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Articles

STATE LIQUOR CONTROL BOARDS V. LOCAL GOVERNMENT: WHO SHOULD CONTROL THE LOCATION OF LIQUOR ESTABLISHMENTS?

Thomas J. Madigan 851

The Pennsylvania Liquor Code vests exclusive control over all aspects of the regulation of liquor sales in the state Liquor Control Board. In doing so, the power of local governments to regulate land use within their boundaries is usurped when it comes to the location of liquor-licensed establishments. This article looks at the effect of state level regulation of the location of liquor establishments on both the local citizenry and the owners of licensed liquor establishments and argues in favor of more localized control over the location of such establishments.

SOME REFLECTIONS ON THE ROLE OF LEGAL HISTORY IN LEGAL EDUCATION

David W. Raack 893

Despite its recent increase in popularity, the subject of legal history is generally viewed as having relatively little importance in the law school curriculum. While there may at one time have been some justification for this view, the changes in legal history—both as a scholarly discipline and as a law school course—over the past several decades, and the shift away from an exclusive focus on medieval English law, have made legal history a subject with much potential for legal education. A course in legal history can enhance students' understanding of the legal system and the long-term forces at work within it, can reveal the historical contingency of the present law, and can illustrate some of the ways law is affected by non-legal influences. Given these possible benefits, legal history—especially American legal history—deserves a more prominent place in legal education.

SENTENCING DISCRETION IN PENNSYLVANIA: HAS THE PENDULUM RETURNED TO THE TRIAL JUDGE?

The Honorable John C. Dowling 925

Sentencing philosophies and the power to determine a convict's fate have been topics of much debate in recent years. Pennsylvania's experiment with sentencing guidelines, designed to reduce disparity in sentencing, has witnessed a surfacing of tensions between the trial judge, whose foremost concern is to impose a sentence that meets the competing demands placed on him by the community in general and the courtroom participants in particular, and the appellate courts, whose overriding objective is uniformity. As a result, sentencing appeals have often been remanded because of "unexplained deviations from the guidelines." The guidelines were dealt a temporary setback by a recent decision of our Supreme Court which declared them unconstitutional for reasons unrelated to their substance. Though the legislature was quick to reenact them, this decision made it clear that the new guidelines cannot be mandatory without a change in the enabling legislation. Sentencing discretion has thereby been returned to the trial judge, who should no longer be reversed absent a genuine abuse of discretion.

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