

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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By Priority Mail

August 13, 1996

Frances Zemans, Executive Director
American Judicature Society
180 North Michigan Avenue, Suite 600
Chicago, Illinois 60601-7401

RE: Coalition for non-partisan reform

Dear Frances:

My thanks to you and the staff of AJS for the informative and interesting programs you organized on August 3rd in conjunction with the ABA Annual Convention in Orlando.

Following up on our brief discussion at the AJS reception, I enclose a copy of our June 28, 1996 letter to Chairman Orrin Hatch detailing our direct, first-hand experience with the Senate Judiciary Committee, as well as with the ABA and Justice Department relative to the federal court nomination of Lawrence Kahn.

There has been no response to that letter from any of the indicated recipients. Yet, on July 15th, we learned from Senate Majority Leader Lott's office that an "agreement" had been reached between Senate Republicans and Democrats to confirm Justice Kahn's nomination the following day. Despite our vigorous efforts throughout the next 30 hours, the Senate confirmed Justice Kahn on July 16th in "Executive Session"--i.e., without Senate discussion and without any vote.

The "rubber stamp" nature of the federal judicial confirmations has already been the subject of research, analysis, and recommendations. Among the excellent reports on the subject are "Assembly-Line Approval: A Common Cause Study of Senate Confirmation of Federal Judges" (1986) and "Judicial Roulette: Report of the Twentieth Century Fund Task Force on Judicial Selection" (1988). Unfortunately, these reports--and their important recommendations--"sit on shelves, gathering dust". Indeed, you may recall that at the ABA's Mid-Year Convention in Baltimore, at the program "Running the Gauntlet: A Critical Look at the Federal Judicial Selection and Confirmation Process", in which you participated, I referred to the 1986 Common Cause recommendations as being essentially unimplemented. The litany of "horrors" chronicled by our June 28, 1996 letter and its enclosures underscores that fact.

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For your convenience, the Common Cause recommendations, summarized in its 1986 report at pages 4-5 and detailed at pages 25-33, are annexed hereto. Also annexed are pages 7-8 of the 1988 report of the Twentieth Century Fund relating the Senate Judiciary Committee's confirmation of lower court federal judges.

Such recommendations, having to do with making the judicial confirmation process effective and publicly-accessible and accountable, could be readily agreed upon by organizations of all different political and ideological stripes. Therefore, it is CJA's objective to build a coalition of organizations--particularly those involved in judicial selection issues--to advance, by concerted action, agreed-upon recommendations for reform, starting with the judicial confirmation process. By way of example, such coalition would embrace the Free Congress Foundation, on the right, and Alliance for Justice, on the left--each of which have federal judicial selection monitoring projects.

We are pleased to note that our proposal for concerted action is in keeping with President Kaufman's 1995-1996 Annual Report, recognizing the importance of "Coordination" between AJS and other organizations:

"...we must recognize that we are not out there alone; that there are other organizations which have many of our goals--and even more organizations with whom some of our goals coincide and we should work with them."

A copy of this letter, with enclosures, is, therefore, being sent to President Kaufman--with whom I had the pleasure of speaking at the AJS Roundtable discussion on "Next Reform Agenda" initiatives. During the Group 1 roundtable discussion, President Kaufman was extremely receptive to AJS' examination of the federal judicial selection process, which--albeit I am not an AJS Director--Group 1 was gracious enough to allow me to propose. President Kaufman indicated, however, that federal judicial selection is not a "next" initiative because, as part of AJS' merit selection advocacy, it forms "the core AJS issue".

Increasing citizen involvement in the confirmation process accords with AJS' objective to "enhance citizen participation in the judicial system". Certainly, as long as the Senate can use its confirmation function to engage in deal-making, AJS' goal of "minimizing the role of politics in judicial selection" will not be realized.

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We know AJS would be an invaluable constituent member of a coalition strategy. Please let us hear from you soon--indicating whether we can count on AJS to join in developing a coalition effort, as well as AJS' position on the enclosed non-partisan reform recommendations.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosures

cc: AJS President Robert Kaufman