

SUNDAY, JUNE 9, 1991

LETTERS TO THE EDITOR**Cross-Endorsement:
Questions of Protection**

The story on the highly controversial cross-endorsements case ["Lawyer to Pursue Suit on Cross-Endorsement," May 19] gives rise to serious questions: who is being protected, by whom and why? There are significant errors and omissions, even omission of the name of the case, *Castracan v. Colavita*, now headed for the Court of Appeals based on issues including constitutionally protected voting rights.

No information was given as to the genesis of the Ninth Judicial Committee, its purpose, the credentials of its chairman, Eli Vigliano, a lawyer of 40 years standing, or to my own exten-

sive credentials in law reform. No reference was made to the ethical mandates of the Code of Judicial Conduct, requiring a judge to disqualify himself "in a proceeding where his impartiality might reasonably be questioned" — clearly the situation where three of the five judges who decided the appeal failed to disclose their own cross-endorsements.

The Ninth Judicial Committee is a nonpartisan group of lawyers and other civic-minded citizens, concerned with improving the quality of the judiciary in Westchester and the four other counties of the Ninth Judicial District. The committee came into being in 1989 as a response to the "Three-Year Deal" between the Westchester Republican and Democratic party leaders and their judicial nominees, which effectively disenfranchised voters in all five counties and furthered political control of the judiciary. Your reporter failed to discuss the essential terms and criminal ramifications of the deal: the trading of seven judgeships over three years; the requirement that judicial candidates agree to early resignations to create and maintain protracted vacancies; divvying up judicial patronage along political lines.

There was no mention that the lower court's dismissal was without any hearing and ignored the uncontradicted documentary evidence of Election Law violations at both Republican and Democratic judicial nominating conventions. Nor was there any reference to the content or effect of the long-delayed appellate decision. By not ruling on the cross-endorsement issue but instead affirming the dismissal on technical objections by the public officials sued, the Appellate Division did not consider the public interest and the horrendous impact the deal has had on already backlogged court calendars.

Your reporter skewed the article by personalizing this major legal proceeding as if it were "Mrs. Sasser's case." Overlooked were the petitioners: Dr. Mario Castracan, a registered Republican in New Castle, and Prof. Vincent Bonelli, a registered Democrat in New Rochelle who teaches government.

The New York Times has done its best to bury the story. In October 1990 it did not see fit to print that the New York State League of Women Voters had issued a statewide alert to voters, urging the Appellate court to review the case before Election Day; or that the statutory preference to which Election Law proceedings are entitled was denied after being vigorously opposed by the judicial nominees defending the case. The Times failed to report that in February the N.A.A.C.P. Legal Defense and Educational Fund was granted permission to file an amicus brief. Also ignored

was an extensive Associated Press story by a prize-winning journalist released nationally two weeks before last year's election, but which The Times did not see fit to print.

The article's reference to "a personal court case" in which I was involved before Justice Samuel G. Fredman two years ago suggested that my concern for the transcendent issues of *Castracan v. Colavita* was personally motivated and of recent origin. In fact, my concern with the method of selecting judges is longstanding. I began my legal career 35 years ago by working for New Jersey Chief Justice Arthur T. Vanderbilt, a leader in court reform. More than 20 years ago the New York Law Journal published my article about my experience on one of the first pre-nomination judicial screening panels. From 1972-1980 I served as the first woman appointed to the Judicial Selection Committee of the New York State Bar Association.

Justice Fredman — a former Democratic Party chairman — was identified only as having been cross-endorsed as part of the 1989 deal, without stating that he was *not* named as a party to the *Castracan v. Colavita* cross-endorsement challenge. The reporter's garbled version of the proceeding before Justice Fredman (still undecided more than one year after final submission to him) failed to reflect a true or accurate story. The reporter did not check her "facts" with me. Indeed, a proper report would depict what occurs when party bosses become judges.

The inaccurate, slanted, inadequate coverage shows that The Times has not met its journalistic responsibility to fully and fairly report the facts — or to make any independent investigation of its own.

It is shocking that your newspaper repeats the self-serving statements of politicians like Richard Weingarten and Anthony Colavita that political parties "do a better job of picking candidates" than merit-selection panels and that their handpicked candidates are a "major step toward nonpartisan election of judges," without giving the committee an opportunity to put the lie to these claims. The reporter, who had the relevant appellate records, should have exposed the hypocrisy of politicians who professed disappointment that "the substantial issues in the case were not reached," when they and the cross-endorsed sitting judges involved in the deal fought vigorously to prevent them from being addressed.

Unless the public is immediately apprised of what is taking place, the cross-endorsed judicial nominations representing the third phase of the deal will proceed as scheduled in the 1991 elections. DORIS L. SASSOWER

Pro Bono Counsel
Ninth Judicial Committee
White Plains