



NINTH JUDICIAL COMMITTEE

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"People acting together as a group can accomplish things which no individual acting alone could ever hope to bring about."

-Franklin D. Roosevelt

October 27, 1993

Elizabeth Hubbard, Executive Director
Fund for Modern Courts
36 West 44th Street, Room 310
New York, New York 10036-8181

Dear Elizabeth:

I hope you got my telephone message of "thanks" for the materials you sent us. We were particularly grateful to receive the Albany Times Union's September 26th editorial "The Parties Do the Voting" which opined that judicial cross-endorsements are "an integral part of the spoils system" and decried the fact that there were cross-endorsements in three area Supreme Court elections, among them Justice Lawrence Kahn.

As I'm sure you realized when you sent us that editorial, it was Justice Kahn who heard the case of Castracan v. Colavita, which challenged the legality and constitutionality of judicial cross-endorsements. Justice Kahn's decision in that case--dismissing the Petition for "failure to state a cause of action"--was not only erroneous, but (1) flew in the face of elementary legal standards; and (2) falsified the factual record.

On that subject, I would draw your attention, in particular, to pages 2, 10, and 15 of my mother's statement in opposition to the confirmation of Justice Howard Levine to the Court of Appeals. As you know, Justice Levine participated on the five-judge panel of the Appellate Division, Third Department, which reviewed Justice Kahn's indefensible decision.

October 27, 1993

Let us know after you have read my mother's aforesaid statement, together with the "Compendium" of documents which accompanied it, and are ready for us to send you a copy of the stenographic transcripts of what took place at the confirmation hearing held by the Senate Judiciary Committee and, thereafter, on the floor of the Senate.

Examination of such transcripts is vitally important in light of the recommendation contained in the "Report of the Panel on Merit Selection" which you sent us, that "Senate confirmation of all appointments should be required".

Your review of the aforesaid transcripts and the testimony and documents presented by us to the Senate Judiciary Committee will provide prima facie proof that the Senate confirmation process, as presently functioning, is not only meaningless, but constitutes a dangerous fraud upon the public.

As an indication of the seriousness of the situation, I am enclosing a copy of my mother's letter published in the September 20, 1993 issue of The Legislative Gazette, as well as the September 13, 1993 article to which her letter was a response.

Also enclosed is our letter of today's date to Edward Cole, Counsel to the Senate Judiciary Committee.

We look forward to working closely with you to identify the problems and solutions of "merit selection". Please let us hear from you soon.

Warmly,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosures:

- (a) 9/7/93 DLS Statement and accompanying Compendium
- (b) 9/13/93 article in Legislative Gazette
- (c) 9/20/93 letter in Legislative Gazette
- (d) 10/27/92 letter to Edward Cole, Esq.