeding that followed the relevant laws and constitutional requirements, writing opinions, and reviewing opinions of the other judges. Members of the public are usually more aware of decisions rendered by District Court Judges than those rendered by appellate judges.

The merit selection system has served Kansas well for almost 50 years, so why write about this now?

There are several reasons. LWVUS has had Judicial Independence as a program priority for several years. Grant funding is provided to local Leagues that are willing to sponsor programs in their communities to educate voters about the various judicial selection processes and to assist with candidate forums in those states and counties where judges are elected.

After the Supreme Court ruling on the school finance case, some Kansas legislators became concerned regarding the separation of powers. Bills have been introduced in our legislature that could alter the way Supreme Court Justices are selected, and if passed, would make the process more political. It is very important that our courts remain fair and impartial.

To sum it up: a statement by U.S. Supreme Court Justice Anthony Kennedy during a November 10 C-SPAN program hosted by the American Bar Association on International Justice and the Rule of Law: "Judicial independence for judges is to not do as they choose, but to do as they must." **3**

URGENT MESSAGE FROM MOTHER: Spotlight on Gather the Women, Save the World



Local Leagues

Manhattan

The League of Women Voters of Manhattan/Riley County has recently finished studies of the Planning and Law Boards. We did extensive research into the make-up of the Boards and found the Planning Board had moved from a fairly general board of men and women to a board with no diversity (all white males) and a make-up entirely of people with a vested interest in development— realtors, builders, etc.

The Law Board (Riley County has a unified city/county police department) had not been following the statutory rules which created its organization. We hope to present this at the monthly city/county meeting, but they have been unable to schedule us for several months.

We are also considering revisiting recycling possibilities for Manhattan. **3**

Book Review by Bill Powell

The book *Gather the Women*, by Jean Shinada Bolen, M.D., is a message from Mother Earth, Mother Goddess, Mother Archetype—a call to us to bring feminine principles into our consciousness and a call to summon women to be strong together in order to be protective of what we love. Only if this happens will children be safe and will peace be a possibility.

The first three chapters are intended to bring people in to knowledge of the power of women united. The fourth chapter describes the qualities that women have as a gender to serve humanity. The last three chapters are to inspire us and show how women individually and together are the proposed antidote to the state of mind that has put us all and Mother Earth in harm's way.

- Women manage resources responsibly.
- Women talk to each other and evolve acceptable solutions and create a network of connection.
- Men often resort to "fight or flight" solutions or work at finding a place in the hierarchy that exists.

for part of the 30,000 citizens who were kidnaped, arrested, tortured, and killed. This started with just 14 mothers wanting to have their missing children accounted for. Over this period of time, the number of participants became so great that world opinion forced the country's leadership to cease persecuting young protestors.

- The invisible power of women's circles: by meeting together in women's circles, they create a safe place to tell the truth about shame, embarrassment, and subjugation. These healing circles let women know they are not victims alone. This has been an empowerment to work together to show oppression and eliminate its cause.

Anything we love can be saved. A section of the book deals with the need to give all citizens, including males, the incentive to work on major problems such as world overpopulation, education for girls and women, women's safety, disease and poverty eradication, and the affect of

war on women and children. Bolen appeals for all to work to bring the power of feminine

caring back into the world and eliminate destructive wars and subjugation of the economically less fortunate. **3**

Anything we love can be saved.

The author lists several antidotes to lack of examination as to what should be done by the power of women.

- Nigerian women prevented a large corporation from installing a large facility which would harm the environment in an area where none of the natives had electricity or safe drinking water. The corporation installed water purification and electrical generating capability and hired local labor for the project.
- Mothers of the disappeared—by demonstrations in Argentina for seven years by women, a dictatorship was forced to account

Have you contributed to the League lately? There are three ways you can contribute: directly to the League of Women Voters of Kansas, to the LWVK Endowment Fund, or to the LWVK Education Fund.

Contributions to the Ed Fund are tax-deductible; donations to the Endowment Fund (which builds up principle so that the interest can be used to support the state League) or to LWVK are not, which means their use is not restricted and they can be used to support lobbying efforts.

All can be mailed to the LWVK office. Specify on your check for which fund the contribution is intended. **3**

Learning About the Death Penalty Through Fact and Fiction

I just finished reading Sister Helen Prejean's second book, called *The Death of Innocents*, in which she describes attending the executions of two men she believes to be innocent of the crimes for which they were sentenced to death. Sister Helen is the author of *Dead Man Walking*, which was made into a very moving film starring Susan Sarandon and Sean Penn.

Next on my pile is *The Death Penalty on Trial: Crisis in American Justice*, by native Kansas journalist Bill Kurtis.

A book I recommend highly is *Actual Innocence*, by Barry Scheck, Peter Neufeld, and Jim Dwyer, founders of The Innocence Project. It gives details of a number of cases of people who have been exonerated in the last few years and suggests ways to fix the justice system and reduce the impact of mistaken eyewitness testimony, jailhouse snitches, erroneous analysis of

evidence or withholding of exculpatory evidence, coerced confessions, and misconduct by police and prosecutors. (The title refers to a US Supreme Court ruling written by the late Chief Justice Renhquist which says that actual innocence, even if provable, is not the sort of claim that requires federal habeas relief if the defendant got a fair trial by a jury of his peers.)

How anyone can read any of these books and still support capital punishment is completely beyond my understanding; perhaps the supporters just don't read materials from authors with an opposing point of view!

Conviction, a book by the popular novelist Richard North Patterson, focuses on lawyers trying to get an innocent man off death row. A few months ago, I read *Twist of Fate*, by a well-known romance novelist, Mary Jo Putney, which was also about attempts to exonerate an inmate on death row. A new television show,

InJustice, is about a group of people working on fictional appeals cases, many of them involving death row prisoners. It's refreshing to see this topic making its way into the American mainstream through both fiction and non-fiction.

An excellent way to learn more is the Death Penalty Information Center web site, www.deathpenaltyinfo.org, which is always up-to-date with what's going on in all 50 states and death penalty statistics.

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Now, the Kansas statute is in limbo; it was declared unconstitutional by the State Supreme Court in 2004. The US Supreme Court heard the state's appeal in December 2005, and we await a ruling any time between now and June.

If the Court upholds the state ruling before the legislature adjourns this spring, expect hurried action to attempt to pass a "new and improved" death penalty law. **3** *Linda Johnson*