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GOP split over judges may be widening

By Jo Mannies

Ex-state Rep. Mark Wright, R-Springfield, is circulating his Letter to the Editor, in which he takes issue with some fellow conservatives' efforts to scuttle the Missouri Plan for selecting appellate and Supreme Court judges.

Wright left office in January after 8 years in the state House. He made an unsuccessful bid for state auditor last year, as well.

Here's the guts of his letter:

"As a loyal conservative republican, I proudly helped return my party to majority status in the Missouri House in 2002 after a long 48 year absence. As the Asst. Majority Leader I helped pass a conservative agenda that is positively impacting our state.

"As a legislator, my most important legislation dealt with reforming Missouri's foster care system. The debate during that time included me publicly expressing my dissatisfaction with judicial decisions regarding family court cases.

"After much debate and research I came to the conclusion that the root of the problems resided with the statutes, not the application of the law by Missouri judges.

"The laws on the books were inadequate when dealing with foster care issues. The legislature passed a bill with improved language that is producing better results for Missouri families. Consequently, judicial decisions regarding family court cases positively reflect the revised law.

"Another debate surrounding judicial decisions is erupting in Missouri. Some of my fellow conservative republicans in the legislature are upset with certain judges and their 'activist' decisions, essentially claiming some judges are ignoring the law and legislating from the bench.

"When I challenge my conservative friends to produce examples of 'activism' by the current court they cannot. The real issue for them is they believe liberals dominate the judiciary and the current selection system is 'rigged' in liberals' favor.

"Their remedy for this situation is to eliminate the Missouri Non-Partisan Court Plan (which allows the governor to select one of three judges that are nominated by a panel of lawyers and gubernatorial appointees for vacancies to the Supreme Court and Appellate Courts) and replace it with a

selection process more conservative friendly.

"In my opinion, the alternatives some conservatives are suggesting are dysfunctional in nature. Adopting the federal plan, which would allow the governor from either party to hand pick a judge and have the Senate confirm is political and promotes cronyism. Missourians decided they didn't like politicians picking judges and shelved it in 1850 for direct election of judges.

"A direct election of judges (which still takes place in most local circuit courts) does give the public valuable input, but it also means the parties and political bosses have power over the nominees to the court, again cronyism. This is why Missourians cast aside elections for Supreme Court and Appellate Court judges.

"Democrat political boss Tom Pendergast (in Kansas City) stacked Missouri courts with cronies during the 1930s, which outraged citizens. Missourians changed the Constitution in 1940 by adopting the current non-partisan court plan, which selects judges by merit instead of political affiliation and has become a national model for most states.

"My fellow conservatives who want to abolish The Missouri Plan should re-think their strategy. Is another plan going to give them the results they are seeking from the courts? Missourians have already experienced the alternative plans and rejected the idea of allowing politicians from either party to pick judges.

"Practically speaking, no panacea court plan exists to the satisfaction of everyone. The real issue is making sure Missouri's laws accurately reflect the desire of the people through their representatives. If conservative republicans don't like how the laws are being interpreted by Missouri judges they have every right to change and/or clarify the statutes or amend the Constitution with clear language....

"The courts have no choice but to follow the law when context is clear. If judges do not interpret the law correctly and literally legislate from the bench, there are legal remedies in place. The Constitution provides the legislature the ability to impeach unruly judges and also allows the voters to remove judges through the retention portion of The Missouri Plan.

"In my opinion, Missourians have already chosen a method of selecting judges that arguably is better than any other plan available. I think voters are not likely to change the Constitution and allow partisan politicians to pick judges again. Therefore, I sincerely hope that my fellow conservative republicans will re-focus on passing good, clear, and concise laws the next legislative session."

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