

Decision

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2 THE COURT: I'm prepared to render a  
3 decision.

4 The petitioners seek to be declared  
5 invalid an agreement between the major political  
6 parties in this County who cross endorsed various  
7 candidates claiming it is in violation of the  
8 Election Law.

9 I have before me a copy of that agreement  
10 and it simply says that for the general election  
11 of 1990 -- I'm sorry, for the general election  
12 of 1991, I am ignoring the clauses pertaining  
13 to the general elections of 1989 and 1990, "We  
14 hereby pledge our support, endorse and nominate  
15 Judge J. Emmett Murphy, Administrative Judge of  
16 the City Court of Yonkers for election to the  
17 County Court of Westchester County to fill the  
18 vacancy and participate -- created by the seat  
19 of Francis A. Nicolai to the Supreme Court," et  
20 cetera.

21 There is nothing in this agreement which  
22 compels Judge Murphy to accept a cross endorsement.  
23 It is simply an agreement accepted by both parties  
24 which indicate that each party is prepared to  
25 endorse a candidate for nomination. There's nothing

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2 illegal about it. There's nothing unconstitutional  
3 about it. If it is to be prohibited it is for  
4 the Legislature to prohibit it. The public is  
5 not damaged in any way. They have their rights.  
6 The public's rights have not been abridged. For  
7 Supreme Court nominations you have a right to  
8 enter a primary for the election of candidates  
9 for the judicial convention. For County Court  
10 positions you have a right to submit petitions,  
11 to enter a primary for a nomination by a political  
12 party. In addition to the right to file petitions  
13 as independent candidates.

14 There is nothing in this agreement which  
15 is illegal. There's nothing unconstitutional  
16 about it.

17 I am not addressing myself to the other  
18 defenses that were raised, but I will point out  
19 that the relief sought is to declare illegal,  
20 invalid, void and against public policy the contract,  
21 and I quote, "The contract embodying the three  
22 year plan of the party leaders also known as cross  
23 endorsements," et cetera, close quote. And that  
24 quote, "Respondent Hon. J. Emmett Murphy be declared  
25 inelligible to serve as a Judge of the County

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## Decision

Court and disqualified of being a candidate for any party for election to such office." That's the second relief sought that the designating petition or petitions filed (I'm not quoting directly now) of the Westchester County Board of Elections, purporting to designate respondent Murphy as a candidate for the Republican and Conservative nominations for County Court Judge be declared invalid. And, that the Board of Elections be enjoined from printing and placing the name of respondent Hon. J. Emmett Murphy as a candidate. I find this petition is totally without merit, that there is no legal basis for me to grant any of the relief.

I deny the petition. I find that this agreement was not in violation of the Election Law. It is not unconstitutional. And anyone has a right to endorse anyone they wish for nomination to public office. It is when the nomination is paid for, when there is a consideration given for nomination that the agreement is illegal. That is not the situation here.

Accordingly, the petition is dismissed in its entirety. The foregoing constitutes the

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Order and decision of this Court.

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CERTIFICATION

I, Elizabeth A. Kent, Senior Court Reporter, do hereby certify the foregoing to be true and accurate, as taken by me on August 12, 1991, before the Hon. Vincent Gurahian, Justice of the Supreme Court.



Elizabeth A. Kent

So ORDERED

Dated: August 13, 1991

S/ HON. VINCENT GURAHIAN  
J. S. C.