



NINTH JUDICIAL COMMITTEE

Box 70, Gedney Station
White Plains, New York 10605-0070
Tele: (914) 997-8105 / Fax: (914) 684-6554

By Fax: 212-768-8116

September 15, 1992

John D. Feerick, President
Association of the Bar of the City of New York
42 West 44th Street
New York, New York 10036-6690

Dear President Feerick:

This letter follows up our correspondence and conversation of last week with Alan Rothstein, Esq., the City Bar's counsel.

Enclosed is a copy of a two-part editorial entitled "O'Rourke Belongs on the Bench Now", that appeared in the September 6, 1992 Gannett newspapers.

Although Gannett newspapers have a copy of the critique we submitted to the Senate Judiciary Committee, they prefer to rest their endorsement of Mr. O'Rourke on the fact that he was

"found qualified for the federal district court bench by the appropriate committees of both the American Bar Association and the Association of the Bar of New York City" (at para. 1).

The evidence contained by our critique irrefutably establishes the unfitness of Mr. O'Rourke and the failure of the screening process to protect the public. The City Bar can no longer delay in its obligation to meet these straight-forward evidentiary issues.

Yours for a quality judiciary,

ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosure: Gannett editorial, 9/6/92

cc: Alan Rothstein, Counsel, City Bar
Chairman Joseph Biden, Senate Judiciary Committee
Senate Majority Leader George Mitchell

EX "J"

O'Rourke belongs on the bench now

Westchester County Executive Andrew P. O'Rourke has been a caring, compassionate and progressive public official for almost three decades. Furthermore, he has been found qualified for the federal district court bench by the appropriate committees of both the American Bar Association and the Association for the Bar of New York City.

We urge that the Senate Judiciary Committee in Washington put aside political considerations and confirm at once his nomination made nine months ago by President George Bush after O'Rourke cleared FBI and other checks.

This past week, members of the National Council of Elected County Executives, a group that recently elected O'Rourke as its president, saw fit to undertake a letter-writing campaign to



Andrew P. O'Rourke

that to be a judge."

During O'Rourke's public career, particularly his past nine years as county executive, we believe no one has both criticized and commended O'Rourke more than we have. Most of our criticisms have been in the area of government administration. Most of our applause and support for him have been for policies aimed at bettering

the lives of residents of his county. Truly, he has demonstrated a feeling for people, whether it be in wanting to build affordable housing or in getting people out of welfare hotels and into better places to live.

There may be some who will argue that O'Rourke has not spent much time in court as a lawyer, at least in

over a decade. That is true, but life's experiences, particularly at the level entrusted to O'Rourke, count as valuable ones, perhaps more so than heading toward the bench from a prestigious Park Avenue law firm. He has had to deal

with people from all walks of life and listen carefully to their plaints. He has had to make countless decisions, reached after weighing evidence on both sides.

Furthermore, he has kept abreast of the law as a plaintiff and defendant, bringing lawsuits, for instance, aimed at creating clear paths for air traffic at Westchester County Airport and as a defendant in countless suits dealing with the environment, some of which have been won on appeal by the county. While he has not issued legal opinions, he has made laws as a legislator and county executive and helped create additional ones for Westchester by lobbying the state Legislature.

O'Rourke has served well in the legislative and executive branches and should be given an opportunity to serve in the judicial branch of government. He's cleared every personal and legal test since the president nominated him.

While many disagree with O'Rourke's policies and administrative abilities, few question his integrity, intelligence and compassion.

Party politics
mustn't stall
9-month-old
nomination.

9/6/92



Andrew P. O'Rourke

that to be a judge."

During O'Rourke's public career, particularly his past nine years as county executive, we believe no one has both criticized and commended O'Rourke more than we have. Most of our criticisms have been in the area of government administration. Most of our applause and support for him have been for policies aimed at bettering

ed O'Rourke as its president, saw fit to undertake a letter-writing campaign to members of the Senate Judiciary Committee in support of the O'Rourke nomination. Paul Stevenson, county executive of Winnebago County in Wisconsin, put it this way: O'Rourke "has a set of principles, and he sticks by those. You've got to have

Furthermore, he kept abreast of the law as a plaintiff and defendant, bringing lawsuits, for instance, aimed at creating clear paths for air traffic at Westchester County Airport and as a defendant in countless suits dealing with the environment, some of which have been won on appeal by the county. While he has not issued legal opinions, he has made laws as a legislator and county executive and helped create additional ones for Westchester by lobbying the state Legislature.

O'Rourke has served well in the legislative and executive branches and should be given an opportunity to serve in the judicial branch of government. He's cleared every personal and legal test since the president nominated him.

While many disagree with O'Rourke's policies and administrative abilities, few question his integrity, intelligence and compassion.

... Don't play politics with judges

The Democrats who control the U.S. Senate and its Judiciary Committee may see an opportunity to change the direction of the courts by delaying confirmations until after the election. Some see a chance that Democrat Bill Clinton, if elected president, would submit new names, less conservative people.

The Senate should get on with its work now and stop playing politics with the courts. There are 61 vacancies on federal benches nationwide; five posts remain unfilled in the Southern District of New York, with courts at Foley Square and in White Plains.

This situation didn't happen overnight. The backlog has been building. First, the Senate committee and the Senate got bogged down a year ago in the confirmation of Clarence Thomas for Supreme Court justice. Then the process was halted for three months while the White House and committee debated whether confidential FBI reports on judicial candidates would be released.

There has been some forward motion, but at a snail's pace. Last month, the Senate confirmed the nominations of Sonia Sotomayor and Loretta Preska, which will increase the number of women on the Southern District bench from three to five. Sotomayor, a for-

mer assistant district attorney in Manhattan and member of the firm of Pavia & Harcourt in New York, will become the first Hispanic woman federal judge in New York. Preska is from the firm of Hertzog, Calamari & Gleason. Sotomayor, who is not a member of a political party, was recommended by Democratic Sen. Daniel Patrick Moynihan. Preska, a Republican, was recommended by Republican Sen. Alfonse D'Amato.

Both Moynihan and D'Amato, working with high-minded screening committees, have exercised good judgment in recommending names of judges to the White House. Currently, there are five names before the Senate Judiciary Committee for the Southern District of New York, including that of Westchester County Executive O'Rourke.

It would be unconscionable for the Senate to delay action on Bush's nominations at a time the courts are clogged. Senate Judiciary Chairman Joseph Biden Jr., D-Del., has said that some of the courts in this country "are in desperate shape with great backlogs." But some other Democrats would delay the process until after the election.

The American people should frown on any slowdown on the Senate's part.

9/6/92