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PERSPECTIVE

How Manhattan Stole the Judiciary

BY WILLIAM C. THOMPSON

IN THE ROARING '20s, Texas Guinan, a noted saloon keeper, had a greeting for customers. It was "Hello sucker." This greeting should apply to the voters of New York State who have succeeded in turning our judiciary over to the Manhattan legal establishment.

In 1978, the Big Con perpetrated on the voters was that partisan political elections were the wrong way to go for the Court of Appeals. Instead, the magic words "merit selection" should be utilized to select jurists. The amendment passed and we now have a selection committee. The cry against elected judges was that political leaders had too much clout and the voters had little choice. Besides, [county leaders Meade] Esposito, [Carmine] DeSapio and the like could not be trusted.

Once the amendment passed, the Manhattan legal establishment went to work.

The way to handle the Commission on Judicial Nomination was to make sure Manhattan controlled it. Of the 14 members of the commission, eight are from Manhattan. This ensures that the majority of names reported out will be people from Manhattan with liberal backgrounds. The last four lists are a prime example:

On the last list from which the Governor chose Judge Carmen B. Ciparick, five of the seven were from Manhattan.

On the one before from which Judge Howard A. Levine was chosen, four of the six were from Manhattan.

On the third list from which Judge George Bundy Smith was chosen, five of the seven were from Manhattan.

On the Chief Judge's list, five of the seven were from Manhattan.

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THE DISCRIMINATION against the Second Department is so obvious it becomes painful. The Manhattan group insures that its mind-set is perpetuated by selecting "Manhattan" people. Of the 27 names selected over the last four lists only two were from the Second Department, Justice Albert M. Rosenblatt and Judge Lewis Douglass. "Hello sucker."

On the federal side, it is extremely disastrous. During the eight years of his presidency, Ronald Reagan appointed 378 federal judges. Of that number only eight were black.

In the Second Circuit, specifically New York, President Reagan appointed 25 in eight years and none were black.

In the four years of George Bush's presidency, the President appointed 11 in New York. Only one, Sterling Johnson, was black. So in 12 years and 36 appointments to the bench only one was black.

The key to control is the selection of the Merit Selection Committee.

Senator Daniel Patrick Moynihan's committee is Manhattan-oriented. Of the 14 members, nine are from Manhattan. None from Brooklyn, Queens or Long Island, two are not even from New York, but from Washington, D.C.

Senator Alfonse D'Amato's committee chairman, Michael Armstrong has not given his selection committee list, although [my office has called him] at least 10 times. Since he has yet to provide his so-called Merit Selection Committee, I can only assume it also is completely dominated by the Manhattan bar.

On a local level, the selection process is worse. For Family and Criminal Court judges, the Mayor's Selection Committee is nothing more than a stop-off. Once you pass the Mayor's committee, your name goes before the Judiciary Committee of the Association of the Bar of the City of New York, which has an absolute veto power. Mayor Koch started it, Mayor Dinkins followed and we can only hope that if Mayor Giuliani followed the election returns he will stop it. The outer boroughs have to and will be heard, and this means selection by the local bars.

Even the Administrative Board and the Chief Judge play the City Bar and Manhattan game. Judges of the Supreme Court who reach the age of 70 can be certificated for two years at a time up to the age of 76. First, however, you have to be approved. By whom? You guessed it, the Manhattan group, the Association of the Bar.

Lastly, the Commission on Judicial Conduct of which I am a member is supposed to be a statewide committee and has 11 members. Of the 11 members, six are from Manhattan. Is it any wonder that those of us from the outer boroughs shout, "Hello sucker" when you tell us about "merit selection."

These remarks by Justice William C. Thompson, of the Appellate Division, Second Department, were delivered Monday at a program on an appointive versus an elective system for selecting judges, at the Association of the Bar of the City of New York.

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