

Commentary

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Citizens Should Choose Judges

E. William Harvit

The West Virginia State Bar ("State Bar") recently rejected a recommendation from one of its own committees to change how West Virginians' choose supreme court justices. The Judicial Selection Committee was formed principally as a result of meanspirited, mudslinging advertising involved in the last supreme court election. Its objectives were to identify problems associated with the current system, evaluate viable alternative methods and procedures, determine the feasibility of such alternatives and make recommendations to the State Bar. Then, the State Bar would make recommendations to the legislature.

After many hours of discussions, the Committee voted eight to seven to recommend that West Virginia Supreme Court Justices be appointed rather than elected. Being one of the seven minority members of the Committee, I commend the State Bar for refusing to accept this recommendation.

An appointment system will not eliminate the influence of money and politics in judicial elections. In fact, such a system could further erode public confidence in the selection of judges.

In a recent survey published in the Journal of the American Bar Association, 76 percent of voters surveyed said they believe that money and politics had some influence on judicial decisions.

Accordingly, changes are needed to address this perception, but not at the expense of disenfranchising the citizens of West Virginia from the selection of their judges.

The election process could be improved by one or more of the following changes which are increasingly being utilized by other states: the use of voting guides to inform voters of the candidate's true qualifications; the establishment of an advertising review commission similar to FactCheck.org; the implementation of a public financing plan; campaign spending limits;

blackout periods for political advertising prior to elections; and automatic recusal provisions for judges who receive more than an established amount from any contributor (e.g., Alabama sets a \$4,000.00 limit).

If meaningful election reform is to be accomplished to preserve the integrity of our judicial system, then the Governor and the Legislature should focus on ways of eliminating the influence of money and politics in the judicial election process while at the same time preserving the involvement of the people of West Virginia in the selection of their justices.

Politics is not eliminated by an appointment system. It is simply another step removed from the people most directly affected. The jury system trusts our citizens to resolve questions of fact which are disputed between parties. We should trust our citizens to pick fellow citizens to decide questions of law. The appointment of judges by a few well-connected, powerful people instead of the citizens of West Virginia is contrary to our heritage and history. That is why to do so requires a change to our Constitution.

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