

In Search of the Perfect Judicial Selection Method

“There ain’t no good way to select judges”

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The Court’s Job

- **Magna Carta:** *To no one will we sell, to no one deny or delay right or justice.*
- *In the 1660's the English Crown instructed the Lord Proprietors to build a system of courts 'to do equal justice to all men to the best of their skill and judgment, without corruption, favor or affection'.*
- **N C Constitution:** Right and justice shall be administered without favor, denial and delay.



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Selecting Judges—What People Tend to Agree On

- Judges should be (In addition to being competent in the law, in descending order)
 - Honest
 - Fair
 - Unbiased
 - Good Managers
 - Hardworking
 - Consistent
 - Speedy
- *Commission on the Future of Justice And the Courts in North Carolina, 1995*

What People Often Disagree About

- How to select judges who have those qualities
- How to weigh those various qualities
- What the role of a judge should be
- Whether the same system works for trial and appellate courts
- How to best keep judges accountable when they should be and independent when they should be
- What the role of diversity of the bench is in a selection system

Things to Consider in Any Selection System

- Providing appropriate candidate pool
 - Providing appropriate job security to candidates selected
- Providing appropriate safeguards to protect public from poor choices
- Providing appropriate public input

- State judicial selection is classic federalism
 - Many states combine more than one method
 - Many use different methods for different courts
- Building blocks for a system
 - Filling vacancies in mid term
 - Filling vacancies at end of term/selection for full term
 - Retention

How Others Do It

- Federal Model
 - Appointment by President, confirmed by Senate
 - Indefinite term, guaranteed salary
 - *“He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.”*
Declaration of Independence
- Basic methods used by States
 - Appointment by Executive
 - Appointment by Legislature
 - “Merit” Selection
 - Nonpartisan Election
 - Partisan Election

NC’s Judicial Selection

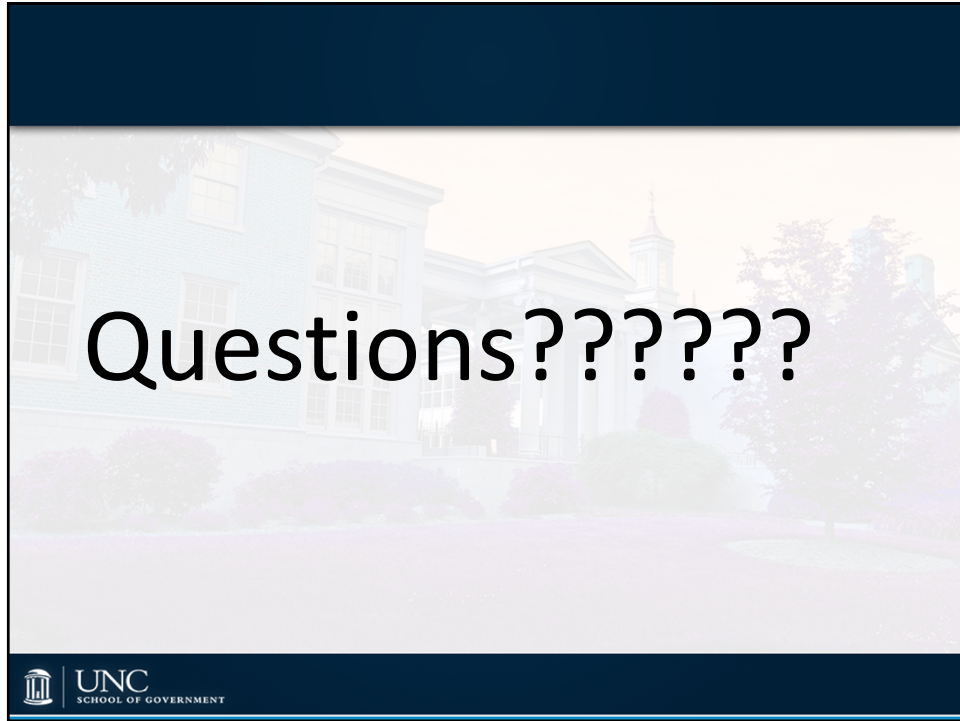
- Crown/provisional governors appointed colonial judges
- Legislature appointed judges until 1868
- Partisan elections in 1868 constitution
- Nonpartisan elections from 1990’s to 2017--
Superior Court, then District Court, then Appellate Courts
- Currently partisan elections

The Tension Independence and Accountability


- Independence from whom?
 - What are the dangers of not being accountable?
- Accountable to whom?
 - What are the dangers of not being accountable?

“There Ain’t No Good Way to Select Judges”

- Bottom line—There is a tension between accountability and independence
- States have been seeking the right balance since they were established
- They still are



Questions??????

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