A Judicious Change
May 28, 2003

by Dr. G. Terry Madonna and Dr. Michael Young

The French have been catching hell lately across the spectrum of American public opinion -- and most of it is well deserved. But one thing our erstwhile ally did get right is providing the perfect phrase for describing judicial elections in Pennsylvania.

Plus ca change, plus ce la meme chose -- the more things change, the more they remain the same.

This Gallic paean to changelessness never was more meaningful than when invoked to explain judicial politics in Pennsylvania.

In this "odd year" of the election cycle, voters will pick -- to say elect strains credulity given the primary's abysmal 20% turnout -- one new Supreme Court justice and three new members to the Superior Court.

At the outset of the election cycle, the state's legal community was buzzing with the prospect that a 2002 US Supreme Court decision, Minnesota v. White, would change the nature of court elections. The court decision permits judicial candidates actually to say what they think on a variety of issues and policies, even those that could eventually find their way to courts in cases before successful judicial candidates. Candidates can now talk about capital punishment, abortion, affirmative action and other "hot button" subjects likely to arouse the passions of the electorate.

Many worried that the Minnesota decision would turn judicial elections into unseemly pandering to the voters by candidates more interested in courting voters than holding court. The very idea of judicial candidates actually disclosing their thoughts in public was shocking to many. How tawdry!

Well, not to worry -- at least for the moment -- because the first test of this newly found freedom was pretty much a dud. Given the 20 percent turnout, it seems clear that the vast majority of voters were unmoved (unaware is fairer) by it all.

And the candidates themselves were tentative, though some did state their individual positions. In the end, however, it hardly mattered. None of the candidates secured enough basic name recognition to have what they stood for matter, nor did voters learn much about their qualifications.

But while in action the new rules from Minnesota v. White look a lot like the old rules, the old rules themselves still prevail. Here are four of them that clearly still matter, and continue to define what is important in determining the outcome of judicial races in Pennsylvania.

THE WEST STILL RULES

For two decades now it has been axiomatic that candidates from the western part of the state have an advantage in state elections. This election certainly did nothing to challenge that tradition.
The statewide Supreme Court and Superior Court races illustrate the pattern. In the Superior Court race, only one candidate in the seven-person Democratic primary was from the western part of the state. And he won an election in which three candidates were nominated.

For Supreme Court, five Democratic candidates sought the lone nomination. Max Baer, an Allegheny County judge, won the nomination and the second place finisher was also a judge from Allegheny County. Together, they won more than 70 percent of the primary vote. The three other Democratic candidates live in an eastern county, Philadelphia.

Even when western Pennsylvanian's lost, they made it close. Pittsburgh lawyer Jacqueline Shogan, the only western Pennsylvanian on the Republican primary ballot ultimately was narrowly bested by the vaunted Republican organization. Still, she won one in five primary voters and failed to be nominated only by a whisker.

The electoral advantage enjoyed by western Pennsylvanians has been described as the "friends and neighbors effect." Apparently, a candidate's county residence or geographic proximity counts when western voters decide how to vote. More particularly, it counts for the candidate if he or she is from the west. What makes that information available is that the ballot contains the name of the county for each candidate.

So, it's good to be a good candidate - but even better to be on the ballot from western PA.

NOTHING SUCCEEDS LIKE SUCCESS

Two years ago, the Republican organization had not lost a statewide primary for one of its endorsed candidates since a guy named Arlen Specter in 1980 beat the endorsed candidate Bud Habestaad in the U.S. Senate primary. But then they lost one -- a Superior Court nomination.

The end of an era? The beginning of the end? Curtains for the state Republican organization? No, no, and emphatically no!

Instead, out to prove it self, and even though outspent, the state GOP nominated three of its endorsed candidates, including Palmer Dolbin, a Schuylkill County Common Pleas Judge. Yes, that's the same Palmer Dolman who lost two years ago.

Save the taps and sympathy cards. State Republicans don't need them.

NOTHING FAILS LIKE FAILURE

On second thought you may need those sympathy cards at that.

This most recent election only reminds us that in no real sense does the Democratic Party constitute a meaningful statewide organization. In fact, state Democrats in fidelity to the known facts should probably start referring to themselves as the Democrat Disorganization.
The party's inability to nominate its endorsed candidates has become so widely recognized that the endorsement, while perhaps not a liability, is not much help against a candidate with real money or a substantial campaign effort.

Endorsements in the Democratic Party are mostly meaningless, because party discipline and party harmony are missing, and the willingness to put aside personal and factional differences are non-existent. All make the endorsement largely an exercise in futility.

Gov. Ed Rendell, who lost the gubernatorial primary endorsement last year to Bob Casey, is only the latest and best-known example. This year, the governor favored an open primary.

And in the interest of avoiding future embarrassment, that should probably be written into the party by-laws.

THE CURSE IS STILL ALIVE

The curse refers to the historical tendency of non-Philadelphia voters to prefer almost any candidate from any other county. Philadelphia Daily News columnist John Baer coined the term when he was describing the long litany of numerous unsuccessful Philadelphia candidates. He also suggested that the election of Ed Rendell as governor might have spelled the end of the curse. Well, maybe, but not quite yet.

Consider these results: In the five-person Democratic Supreme Court race, the three Philadelphia candidates were three, four and five, with the Allegheny candidates, as previously mentioned, coming in first and second.

In the seven-person Democratic Superior Court race, four of the seven candidates were Philadelphians, and the bottom three vote getters were from the city. The best a Philadelphia candidate did was the third spot, securing fewer votes than a candidate from Northampton, and a candidate from Westmoreland County.

Rendell broke Philadelphia's losing streak, but it is far from clear that the curse itself has been lifted.

--------------------

Politically Uncorrected™ is published twice monthly. Dr. G. Terry Madonna is a Professor of Public Affairs at Franklin & Marshall College, and Dr. Michael Young is a former Professor of Politics and Public Affairs at Penn State University and Managing Partner at Michael Young Strategic Research. The opinions expressed in this article are solely those of the authors and do not necessarily reflect the opinions of any institution or organization with which they are affiliated. This article may be used in whole or part only with appropriate attribution. Copyright © 2003 Terry Madonna and Michael Young.