

G.O.P. to Name Its Own to Board

11/10/93

By TESSA MELVIN

DESPITE early suggestions of bipartisan cooperation, leaders of the Republican Party, which controls the Board of Legislators, plan to name two of their own to fill vacant seats on the Board at its meeting tomorrow. The two seats, formerly held by Democrats, are in predominantly Democratic districts.

The 8 Republicans and 1 Conservative control the 17-member Board, but last fall the Board's chairman, Stephen P. Tenore, surprised political observers and encouraged Democrats by announcing he would consider candidates from both parties to fill the two vacancies. The seats had been occupied by Sandra R. Galef of Ossining and Audrey G. Hochberg of Scarsdale, who were elected to the State Assembly in November. After redistricting as a result of the 1990 census, the Eighth Legislative District, formerly represented by Ms. Hochberg, was redrawn to include a 45 percent minority population.

"I said I wouldn't rule out anyone," Mr. Tenore reiterated last week, but he added that the Democrats couldn't agree on a candidate in time for him to present their choice to his party's executive committee. "There just wasn't a clear decision on the Democratic side as to who they would support," he said.

'That's a Moot Point'

Calling Mr. Tenore's remarks "preposterous" and "total hypocrisy," Dennis Mehl, the County Democratic Party chairman, said: "If Mr. Tenore wants to appoint a Democrat to one of two clearly Democratic seats, the decision rests with the Board of Legislators, not with the Republican executive committee. Mr. Tenore is simply a tool of the Republicans."

Mr. Tenore refused to say whether he would have supported a Democratic nominee had the Democrats agreed on one. "That's a moot point," he said, adding, "On Monday, the Democrats will say they all agree, but that doesn't help, on Monday. The Republicans needed a decision."

Last week, Anthony J. Colavita, the County Republican Party chairman, said party leaders had not supported Mr. Tenore's proposal to share the seats with the Democrats. "It was possible," Mr. Colavita said, but he added, "There was no support for it among party leaders or among legislative leaders."

Morning Session Scheduled

The full Board will vote on the nominees when it holds its first 1993 legislative session tomorrow morning. If the Republicans support their party's candidates, as is expected, the new legislators will include the New Castle Town Supervisor, Mark S. Tullis, and Pearl C. Quarles of New Rochelle, president of the Westchester Black Women's Political Caucus.

Mr. Tullis, a lawyer, has been a member of the New Castle Town



Mark S. Tullis



Pearl C. Quarles

Council for the last six years, first serving two years as a councilman and now completing his second term as Supervisor. Mrs. Quarles, who narrowly lost a race for a seat on the New Rochelle City Council 10 years ago, served 8 years on the city's school board, becoming its first black president in 1977.

If the two Republican nominees are confirmed as legislators, both will be making sacrifices to assume their new positions. Mrs. Quarles will relinquish her job as a staff assistant in the Finance and Administration unit of the county's Department of Social Services.

By giving up his position as Supervisor, Mr. Tullis leaves the choice of his replacement to the four remaining members of the Town Council, all Democrats. The Council, he said, is also likely to replace Bette Spriggs, the deputy town supervisor and a Republican appointed by Mr. Tullis.

Mr. Tullis said that if he had run for

the Board of Legislators in a special election he would not have had to give up the Supervisor's post if he lost the legislative race.

The Board of Legislators is debating a proposal to hold special elections to fill vacant seats on the Board, a proposal that is likely to be approved by the Board soon and sent to county voters in a referendum in November. If approved, special elections would be held beginning in 1994.

'The Lines Are Very Clear Now'

Last week, debate about the proposal and the candidates was pushed to the sidelines while both parties traded blows, with Democrats claiming they should never have trusted their power-hungry colleagues across the aisle and Republicans insisting they had tried to be fair to a Democratic Party in disarray, whose leaders were unable to agree on a candidate.

"I didn't believe it in the first place," said Judy A. Shepard, a Democratic legislator from Yorktown, when she learned that Mr. Tenore was supporting two Republicans rather than candidates from both parties.

Two additional Republicans will give the Republican Party 11 seats on the 17-member board, one short of the 12 votes needed to approve budget appropriations. "All this talk about cooperation is over, and the lines are

Continued on Page 4

sent
2/19/93

Box 694-8088 5150

To: David McKay
Wilson

From: 9th Judicial
Committee

message:
Call Mark Weingarten
for his comments as to
how he distinguishes
cross-endorsement for
legislative + judicial offices
in the "disenfranchisement of
voters"

We challenge the party leaders including
Richard Weingarten to a public debate
on the issue of cross-endorsements.

G.O.P. Is Naming Its Own To Board

Continued From Page 1

very clear now," Ernest D. Davis, a Democrat from Mount Vernon, said, adding that the Republicans would have difficulty obtaining that 12th vote. "When the time came for the Republicans to be fair, they weren't," Mr. Davis said, adding, "We'll act accordingly."

Upon learning of the Republican leaders' decision, Mrs. Galef said: "We've been had. This is another example of Steve Tenore saying one thing and doing another." She was referring to last year's political uproar when Mr. Tenore defeated her bid for Board chairman by one vote.

Mrs. Galef was widely expected to become Board chairwoman when in November 1991 the Democrats won a majority of seats on the Board for the first time in history. But Suzanne R. Swanson, a Conservative elected to the Board on the Democratic line, threw her support to Mr. Tenore in a move that Democrats said was calculated to give Republicans control of the Board.

Once he assumed the chairmanship, Mr. Tenore moved quickly to mollify Democrats and establish harmony on the Board. He offered four committee co-chairmanships to the Democrats, insured that proposals from both parties reached the floor

A change of heart
on bipartisanship
is criticized by
the Democrats.

and adopted some Democratic suggestions for change, including changes in the 1993 budget.

He continued that effort to reach consensus among the Democrats before a meeting of the Republican executive committee last Monday night, Mr. Tenore said. The effort ended in a conference call he arranged from his Florida vacation home with Hermao Keith, the Democratic minority leader, and with Mr. Davis, the deputy minority leader, a few hours before the Republican Party meeting.

Mr. Tenore said he asked Mr. Keith if the Democrats had someone they could agree on and was told by Mr. Keith that they did not. That, Mr. Tenore said, left him unable to present a Democratic candidate to Republican leaders that evening. "We needed a decision," Mr. Tenore said.

Cross-Endorsement Rejected

When told about the telephone conversation, Mr. Mehl said: "No one asked Mr. Tenore to appoint a Democrat, because we understand majority rule. He raised the issue and made the offer, positioning himself as not so partisan." That, Mr. Mehl added, "is the defining issue."

Mark P. Weingarten, executive director of the Westchester County Democratic Party Committee, said, "The Democratic caucus hadn't met before that phone call, so, of course, there could be no agreement on the candidates."

Republicans, Mr. Weingarten said, needed to insure their control of the Board. Their opponents, led by Mr. Colavita, the County Republican Party chairman, had proposed one possibility: a bipartisan slate approved by both parties, but only if Democrats would cross-endorse that slate in the legislative elections scheduled for November.

"The Republican Party contacted us and suggested cross-endorsement," Mr. Weingarten said. "That would mean the total disenfranchisement of the voters," he said. "Of course, we refused."

Two Democratic Candidates Named

Late last week, the Democrats announced the names of their two candidates for the Board: Lois T. Bronz, a former seven-term Greenburgh Town Councilwoman, and Dr. Bruce Gilchrist, the New Castle Town Supervisor from 1986 to 1989.

At the end of the week, some Democrats remained hopeful that their Republican colleagues would support a bipartisan slate. "How the vote goes remains to be seen," Ms. Shepard said. "The question is whether Republicans will vote as they have been told or how they believe." ■



#Y1

NINTH JUDICIAL COMMITTEE

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

TO: Governor's Task Force on Judicial Diversity
From: Ninth Judicial Committee
Re: Transmittal of Files:
Castracan v. Colavita and Sady v. Murphy
Date: March 20, 1992

We are a citizens' group of lawyers and laypeople, formed in 1989, to counter the increasing politicization of the judiciary in the Ninth Judicial District. This politicization was reflected in the 1989 Deal trading seven judgeships over a three-year period. In response, our Committee--unfunded and acting entirely pro bono--spearheaded two major lawsuits, Castracan v. Colavita and Sady v. Murphy, to challenge the Deal--and, in the case of Castracan, to also address Election Law violations at the 1990 Republican and Democratic Judicial Nominating Conventions.

We have ascertained from Chairman Davis' office that the Task Force was not informed about these two seminal cases--pending before the Court of Appeals at the time of and immediately prior to the Governor's issuance of his September 23, 1991 Executive Order creating the Task Force on Judicial Diversity.

* These two lawsuits offer unique case studies for the members of the Task Force--not only documenting the control by party bosses of the judicial nominations process--unrestrained by the State Board of Elections--but the complicity of the courts.

* The files transmitted herewith give unassailable proof that the state courts--from the Supreme Court to the Court of Appeals--jettisoned elementary legal standards and the factual record so as to avoid the transcendent public interest issues those cases presented.

Ex "Y"

The public interest objectives of Castracan and Sady included: (1) the preservation of the integrity of constitutional voting rights, intended to be safeguarded by the Election Law; (2) the curtailment of manipulation by party leaders of the judicial nominating process; and (3) the fostering of judicial selection based on merit, thus allowing for representation of minorities and women--traditionally excluded by the political power structure. In fact, these are the very issues you have incorporated in your Report to the Governor.

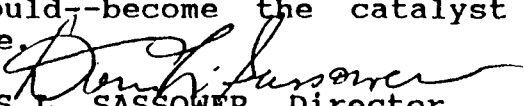
The significance and potential of Castracan was recognized by the NAACP Legal Defense and Educational Fund when it filed for amicus curiae status. The annexed copy of the February 8, 1991 letter of Sherrilyn A. Ifill, Esq., refers to LDF's involvement in Chisom v. Roemer and HLA v. Mattox, then pending before the Supreme Court, seeking to extend the Voting Rights Act to judicial elections. You will note that Ms. Ifill cited her participation in preparing the brief for the latter case as the reason for requesting one additional week to submit an amicus brief for Castracan v. Colavita. The requested extension was denied by the Appellate Division, Third Dept--unfairly depriving the people of this State the benefit of LDF's input on those far-reaching issues.

As shown by the annexed October 26, 1990 Alert of the New York State League of Women Voters, that organization also expressed itself at a pivotal juncture by calling upon the Appellate Division, Third Dept. to hear Castracan before Election Day. The Court not only ignored their concerns--but denied Castracan the mandatory preference to which it was entitled under the Election Law, as well as under the Court's own rules.

The contrast between the Governor's response to the U.S. Supreme Court's decision in Chisom v. Roemer, and that of the New York State Court of Appeals is also noteworthy. The Governor's response was to establish the Task Force on Judicial Diversity; the Court of Appeals' response was to "dump" Castracan and Sady--discarding the ready-made opportunity those cases offered to protect the independence of the judiciary and open its doors to historically excluded minorities and women. In so doing, our highest state court not only rejected the chance to champion judicial reform, but showed its indifference to the need for enforcement of the minimal safeguards of the status quo.

Your review of the facts, papers, and proceedings in Castracan and Sady will powerfully aid your perspective in structuring legislative proposals--which may well have to be revised in light of the conclusions that must be drawn from those cases.

Castracan and Sady can--and should--become the catalyst and rallying standard for needed change.


DORIS L. SASSOWER, Director
Ninth Judicial Committee

(S)

NINTH JUDICIAL COMMITTEE

Telephone: (914) 997-1677

FAX: (914) 684-6554

FAX COVER SHEET

November 13, 1991

12:15 p.m.

DATE

TIME

ED TAGLIAFERRI
TO: _____

914-694-5018
FAX NUMBER: _____

This fax consists of a total of 17 pages, including this cover sheet. If you do not receive the indicated number of pages, or if there is a question as to the transmittal, please call (914) 997-1677.

FROM: Elena Ruth Sassower, Coordinator
Ninth Judicial Committee

MESSAGE:

The enclosed letter--addressed to Governor Cuomo, with a copy to Chief Judge Wachtler--lends a different perspective to the litigation between them over the crisis in our courts, which is directly attributable to the politicization of the judiciary.

The Ninth Judicial Committee opposes nominations based upon political deals and connections. We believe the nomination of Andrew O'Rourke is another dangerous example of the substitution of politics for judicial qualifications.

For: David McKay Wilson 694-805 5150

throughout his years and years of political activity³⁶.

Mr. Colavita's control of judicial nominations³⁷ for state court judgeships was documented by the Ninth Judicial Committee in two legal cases it spearheaded in 1990 and 1991, Castracan v. Colavita and Sady v. Murphy. The odyssey of those cases through the state courts reflects the very reason why politicians seek to control the courts: once they do, the path is cleared for political decision-making³⁸.

We see nothing in Mr. O'Rourke's instant response to II-Q2 or his past behavior to inspire public confidence that as a judge he

³⁶ As reported by a December 15, 1982 Gannett article (Ex. "X"), the vote by Republican leaders throwing their support to Mr. O'Rourke for the position of interim County Executive "was unanimous and followed, as if by script, the recommendation of party chairman Anthony J. Colavita..."

For his part, Mr. O'Rourke pledged: "An administration that is aware of the strong part the party plays."

³⁷ It may be noted that the New York State Commission on Government Integrity was charged with investigating the procedures for selection of judges in New York State. Its report, Becoming A Judge: Report on the Failings of Judicial Elections in New York State, issued on May 19, 1988, stated:

"Our investigation has shown that the election of Supreme Court justices and judges of courts of limited jurisdiction is so intertwined with party politics that the process violates...principles basic to our ideal of an independent judiciary...Elective systems...in granting control over judgeships to political party leaders in the various parts of the state, have made service and influence within party organizations usually a prerequisite to obtaining a judgeship..."
(Government Ethics Reform for the 1990s: The Collected Reports of the New York State Commission on Government Integrity, at p. 273)

The Commission recommended the complete overhaul of the present system of judicial elections in New York.

³⁸ The extraordinary story of what the state courts did to those two precedent-setting cases is described more fully in our recent letter to the members of Governor Cuomo's Task Force on Judicial Diversity (Ex. "Y").

3/19/93
Judgeship
a 2nd Circuit
of the nomination of Andrew O'Rourke for
Judgeship
the Judicial Committee's response