David Schultz. *Election Law and Democratic Theory.* Surrey, England: Ashgate Publishing Limited, 2014. viii, 270 pp. ($99.95 cloth).

In this volume Professor Shultz claims that decisions by the "Supreme and other courts fail to resolve debates because they look as if their rulings are simply edicts" (1) and are lacking a basis in democratic theory. Thus debates in redistricting, representational structures, campaign finance, topics unique to election law, go unresolved. The author points to the 2000 *Bush v Gore* decision as the quintessential example of his contention. Noting that the field of election law is relatively young, he argues that it is time for this field to achieve higher levels of intellectual maturation by seeking out contributions election law can make to democratic theory generally. Leaving the field of election law to lawyers and jurists results in a discipline that merely explains the law rather than placing the field within the concentricity of democratic theory. Thusly the author has written this book "to connect election law…to a broader set of democratic values important to this country" (7).

This volume is organized thematically with chapters devoted to a critique of the lack of theory in election law scholarship and adjudication; a review of American democratic theory and politics; a discussion of the conundrum of minority rights within America; and the central elements of election law including representation and reapportionment, the role of political parties and money, politics and campaign financing. Each chapter is a thorough discussion of the specific topic and is extremely well documented from both a scholarly and legal perspective.

Professor Schultz begins his journey in Chapter One by declaring "election law and adjudication…theoretically rudderless" (13), demonstrating this contention by discussing the intersection of politics and the law in the *Dred Scott* and *Colgrove* decisions. His argument is clearly stated that the courts are not simply a third branch above the political fray; they exist within the American political system and their declarations are not simply legal statements and interpretations but have long lasting implications for American democracy. Returning to his discussion of *Bush v Gore* the author points out that the political nature of the decision had far reaching implications for the definition and substance of American democracy, an implication the justices failed to consider in reaching their decision.

The second chapter of this volume focuses on the unique strains of American democracy, Madisonianism and pluralism. The first derived from the thought of one of our Founders, the second from the rich body of work of a pioneering political scientist, Robert Dahl. Here the author extracts the fundamental principles of American democracy he uses throughout the remainder of the book as he weighs the manner in which the courts have reached election law decisions since the 1960s. Professor Schultz's major concern is the affect judicial decisions have made on the political participation of citizens over the last sixty years. The author is also concerned that many of these decisions speak only to the legal questions in each petition and violate one of the most sacred democratic principles as set forth by Dahl. For Dahl one principle that sets the United States apart from other liberal democracies is the concept of inclusion. Our institutions should, notes Dahl, create policies and mechanisms that act to include as many participants in the political process as possible. Professor Schultz's concern is that many Supreme Court decisions in election law have the effect of dampening participation and creating barriers to the inclusion of citizens within those processes.

The author carries his concern through the core of his book, the next three chapters that speak to voting rights, the democratic conundrum of minority rights in a majoritarian decisional system and representation and reapportionment. In each of these very important chapters Professor Schultz skillfully dissects the most important Supreme Court decisions substantiating his theme. For example in Chapter Three, entitled Voting Rights, the author speaks not simply to the questions of who votes but who participates generally in the decision-making processes. These issues are complicated by the definition of "who should participate." The author meets this question head on by using Dahl's notion of inclusion discussing the current issues surrounding the establishment of voter identification laws in various states. Professor Schultz argues that the legacy of these laws, like many others establishing credentialing for voting, was based in a Supreme Court decision, *Minor v Happersett (1875)*, declaring that citizenship did not "mean one has a right to vote" (89). The Court declared that citizenship did not automatically guarantee one the right to vote; these were two different elements that had to be addressed separately. Eventually, the Nineteenth Amendment nullified the decision but the court had made a point, voting was an action that the state could control and create whatever standards or barriers to participation it wished. This has evolved into the furor over voter identification laws that will eventually have to end up being adjudicated by the Court. Eventually, whatever the Court decides will have far reaching implications for the inclusion of some within the participatory processes of the United States. The author's concern is that the Court does not take into consideration the anti-democratic implications of their decisions. The decisions may be correct legally but anti-democratic theoretically.

Professor Schultz concludes his book by pointing out that election law in the United States faces a "multi-faceted crisis" (269) caused by the partisanship that dominates how elections are conducted and structured, the poor management of the current election system, and the failure of the courts to establish clear rules across the "range of topics that come within the gambit of election law" (269). The author claims that the laws "should aspire to craft rules that have a broader applicability and appeal to a richer sense of theory" (270). Professor Schultz feels that what is sorely missing is a "first order [theory] asking more fundamental questions about the nature of political order and what it means to be an American democratic system" (270). He does not argue that the Supreme Court or jurists should become theorists, only that it is time for the field of election law to "forge a more theoretical basis grounded in a set of democratic values that give real meaning to what (the) Constitution is supposed to be sustaining" (273).

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