

NJSBA History Regarding the Practice of Invoking Senatorial Courtesy

Below please find the New Jersey State Bar Association's historical background regarding the practice of "senatorial courtesy" whereby a sitting NJ State Senator from the county of a nominee's residence may prevent a gubernatorial nominee from advancing to consideration by the Senate Judiciary Committee and/or confirmation by the full Senate.

1960

A Special Committee was appointed to investigate the delay in judicial appointments that was occurring in the State Senate. This practice later became known as exercising "senatorial courtesy" and has caused considerable delay and interference in the State's constitutionally sanctioned judicial appointment process from then to now.

1965

First Resolution

The NJSBA entertained a resolution which called for the creation of a "Judicial Selection Committee" to address the problems caused by the practice of senatorial courtesy. This practice resulted in candidates for judicial office sometimes being held hostage by State Senators not on the basis of their qualifications, but rather the politics of the moment. The Board passed a resolution calling for a Special Committee to study this issue and instruct officers to meet with senatorial candidates prior to the November election in order to secure their commitment to consult with the NJSBA and also provide the bar with an opportunity to interview potential candidates.

1968

Second Resolution

The Board adopted a resolution calling for a formal amendment to the State Constitution requiring that the State Senate act on the Governor's judicial nominations within a specified period of time after they were announced. If the Senate failed to act, the nominee would automatically be confirmed without the advice and consent of the Senate. Again, the NJSBA was always trying different ways to accomplish its goal to improve the court system in New Jersey.

1970

Third Resolution

The Board again passed a resolution criticizing the practice of senatorial courtesy and urging the adoption of a constitutional amendment under Article IX of the Constitution to require that all judicial appointments be voted on within a reasonable period of time by the Senate as a whole, with the purpose of ultimately curbing the practice. The resolution follows:

**RESOLUTION LIMITING TIME
FOR SENATE TO ACT ON
JUDICIAL APPOINTMENTS**

WHEREAS, Under Article VI, Section VI, paragraph 1 of the Constitution of New Jersey, the following provision is made for the appointment of Justices of the Supreme Court and judges of other courts:

The Governor shall nominate and appoint with the advice and consent of the Senate, the Chief Justice and Associate Justices of the Supreme Court, the Judges of the Superior Court, the Judges of the County Courts and the judges of the inferior courts with jurisdiction extending to more than one municipality. No nomination to such an office shall be sent to the Senate for confirmation until after seven days public notice by the Governor.

WHEREAS, there is in existence an unwritten rule or understanding known as "Senatorial Courtesy." In operation, this rule permits a Senator from a given county to block an appointment for judicial office in his county merely by expressing his personal opposition; and

WHEREAS, the operation of this rule or understanding has the effect of conferring upon each Senator a power not given him by the Constitution, a power which is tantamount to a right of veto as to a judicial appointment in the Senator's county even though all other Senators would, on serious consideration, have confirmed an appointment; and

WHEREAS, a direct result of the operation of this rule or understanding is to deter competent and honorable men from accepting judicial appointments because they may not meet the personal approval of the Senator from his county and, thus, judicial appointments are traded as a part of the interplay of political accommodations; and

WHEREAS, there is an ever increasing need for good judicial appointments at every level, appointments to be selected from the best qualified men available and the operation of this rule or understanding of "Senatorial Courtesy" operates directly against the making of such selections in accordance with the Constitution.

NOW, THEREFORE, BE IT RESOLVED that this Association go on record with both Houses of the Legislature in favor of the offering of a constitutional amendment under Article IX of the Constitution, an amendment to be designed to require all judicial appointments to be voted on within a specified period of time by the Senate as a whole to the end purpose and intent that the situation presently obtaining be terminated.

1983

Pressler Nomination

State Bar President Vincent Apruzzese, President-elect Raymond Trombadore, and Judicial and Prosecutorial Appointments Committee Chair James Pitney testified in

support of the renomination of Judge Sylvia Pressler to the Superior Court of New Jersey. Their action was precipitated by the Board of Trustees voting against the use of senatorial courtesy which was eventually revoked so the nomination could proceed. President Apruzzese in his remarks stated:

“The New Jersey Senate has constitutional right to advise and consent on the reappointment of Judge Pressler. This collective right can not be exercised by a single senator. Consequently, no individual senator has a right nor should he be allowed to frustrate the action of the full Senate. When the action of one legislator can be utilized to handcuff an entire legislative body without any foundation whatsoever in the Constitution or any law of the people, those who have respect for the law must speak out.....”

1992

Murphy Nomination

In June, the NJSBA was confronted with then Senator John Dorsey's (R-Morris) decision to exercise senatorial courtesy in order to prevent the reappointment of Judge Marianne Espinosa Murphy thereby blocking her consideration on the merits by the Senate Judiciary Committee. While the Board did not traditionally endorse the reappointment of any individual judge, it opposed the use of senatorial courtesy here because it was felt that invoking courtesy in these circumstances would materially interfere with the independence of the Judiciary and the authority of the Governor to have his nominees properly considered before the State Legislature for advise and consent pursuant to the State Constitution. Then-President Thomas Curtin participated in a number of public events with then-Governor Jim Florio urging the Senate to move forward with the nomination.