

The Bell appointment: A choice that could haunt the governor

By **BARRY RASCOVAR**

IT LOOKS LIKE Parris Glendening's greatest triumph. But the appointment last week of Robert M. Bell as Maryland's top judge could ultimately hold the seeds of Mr. Glendening's defeat.

Maryland's judiciary is the forgotten bureaucracy. Little is written about the state court system. Each twitch of the U.S. Supreme Court is dissected endlessly, but not the Maryland Court of Appeals or any of the lower courts.

Few people can name a member of this state's highest court. Is it a conservative group? Are there ideological factions? Is it closely split on some matters? Any personality clashes?

We know nothing. It is the mysterious branch of state government.

The best choice?

Mr. Glendening's pick of Judge Bell may not have been the best possible outcome, but it was a solid one that is likely to continue the tradition of collegiality and scholarly rulings rooted in common sense.

The choice narrowed down to Judge Bell and Judge Alan M. Wilner, who ran the state's second-level appeals court (and whose consolation prize was elevation to the top court).

Reading the governor's written announcement, it is easy to conclude that the best-qualified candidate was Mr. Wilner. He's a centrist similar to outgoing chief judge, Robert C. Murphy. He's a legal intellect. He's a judicial workhorse. And he deserves a gold star for reviving the overworked Court of Special Appeals.

This last point should have placed Mr. Wilner ahead of Mr. Bell. For unlike the Supreme

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Court's top slot, where the focus is on issues and lining up winning coalitions, in Annapolis the chief judge's task is largely administrative. He runs the far-flung state court system, soothing egos, unraveling bureaucratic Gordian knots, balancing a \$175 million budget, lobbying the governor and General Assembly.

Mr. Wilner is a proven administrator who knows how to operate in the State House. So why did Mr. Bell, not Mr. Wilner, get the job?

Political necessities

The governor opted for the choice with a political payoff. By selecting Mr. Bell, the governor may have locked up support of a core group in his re-election drive. And at this point, that is vital.

Mr. Glendening is in trouble. Polls put his favorable rating in the mid-20s; in pivotal Montgomery County, one private poll found it had dropped to 10 percent. He's got to know that his support in the black communities is secure before going after other voters.

The Bell choice was championed by nearly all black politicians, and by organized labor. They lobbied the governor exceptionally hard. Having already lost the strong backing of two key black leaders — Mayor Kurt Schmoke and Prince George's County Executive Wayne Curry — the governor couldn't afford to offend this group further.

Yet this appointment may haunt Mr. Glendening as the 1998 election approaches. Ellen R. Sauerbrey, the likely Republican candidate for governor, knows she can use the Bell selection to tar Mr. Glendening as a liberal (a nasty word these days) intent on liberally rewarding his supporters.

Fodder for Sauerbrey

There's no doubt Judge Bell's opinions and votes put him on the far left of the Court of Appeals. Time and again, his is the lone dissenting voice. If the court splits 6-1, it's a good bet that dissenter was Judge Bell.

This month he dissented in a 6-1 decision reversing a \$5 million award in an asbestos case. In a 4-3 decision in August, he again was on the losing side in an asbestos ruling over punitive damages. He has consistently supported appeals from death-row inmates, siding with the defendants rather

than the prosecution.

This is fodder for the conservative Ms. Sauerbrey. Judge Bell's record can be read as anti-business, anti-death penalty and anti-government when it comes to crime-fighting. All Ms. Sauerbrey needs to do is point to the Bell appointment as proof of Mr. Glendening's liberal credentials.

And she will point out to suburban audiences that the governor once again catered to urban special interest groups, even in making the most important judicial selection of his career.

Fortunately for the governor, Judge Bell isn't likely to rock any boats. He's already a team player on the Court of Appeals. But Ms. Sauerbrey still is likely to use the Bell appointment to good political effect.

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