

Missouri Compromised

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Missouri is putting on the gloves for round two over the state's system of judge selection. Nominally designed to keep politics out of judicial appointments, the state's Appellate Judicial Commission has instead marched Missouri's courts steadily to the left.

Round one came last summer after Governor Matt Blunt was dissatisfied with three candidates proposed by the commission to fill the seat of retiring State Supreme Court Justice Ronnie White. He at first considered rejecting all three in protest, which would have left the decision up to the commission instead, but he ultimately appointed Justice Patricia Breckenridge. Score the first round for the plaintiffs bar.

Now comes round two. Earlier this month, President Bush nominated Missouri Supreme Court Justice Steve Limbaugh to a federal district judgeship, potentially opening a vacancy on the state bench. As one of the court's most conservative members, Justice Limbaugh's replacement will be a critical weight in the balance of the court. Mr. Blunt is now wholly dependent on the commission to decide whether it wants to provide him with candidates who reflect his philosophy and that of the Missouri voters who elected him.

The "Missouri Plan," as it's known, was created to make sure the courts are nonpartisan and impartial. Behind the sugar plum language, however, there's nothing impartial about a process in which a single interest group -- the state bar association -- appoints three members of the seven-member commission. (Of the other four members, one is the chief justice of the Supreme Court and three are chosen by current and former Governors.)

Defenders of the current system are launching a preemptive strike against revising the Missouri plan. In recent weeks, the Missouri trial bar and its allies have begun a public campaign to defend the plan, even seeking new recruits in the business community. Already the state broadcaster association has agreed to cough up free airtime for the campaign against reform. But we'd like to meet the Missouri business owner who sleeps well at night knowing the judicial commission includes a lawyer who once penned an article entitled "How to Strip Your Opponent Naked and Make Them Beg to Pay You Money."

Liberal groups like the George Soros-funded "Justice at Stake" argue that alternatives to the current system -- direct election of judges or the federal model where the executive nominates and the legislature confirms -- allow "special interests" to manipulate the selection of judges. The bar, of course, doesn't consider itself a special interest. But either alternative would have one virtue the present system lacks: accountability to voters.

All of this gets an extra kick in a campaign season when Governor Blunt is facing a challenge from Attorney General Jay Nixon, a favorite of the Missouri plaintiffs bar. The Governor put himself in the trial bar's sights when he enacted aggressive tort reform three

years go to limit forum-shopping and curb medical malpractice suits. But that didn't solve the problem of plaintiff-friendly judges. This week, the American Tort Reform Association awarded the State Supreme Court a "dishonorable mention" for turning Missouri into the "Show Me the Money" state.

However nobly the Missouri plan began, the current process is doing no favors to fairness, or to justice. If the recent slugfests have proven anything, it's that Missouri's courts are every bit as hung up in politics as they are in other states. The difference is that in Missouri the process happens behind closed doors. A democratic system of choosing judges requires a transparent process -- and accountability for those who make the choice.