

Veto No. 1983-1

SB 421

October 28, 1983

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I have before me for action Senate Bill 421, Printer's No.1114, which would make significant changes in the processes currently utilized in electing candidates to judicial offices and school boards in Pennsylvania. The bill would eliminate the right of candidates for justice, judge, district justice and school director to "cross-file" as candidates in primary elections of any and all political parties of their choosing. The bill also proposes to eliminate restrictions on political involvement of district justices by permitting them to engage in a wide variety of partisan political activities, including delivery of political speeches, making or soliciting political contributions, attending political functions and conventions, holding party offices and participating in other political campaigns or activities.

I firmly believe that the pursuit of excellence and maintenance of public confidence in our courts and in our schools is a goal toward which we must strive. It is a goal best pursued by minimizing partisan political considerations in the selection process for our judicial officials and our school directors.

In the instance of cross-filing for court of common pleas, district justice and school board posts, I am persuaded that cross-filing has helped to do this. The candidates, their backgrounds and their records are generally known to the electors in the geographical area they are seeking to serve.

From reviewing the record of legislative debate on the bill, it is clear that the greatest concern expressed over cross-filing applied to our three Statewide courts—the Supreme Court, Superior Court and Commonwealth Court. Unlike candidates for county and local offices, those seeking Statewide office are generally not as well known to the electorate. Factors such as name recognition, ballot position, regionalism and funds available for campaign advertising can unduly influence the selection process. I share the General Assembly's concern with this situation; however, I do not believe that the elimination of cross-filing is a preferred solution to the problem.

The General Assembly now has before it specific legislation, recommended by this administration, which would replace our current system of electing justices and judges to our three Statewide courts with a system of merit selection. I have advocated this kind of constitutional reform for almost 20 years and believe that it encourages the best-qualified candidates to seek positions on our appellate courts. The enormous costs and rigors of sustaining a Statewide election campaign have deterred many of our most capable attorneys from seeking appellate judgeships. The process of gaining political endorsements and raising campaign funds can endanger judicial

independence and impartiality, and adversely affect public confidence in the judiciary. The current system has also increased difficulties confronted by minorities, women and those from rural areas who seek Statewide seats. We must move ahead vigorously to deal with these problems. The elimination of cross-filing is not, in my judgment, an effective means of doing this; passage of a constitutional amendment initiating comprehensive reform is.

The proposed elimination of restrictions on political involvement of district justices raises serious constitutional and policy concerns. Article V, Section 10, of the Pennsylvania Constitution clearly states that the Supreme Court shall have the power to prescribe general rules governing the conduct of district justices and that any laws which are passed shall be suspended to the extent that they are inconsistent with such rules. In addition, Article V, Section 17, states that district justices are to be governed by rules or canons as prescribed by the Supreme Court with regard to prohibited activities.

The provisions of S.B.421 are in direct conflict with the Supreme Court's "Rules Governing Standards of Conduct of District Justices." Rule 15 specifically states that district justice candidates may not hold office in a political party or organization, deliver political speeches, make or solicit political contributions or attend political or party conventions or gatherings. Thus, this legislation would currently violate the Constitution and invite an undesirable confrontation with the courts.

My opposition to such direct political involvement for district justices does not rest on constitutional grounds alone, but on public policy grounds as well. I believe that the goals of maintaining public confidence and an impartial and independent judiciary are best achieved where partisan political entanglements and obligations are absent.

For the above reasons, I am returning this bill without my signature. At the same time, I recognize the valid concerns the General Assembly has with our current system of elections for Statewide judicial posts and I urge you and your colleagues in the House of Representatives to enact comprehensive court reform, including merit selection for our appellate courts, as a more effective means of addressing them.

DICK THORNBURGH