

Virginia's Independent Judiciary— Second to None



by **W. Scott Street, III 1999–2000 VSB President**

At the conclusion of the General Assembly's annual session last month, its members had considered and acted upon many significant matters, perhaps none more important to Virginia's citizens than selecting the judges who will sit in the trial courts throughout the Commonwealth, the judges of the Court of Appeals and, at this session, a justice of the Supreme Court. The Virginia State Bar, through our Judicial Selection Committee, interviewed a number of candidates for statewide judicial posts and offered recommendations to the Courts of Justice Committees of both the House and the Senate. Many of the other statewide bar groups followed a similar process, and local bars throughout Virginia met, voted and made recommendations to their local delegates and senators.

This year for the first time the Joint Judicial Advisory Committee, appointed jointly by the leadership of the House and Senate, chaired by VSB Council member Richard Cullen, and composed of 14 persons from across the state, seven of whom are lawyers, also interviewed judicial candidates and made recommendations. From many well-qualified candidates, the General Assembly chose judges who all appear to have the background, experience and potential to render excellent service in our system of justice.

Our method of choosing judges may not be perfect, but in my opinion it has produced in our state a judiciary that is second to no other. Many of us have heard horror stories involving the popular election of judges. The necessity of raising funds to campaign in a popular election for a judicial position raises inherent problems of conflict and influence. Publicly soliciting votes does not exactly contribute to the dignity of our courts, either.

Steve Quillen from Lebanon, in Russell County, tells of taking his family to the West Virginia State Fair. A distinguished gentleman in a three piece suit approached him outside the livestock exhibit, extended his hand and asked for his vote in the upcoming election. Steve explained he was only visiting but

asked what position he was seeking. The gentleman replied, "I'm running for re-election as Chief Justice of the West Virginia Supreme Court." Frankly, I'm very glad our Justices don't have to campaign like that.

In California where judges are popularly elected, the governor, who may also appoint judges when vacancies occur between elections, recently commented that his judicial appointees should remember who appointed them, saying, "They are not there to be independent agents. They're there to reflect the sentiments that I expressed in the campaign."

The California governor later recanted his remarks, apparently after having been reminded that our country was founded on the concept of three separate, but equal, branches of government. The judicial branch, which lacks the power of the purse, draws its authority from the respect and trust of our citizens. Every citizen should be confident that his or her case will be decided upon the law and facts presented to the Court, without influence by some currently popular political view. An independent judiciary free from political pressure is essential to our democracy.

As Virginia lawyers, we have all pledged to uphold our Constitution. As we strive to ensure the independence of Virginia's judiciary, we should encourage the efforts of bodies such as the Joint Judicial Advisory Committee to seek out and find the best qualified candidates for judicial posts, and we should make sure that our local and statewide bar endorsement processes have earned the confidence of our senators and delegates, so that our recommendations will continue to be well-received, respected and often followed. And let us never condone anyone's attempt to exert political influence on our judges. In this way we can help assure that Virginia will continue to have what I sincerely believe is the best group of judges anywhere in the country. ♪