

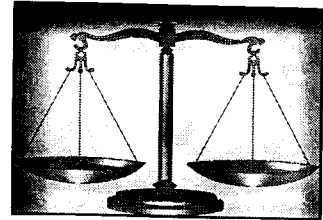
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VIA EXPRESS MAIL

November 19, 1998

Hon. Howard D. Stave
Chair, Judicial Selection Committee,
New York State Bar Assn.
108-18 Queens Blvd.
Queens, NY 11375

Dear Mr. Stave:

Per our telephone conversation yesterday, I am transmitting to you herewith a copy of the transmittal made to the Association of the Bar of the City of New York, as well as the other recipients indicated therein. The cover letter is self-explanatory. However, I will add a few comments which I believe of special interest to your Committee in evaluating the information and materials I am supplying to you.

As indicated in our phone conversation, I myself served as a member of the committee, of which you are now Chairman, and served for eight years, from 1972 to 1980, the first woman, as I was then advised, appointed to the Committee. Such appointment was made following publication of my article "Judicial Selection Panels: An Exercise in Futility?", which was published on the front page of the New York Law Journal on October 22, 1971. A copy of the article is enclosed for your convenience. I believe you will agree that my comments are as timely today as they were when they were first published more than 25 years ago.

On a personal level, it is also of note that my appointment to the Committee came after my own nomination as a candidate for a vacancy on the New York Court of Appeals in 1972 and myself having been interviewed by the State Bar's Judiciary Committee for that position. The then

The Center for Judicial Accountability, Inc. is a national, nonpartisan, nonprofit citizens' organization documenting the dysfunction, politicization and corruption of the closed-door processes of judicial selection and discipline on federal, state and local levels. Its mission is to ensure that only the most qualified lawyers become, and remain, judges.

EX "I-1"

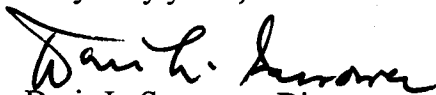
Chairman, Earl Evans, later informed me that the change in the Committee name was a recognition of the importance it attached to my Law Journal article, and marked a change in emphasis with respect to the Committee's important functions.

The carefully compiled, extremely serious and shocking documentary transmittal now sent to you is consistent with that intended new direction for the State Bar's Judicial Selection Committee, so that it can be more than a "rubber-stamp" for the Governor in choosing the one candidate out of the seven recommended by the Commission on Judicial Nomination, who will soon be appointed to serve on our state's highest court.

A copy of my Martindale-Hubbell's credentials as they were last listed in the 1989 edition and a few other personal items are also enclosed, indicative of the unique work being done by the Center in its ongoing, arduous *pro bono* efforts to uplift our justice system.

Needless to say, I would be available for telephone or personal interrogation by your Committee about any aspect of the transmitted materials.

Very truly yours,



Doris L. Sassower, Director
Center for Judicial Accountability, Inc.

New York Law

OFFICIAL DAILY LAW NEWSPAPER DESIGNATED PURSUANT TO THE JUDICIARY LAW

Journal

NEW YORK, FRIDAY, OCTOBER 22, 1971

Front Page

Notes and Views

Judicial-Selection Panels: An Exercise in Futility?

By Doris L. Sassower

Hopes were raised recently for improvement in the process of choosing our judges. In early September, readers of the NEW YORK LAW JOURNAL learned that a nine-member impartial panel had been formed by the Committee to Reform Judicial Selection to recommend the eight most qualified candidates for State Supreme Court in Manhattan and the Bronx. From these it was thought that three would emerge as the nominees at the Democratic Judicial Nominating Convention.

In retrospect, disappointment in the ultimate effect of the recommendations of this panel might have been anticipated. A pre-nomination screening panel under the chairmanship of Judge Bernard Boteln was set up in 1968 in connection with the unprecedented number of new judgeships created by the New York State Legislature. Advance assurances were secured from the party leaders that nominations would be limited to those approved by the panel. This was not the case, however. As subsequent events proved, the party leaders failed to honor their bipartisan commitments.

Despite the sour experience of the Boteln Committee, we agreed to serve believing that such panels perform a genuine service to the public and the Bar.

The candidates came to us, one by one, each the embodiment of the popular belief that "every lawyer wants to be a judge."

Doris L. Sassower is a former president of the New York Women's Bar Association and served on the nine-member judicial selection committee discussed in this article.

Meeting almost every night over a fifteen-day period, interviewing several dozen candidates, intensively reviewing and investigating their credentials, the panel faced the difficult decision of choosing among them eight who would carry the banner of "preferred." The Reform Democrats had pledged to endorse from that number those who would fill the three positions. Hours of evaluation, discussion and then, eureka—agreement!

The task done, we went our respective ways, satisfied we had done our conscientious best, gratified that those chosen reflected their own merit, not their party service; their outstanding qualifications, not their "connections."

Minorities Considered

There was some consideration given the idea of judicial representation for our disadvantaged—the blacks, Puerto Ricans and other minorities, as well as for a woefully under-represented majority—women. The panel after all, not unintentionally, reflected these divergent groups. True, too, that the social philosophy of the various applicants who came before us preoccupied us in some measure in our deliberations.

But competence pure and simple, sheer worth undiluted by political involvement remained our unalterable guideposts.

It must be said to their credit
(Continued on page 3, column 5)

Judicial-Selection Panels

(Continued)

that the Reform Democrats kept their commitment to the panel to endorse only those candidates the panel approved. As it became clear, no such commitment had been secured from the regulars. It would therefore be less than fair to condemn them for not following a similar course.

Yet, can they not be faulted for not having initiated a panel of their own or joined in the commitment to the one formed under the wing of the Reformers? The commonly understood purpose of such panels being to take the judiciary out of political hands, the inference is that the Regular Democrats had no wish to do so. The fact is that deals for the judicial plums were made before the Democratic Judicial Nominating Convention which only ratified a foregone conclusion among those in the political know, as far as the contested vacancies were concerned.

The numerical division of votes among the delegates to the Democratic Judicial Nominating Convention strictly on intra-party political lines, Regulars v. Reformers, made it obvious that the Reformers' effort to change the course of judicial power politics on the state Supreme Court level was hopeless, at least this time around. Is there a lesson to be learned from this experience? Does the judicial pre-selection panel offer a viable means of achieving a better judiciary?

Discourage the Hack

On the plus side is the fact that those who came before our panel were almost uniformly of the highest calibre, many of the most brilliant scholars of the profession, our respected judges, our more successful lawyers. If, then, our screening panel did no more than offer recognition and new status to those candidates it recommended, that would be enough to justify it, for, in time, this might lead to their ultimate elevation to the Bench. The inherent virtue of a well-constituted panel is its tendency to discourage the political hack, the mediocrity, or the lawyer whose sole asset is "friends in the right places."

The question is how those genu-

inely concerned with the improvement of our judicial process can assure the selection of the former over the latter. One might also query whether the device of a screening panel can be made functional. This assumes that one does not wish to do away with party-dominated judicial conventions altogether. There are those who contend that the federal system of appointment is the superior one and produces judges of higher quality.

This is a reasonable expectation where appointments are made by a public official accountable to the people. Yet the appointive hand may also be vulnerable to political pressure and not necessarily point to qualifications alone. Still it is better than a system which pretends that the public elects our judges when, in fact, the choice is preordained so that what we have is appointment by a clique of party leaders not directly responsible to the public.

Certainly, a better judiciary would result from wider use of screening panels and, concomitantly, adoption of their recommendations by those making the appointments.

Vital Factors

The experience of this panel indicates that the workability of a pre-selection panel depends on two basic factors:

(1) The composition of the panel should be as broad-based as possible, including representatives from major county Bar associations as well as community organizations;

(2) Advance public assurance by party leaders (read appointing authorities) that they will choose only from among the panel's recommendations.

In essence, this entails a relinquishment of power by those in power. Some people may feel it is unrealistic to expect this to take place. Perhaps the day when the judiciary is wholly divorced from political influence can be seen only in the eyes of visionaries. But unrelenting public interest and the glare of publicity focused on every judicial vacancy can make that day come sooner.

Martindale-Hubbell
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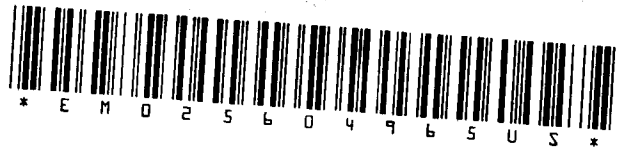
DORIS L. SASSOWER, born New York, N.Y., September 25, 1932; admitted to bar, 1955, New York; 1961, U.S. Supreme Court, U.S. Claims Court, U.S. Court of Military Appeals and U.S. Court of International Trade. *Education:* Brooklyn College (B.A., summa cum laude, 1954); New York University (J.D., cum laude, 1955). Phi Beta Kappa. Florence Allen Scholar. Law Assistant: U.S. Attorney's Office, Southern District of New York, 1954-1955; Chief Justice Arthur T. Vanderbilt, Supreme Court of New Jersey, 1956-1957. President, Phi Beta Kappa Alumnae in New York, 1970-71. President, New York Women's Bar Association, 1968-69. President, Lawyers' Group of Brooklyn College Alumni Association, 1963-65. Recipient: Distinguished Woman Award, Northwood Institute, Midland, Michigan, 1976. Special Award "for outstanding achievements on behalf of women and children," National Organization for Women—NYS, 1981; New York Women's Sports Association Award "as champion of equal rights," 1981. Distinguished Alumna Award, Brooklyn College, 1973. Named Outstanding Young Woman of America, State of New York, 1969. Nominated as candidate for New York Court of Appeals, 1972. Columnist: ("Feminism and the Law") and Member, Editorial Board, *Woman's Life Magazine*, 1981. Author: Book Review, *Separation Agreements and Marital Contracts*, *Trial Magazine*, October, 1987; *Support Handbook*, *ABA Journal*, October, 1986; Anatomy of a Settlement Agreement Divorce Law Education Institute 1982 "Climax of a Custody Case," *Litigation*, Summer, 1982; "Finding a Divorce Lawyer you can Trust," *Scarsdale Inquirer*, May 20, 1982. "Is This Any Way To Run An Election?" *American Bar Association Journal*, August, 1980; "The Disposable Parent: The Case for Joint Custody," *Trial Magazine*, April, 1980. "Marriages in Turmoil: The Lawyer as Doctor," *Journal of Psychiatry and Law*, Fall, 1979. 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Director: New York University Law Alumni Association, 1974; International Institute of Women Studies, 1971; Institute on Women's Wrongs, 1973; Executive Woman, 1973. Co-organizer, National Conference of Professional and Academic Women, 1970. Founder and Special Consultant, Professional Women's Caucus, 1970. Trustee, Supreme Court Library, White Plains, New York, by appointment of Governor Carey, 1977-1986 (Chair, 1982-1986). Elected Delegate, White House Conference on Small Business, 1986. Member, Panel of Arbitrators, American Arbitration Association. Member: The Association of Trial Lawyers of America; The Association of the Bar of the City of New York; Westchester County, New York State (Member: Judicial Selection Committee; Legislative Committee, Family Law Section). Federal and American (ABA Chair, National Conference of Lawyers and Social Workers, 1973-1974; Member, Sections on: Family Law; Individual Rights and Responsibilities Committee on Rights of Women, 1982; Litigation) Bar Associations; New York State Trial Lawyers Association; American Judicature Society; National Association of Women Lawyers (Official Observer to the U.N., 1969-1970); Consular Law Society; Roscoe Pound-American Trial Lawyers' Foundation; American Association for the International Commission of Jurists; Association of Feminist Consultants; Westchester Association of Women Business Owners; American Womens' Economic Development Corp.; Womens' Forum. Fellow: American Academy of Matrimonial Lawyers; New York Bar Foundation.

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