

# No End To The Mischief

(08/04/20)

---

There is no end to the mischief that Harrisburg politics can produce. The latest is House Bill 196, narrowly passed by the Senate. This Joint Resolution would put a constitutional amendment to the Pennsylvania Constitution on the ballot concerning our state appellate courts. Under the amendment, instead of Superior and Supreme Court Justices, being elected at large, there would be seven large districts created, relatively equal in population, each of which would elect one judge or justice.

Currently, we elect our state Representatives and state Senators by region, which is also the case in United States House of Representatives elections. Two United States Senators are elected at large from each state.

Since the founding of this Republic, there have been those who have argued for regions electing representatives, the argument being that it is a more representative way to create democratic institutions. Others say that it makes more sense to elect our higher officials by the entirety of the state, or the nation, in order to reduce regional fractionalization. We have only one President of the United States elected at large from the entire country, albeit the Electoral College, somewhat undermines that approach. Our United States Supreme Court Justices serve the entire nation and not any particular region. Likewise, our United States Court of Appeals Judges serve a number of states, not just one.

What is at the bottom of the thinking of those who want to break the state into regions for election of our intermediate and highest state judges? We have a well-balanced system whereby the Governor and Lieutenant Governor are elected statewide. Our model for government in this Commonwealth parallels that of the United States of America. While we have regional voting for our legislative branch, we want our judges and justices to remain as non-political as possible, hence statewide at-large voting.

Those who advocate for the seven-region approach simply do not like election of state judges. There are also those who do not like decisions of the Pennsylvania Supreme Court. The attempt to create seven regions is nothing more than a desire by some to make judges more political by claiming they would do a better job if they answered to a smaller group of people. Each of the seven regions would presumably have their own "judge or justice" answerable only to the people in that region. This would further create disharmony, disruption and confusion in the application and administration of the laws.

The concept of creating separate states, as it were, within Pennsylvania to carry out the laws to the judicial branch should be dead on arrival. The voters and taxpayers of this great Commonwealth must ask their legislative leaders, "Really? Don't you have anything better to do than to introduce uncertainty, regional politics and animosity in the judicial system?"

Anyone who has had the opportunity of arguing and briefing cases before the Superior and Supreme Courts cannot help but be impressed with the high-quality of judges and justices and the enormity of the task those relatively few people face every day. They are answerable to the entire Commonwealth and, as such, cannot rely on the support of one region or another for views that might be extreme. By electing our judges and justices from the entirety of the state, we have created a melting pot of ideas which serve well our free institutions.

Our trial judges, those who populate the common pleas courts, are elected by county. While many of those judges are also fine and upstanding people, this does create a tremendous amount of disparity of decision-making. Different common pleas courts oftentimes wind up with different rules, confusingly inconsistent decisions, and verdicts that cannot be reconciled from county to county. It is the job of the at-large elected Superior and Supreme Court Justices to try to iron out these differences. One of my greatest efforts over the years has been to try to introduce uniformity between our common pleas decisions and differing districts at the federal trial court level. Those inconsistencies can be daunting, confusing, and lead to great injustice. The question is why would anybody want to introduce erratic confusion, politics and distorted decision-making to the intermediate and Supreme Court level?

Currently, in both the federal and state system, differing approaches in decision-making between trial courts can be reconciled by judges and justices who serve the entirety of the state, or in the case of the United States, a region. United States Supreme Court Justices, who are political enough, would be even more so were they elected by region. Such crazy thinking has already been suggested for United States Supreme Court Justices and, thankfully, has been uniformly rejected.

The citizens of Pennsylvania are once again being subjected to a con game by those who are looking to manipulate the judicial system for their own ends. Electing intermediate judges and Supreme Court Justices on a regional basis, rather than at-large, will serve no good purpose.

What we ought to be considering, seriously, is trial courts that span more than one county in the rural areas so that we can have more fair jury pools and decisions which have a broader application. Creating a bunch of small judicial nations throughout the Commonwealth to handle our most important appeals would take our unique mosaic and convert it into a mishmash of unenforceable disparate decisions. Out the window would go any semblance of structure. Creating many numerous districts for our appellate courts would give politicians more power. There would be more regional politicians to satisfy and, for those politicians, a greater access to patronage as a result of regional candidates having to raise money and seek support from other political entities.

Please let our elective representatives know that the people's business should not be subject to distorted political ambitions.

*Clifford A. Rieders, Esquire  
Rieders, Travis, Humphrey,  
Waters & Dohrmann  
161 West Third Street  
Williamsport, PA 17701  
(570) 323-8711 (telephone)  
(570) 323-4192 (facsimile)*

*Cliff Rieders is a Board-Certified Trial Advocate in Williamsport, is Past President of the Pennsylvania Trial Lawyers Association and a past member of the Pennsylvania Patient Safety Authority. None of the opinions expressed necessarily represent the views of these organizations.*