

NAMED TO THE BENCH

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There are those who claim to be able to divine the mind of the voting public, and some who even make a good living doing so. I am not one of them. I am an elected state judge, and therefore am an interested observer who has closely watched judicial elections in Washington and elsewhere across the country. What I have seen has been occasionally amusing, often confusing, and frequently frightening. My observations, together with my work on a state commission that studied and made recommendations for reforming the manner in which our judges are selected and retained, led me to conclude that our system is flawed, at least if the proper goal of the system is to obtain excellence in our judiciary. And I have concluded that a merit selection, retention election system with comprehensive, citizen-based performance evaluations would be a far better system for Washington State.

I was initially appointed to a new position on the Washington State Court of Appeals in 1990. I ran to retain my position in 1990, 1996, and again in 2002, each time without opposition. I have never had to run in a contested election, but my lack of experience in that regard is hardly unique. Most of our judges initially take their positions by appointment, and most never have a contested election. The initial selection process is undeniably political, but without any meaningful public participation. The result is that in a state which purports to elect its judges, most voters never have an opportunity to vote for their judges, either to select them or to retain them. But that irony seems lost on those who flatly reject the notion of merit selection as a deprivation of the public's right to elect its judges.

There are several identifiable factors that help determine the outcome of contested judicial elections: geography, gender, name, name familiarity (I will comment on the difference between these two later), effectiveness of one's campaign, money (an obvious handmaiden of campaign effectiveness), qualifications, and endorsements. These latter two factors are intentionally listed last because they seem most often to be least significant to the voters. I will comment on several of these factors, with particular emphasis on the role that names have apparently played in our elections.

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In his private practice, he was active in numerous professional and community activities, including service as chair of the State Bar Legislative Committee and an original member and chair of the Judicial Conduct Commission.

As a judge he has served on the Gender and Justice, and Minority and Justice Commissions, was vice-chair of a special commission reviewing Washington's procedures for selection and retention of judges, and is a founding member and president of the Washington State Chapter of the American Judicature Society, an organization dedicated to improving the administration of justice.