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Please join the Winston-Salem Branch of AAUW for a

JUDICIAL ELECTIONS FORUM

Thursday, March 31, 2005

7:30 - 9:00 p.m.

at the HAWTHORNE INN & CONFERENCE CENTER in Winston-Salem
Located at 420 High Street

Featuring Panelists:



- Judge Wanda Bryant of the NC Court of Appeals
- Rhoda Billings, Former Chief Justice of the NC Supreme Court and Professor at Wake Forest School of Law
- Chris Heagarty, Executive Director of NC Center for Voter Education

The Panelists will discuss the new North Carolina Judicial Campaign Reform Act, campaign finances in judicial elections, the question of elected versus appointed judges, and more.

Feel free to come a little early for some socializing, beginning at 7:00. We look forward to seeing you there!

For more information, please contact Julia Archer at 723-5180 or Ellen Morris at 765-7065.

JUDICIAL ELECTIONS FORUM

Thursday, March 31, 2005

Julia Archer, Legal Advocacy Fund Chair of AAUW Winston-Salem introduced the distinguished panel members. They were Judge Wanda Bryant of the NC Court of Appeals; Rhoda Billings, Former Chief Justice of the NC Supreme Court and Professor at Wake Forest University School of Law; and Chris Heagarty, Executive Director of NC Center for Voter Education.

Judge Wanda Bryant gave a brief explanation of the North Carolina Court System.

- All judges are elected officials
- There are two court systems
 - Trial Courts
 - District Courts
 - Superior Court
 - Appellate Division
 - Court of Appeals
 - Supreme Court
- District Courts sit in the county seat of each county; have no jury trials; and include
 - Civil Court
 - Awards for money
 - Can be up to \$10,000
 - Criminal Court
 - Only misdemeanors and infractions can be heard
 - Juvenile Court
 - Magistrate Court
- Superior Courts are for felony criminal cases and civil cases of more than \$10,000, (i.e. medical malpractice)
 - They hear appeals from district courts
 - They hear indictments from grand juries
- Appellate courts decide only questions of law on every case appealed from superior and district courts except the death penalty
 - It is a court of last resort in 90% of trials
 - There are 15 judges on the court of appeals
 - They sit in rotating panels of three
 - Seniority is very important
 - Business cases usually go to trial court and then the court of appeals
 - All cases must receive written opinions - over 100 per year
 - Many are published in green books
 - Some are unpublished cases
 - nccourts.org - opinions

- Supreme Court (Highest Court) has no jury trials, nor makes any determination of facts
 - Dissents in court of appeals
 - Death penalty
 - A chief justice and 6 associate justices
 - All opinions are published in brown books
 - Appeals come from all 100 counties
 - 1,758 appeals in 2004
- A new mediation program
 - Judges are trained as mediators
 - To assist in determining judgments
 - Hopefully it will reduce cases to the appellate court

Mr. Chris Heagarty from the North Carolina Center for Voter Education presented information about Public Financing of Appellate-Level Judicial Elections in North Carolina (NC Judicial Campaign Reform Act)

- It's purpose is to ensure judicial independence
- It's a last bastion of defense
- Judges are held to higher ethical standards
- Judges are elected in North Carolina and this sometimes presents problems
- North Carolina has rejected the idea of appointing judges
- At elections, judges are at the bottom of the ballot
 - Not much information is known about them
 - Are not part of a straight party ticket
- There is a high regard for those who serve
- There is a growing anti-judicial segment of people
 - Gay Rights advocates
 - Terri Schiavo-type cases
- A broad coalition for NC Campaign for Clean Voter Elections
- There are problems still to be fixed, but it is a beginning
- Judicial races avoided negative campaigns, no outside influence campaign money
- "Help Speech with More Speech" not fund raising prowess as in 2002
- The new law was applied to the 2004 election
- It reduced from \$4,000 to \$1,000 the amount of money any one individual or group could donate to a candidate
- If a candidate goes without accepting PAC (Political Action Committee) monies it gives the candidate a chance to get campaign funding
 - A larger number of smaller contributions
 - No more fund raising
 - Receive campaign funds from the state
- Problems
 - It is new and voters are not familiar with it
 - It is funded by checking a box on state income tax forms
 - \$3.00 goes to the campaign if you check the "yes" box

- Does not affect your individual tax bill or refund
- For additional information www.ncjudges.org

Judge Bryant's comments about NC Judicial Campaign Reform Act

- 2004 was a successful campaign with non-partisan races
- Just enough money to fund the campaign
 - Only for appellate judicial candidates (Appeals Court and Supreme Court)
 - Amounts of money raised were between \$10 and \$500 from individuals
 - Had to be from registered North Carolina voters
 - Had to receive money from at least 350 registered North Carolina voters
 - Had to be raised prior to the primary elections
- 16 candidates qualified for the funding, only 2 did not qualify for it in 2004
- It forced candidates to raise money earlier in time and from a broader base of people
- It made sure that every \$10 contribution does matter
- By getting contributions from at least 350 voters it meant they had a vested interest in the candidate
- Couldn't take monies from PACs so there was not an influence of groups and parties
- It was truly a non-partisan election with no political party affiliation
- It produced the Judicial Voter Guide
 - Provided public information to the public
 - One mailing only
 - To all registered voters
 - Cost was half a million dollars
- All fund raising was to be done before the primary election
- No more fund raising after the primary election and all checks after the election had to be returned
- PAC could notify people about candidates but could not support them monetarily
- The 2002 election was a partisan election
 - Could take up to \$4,000 per contributor
 - Could include PACs, individuals, from out of state sources
 - All incumbents lost under the party affiliation
- Judge Bryant was appointed by the governor in 2001
 - Knew she had to face the election in 2002
 - Lost the election
- Now the judges have an 8 year term

Professor Rhoda Billings topic was: "Should We Continue to Elect Judges?"

- It is not done at the federal level
- What do judges do?
- How is that responsive to their job?
- In the United States
 - Legislative branch passes laws
 - Administrative branch (president) carries out the law
 - Courts interpret and apply the laws

- Courts determine
 - Facts in the case
 - Usually given to a jury
 - Sometimes judges decide
- Once facts are decided
 - Judge looks to “body of law”
 - Law of the legislature
 - Plus the facts
 - To give a determination
 - Lawyers try to sway the meaning of the facts
 - There are some ambiguities
 - Some cases are determined based on State or Federal Constitutions
- The US Supreme Court and the Federal Constitution
 - Have seen huge changes in policy over the years
 - Without the laws changing
 - Due to change of philosophies by the appointed judges
 - Appointed by the President
 - Confirmed by the Senate
- Constitutions are living documents that change over time
- The United States Supreme Court can establish policy
- Common Law
 - Judge made law
 - To answer questions after determining the facts
 - If there are no laws, then what is the policy of the state to answer that question?
 - If the legislature doesn't like the outcome, they can write a law
- So should judges be elected or should we have a system more like the federally appointed system?
 - Currently in the United States there are
 - 30 states with non-elected judges
 - 13 states with non-partisan judges
 - 8 state with partisan judges
- In North Carolina through most of the 20th century
 - A one party state
 - Judges retired before the end of their terms
 - So new ones would be appointed
 - All were democrats
 - In the 1960's we went to a state wide system elected system for district and appeals courts with four year terms
 - Through the 1970's they were appointed by the governor
 - Then there was little or no opposition or laughable ones
 - Then we became a two party state
 - Superior court changed from state-wide to local elections

- The North Carolina Bar Association for the past 50 years has advocated non partisan judicial selections
- Pros
 - Does make judges more accountable
 - Makes people more aware
- Cons
 - Judges are vulnerable to criticism
 - Judges are sensitive to public opinion should they apply unpopular laws
 - Self-selection of candidates
 - Hard to inform the public
 - Political races are expensive
 - Deters most highly qualified people by putting them at risk
 - Low salaries (Chief Justice of North Carolina makes \$121,000)
- The alternative is
 - Appointment by the chief executive (governor)
 - Possibly his cronies
 - Merit selection method
 - Committee to make recommendations
 - Judge will run for retention
 - Campaigns to smear judges
 - Record could be used unfairly
- Is there a better system?
 - According to the North Carolina Bar Association
 - Appointment by the governor and reappointment by the legislature
 - Long periods of term and retention election which would evaluate the work of the judge
 - In North Carolina
 - Appointment
 - Lengthening of terms
 - Not retention election, but some other group to evaluate the candidate
 - Now in the legislature for Appellate Court (not trial courts)
 - Senate Bill 857 Constitutional amendment for the governor to appoint one for four years
 - Senate Bill 855 for the governor to appoint lay people and lawyers with a retention election
 - In order to appoint judges there will have to be an amendment to the North Carolina constitution



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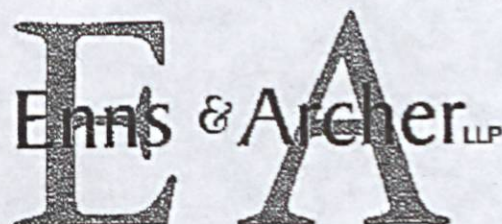


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The Law of Branded Products

March 3, 2005

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Raleigh, NC 27601

Re: Winston-Salem Branch AAUW North Carolina Judicial Campaign Forum

Thank you again for agreeing to speak on the panel at our Forum on Thursday, March 31, 2005. You will note that Bob Hall of Democracy North Carolina had a conflict arise in his schedule, but we are pleased that Chris Heagarty of the NC Center for Voter Education has graciously agreed to take his place to discuss the North Carolina Judicial Campaign Reform Act.

As we have previously discussed, the Forum will begin at 7:30 p.m. and we would like to be finished with the program by about 9:00. I envision this as a fairly informal presentation, with the panelists providing background and factual information, as well as insights and experiences, and presenting questions designed to facilitate a dialog among the panelists and the audience. I offer the following as a very rough proposed outline or order for the discussion:

- Overview of the NC Court System – District, Superior and Appellate Courts – local elections and statewide elections – terms of office – brief descriptions of duties – challenges faced by candidates in elections process – By Judge Bryant;
- Presentation of the North Carolina Judicial Campaign Reform Act – what is it? – what brought it about? – what changes did it make to the way judicial elections operate? – where does the money come from (informing the audience about the

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checkbox on their NC tax return and how it does not increase taxes or reduce refunds) – how the process is working so far (is there enough money? How well did it work for the candidates generally in the November election?) – By Chris Heagarty;

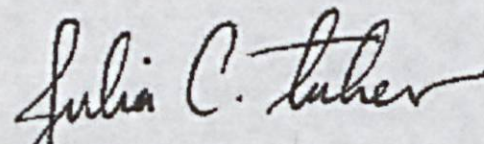
- ❑ Insights and experiences using the new campaign finance system – how things are different from the candidate's point of view – By Judge Bryant;
- ❑ Alternatives to a system of electing judges – the pros and cons of appointing judges – the pros and cons of electing judges – the work of the NC bar committee studying this issue – how other states select judges and the lessons learned from studying those systems – By Rhoda Billings;
- ❑ Where do we go from here? – how can the public educate itself about judicial candidates and about the process? – questions from the audience – discussions among the panelists – final observations – By all panelists.

We are very excited to learn more about this subject and are pleased to be able to offer this opportunity to the community.

The forum will be held at The Hawthorne Inn and Conference Center at 420 High Street in downtown Winston-Salem. I have included the driving directions from the Hawthorne Inn's website for your information.

On behalf of our branch Board, I would like to invite you to join us for dinner at the Bayberry Restaurant and Lounge, located at the Hawthorne Inn, beginning at 6:00 p.m. Please let me know by March 17 whether or not you will be able to be our guest for dinner. Please let me know if you have any questions, or if there is anything you would like for us to do or arrange for the Forum. Thanks again for agreeing to speak and we look forward to seeing you on the 31st.

Very truly yours,



Julia C. Archer

Enclosure