



NINTH JUDICIAL COMMITTEE

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By Hand

November 20, 1992

Terry Golway, Ace Reporter (and very funny columnist)
The New York Observer
54 East 64th Street
New York, New York

Dear Terry:

Enclosed are the following materials:

- (a) the 3 letters to Governor Cuomo (copies to Wachtler):
10/24/91; 10/31/91; and 12/17/91.

These letters discuss the important cases of Castracan v. Colavita and Sady v. Murphy and present A DIFFERENT (read: unreported by the press) PERSPECTIVE on the central issues in the litigation last year between Cuomo and Wachtler, i.e. the budget crisis and inefficiency and waste in the judiciary:

"IT SHOULD BE OBVIOUS that a judiciary whose judges are not chosen on merit is necessarily wasteful and inefficient. The collapse of the system is directly attributable to the failure to require nominations of judges to conform to reasonable standards of pre-nomination screening selection. It is no longer the litigants alone who are suffering from unfit judges--which has been ignored year after year--but the system itself which is now faltering because it can no longer keep up with the caseloads that these judges have generated." (10/31/91 ltr, p. 2, emphasis added)

"...the time is overdue to...investigate the extent to which the lack of judicial competence and integrity has exacerbated, if not created, the financial crisis in our courts." (12/19/91, p. 2)

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(b) my 11/20/92 letter to Louis Boccardi, AP President and CEO with exhibits. (you can now discard or use for scrap the AP correspondence that you already have--since they are exhibits to the Boccardi ltr)

(c) my 11/19/92 letter to Chairman Biden

(d) relevant correspondence with Senator Moynihan's office:
4/8/92 ltr
5/21/92 fax (enclosing 5/21/92 ltr to Senate Judiciary)
6/2/92 fax (enclosing 6/2/92 ltr to Mitchell: supplement to critique and in further support of moratorium)
6/11/92 fax (enclosing 6/11/92 ltr to Senate Judiciary)
6/12/92 fax
6/26/92 fax
7/1/92 fax (enclosing NYLJ)
9/11/92 fax

You will note from the 7/1/92 fax that notwithstanding that we spent months sending letters, faxes, and making continual long-distance phone calls to Moynihan's office pertaining to the failure of the screening process and our call for a moratorium, the Senator nonetheless was making speeches from the Senate floor calling for confirmations of judicial nominees (see: 7/1/92 fax, to which we received no response)

As discussed, because I was led to believe by Joe Gale that Senator Moynihan was a fearless advocate of a depoliticized judiciary--I deleted from the critique his role in supporting the O'Rourke nomination via his blue slip senatorial privilege. The fact is, however, that Senator Moynihan's support of O'Rourke was AND IS critical evidence substantiating our second finding (at p. 2 of our critique) as to "the dereliction of all involved".

The story of Senator Moynihan's support for the O'Rourke nomination is an important news story now when everyone is talking up the virtues of the Moynihan-D'Amato judge-splitting "arrangement". What are the terms of the arrangement in theory--and how did it work in practice vis-a-vis O'Rourke? Please follow-up on my April 8th letter to Joe Gale which asked "whether the 'price' of such agreement between them was a 'condition' that Senator Moynihan not oppose the recommendees of Senator D'Amato." This would effectively remove one of the checks from the judicial screening process.

To give you some background on the "senatorial courtesy" of the blue slip, enclosed is a January 22, 1979 memo from then Senate Judiciary Committee Chairman Edward Kennedy.

Terry Golway

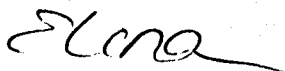
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I do believe that the "hook" into the story of our critique and the failure of the screening process is the reality of the Moynihan-D'Amato "arrangement", producing--as it did--judicial nominations as a consolation prize for the defeated 1986 Republican gubernatorial ticket of O'Rourke and Kavanaugh.

Since you have been running a number of patronage stories--this would fit right in.

Warmest regards.



P.S. Also enclosed is a pertinent statement by Chairman Biden at the June 2, 1989 hearing about "political patronage, cronyism" and the supposed role of the ABA.