

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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By Fax and Mail
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August 22, 1996

Twentieth Century Fund
41 East 70th Street
New York, New York 10021

Att: Laurie Ahlrich, Public Relations Director

RE: Judicial Roulette

Dear Ms. Ahlrich:

Following up our telephone conversation yesterday afternoon, this letter requests information about the "after-life" of the superlative 1988 report of the Twentieth Century Fund's Task Force on Judicial Selection, entitled Judicial Roulette.

As discussed, the Center for Judicial Accountability, Inc. (CJA) is a non-partisan, non-profit citizens' action organization, focusing exclusively on judicial selection and discipline issues. A copy of our informational brochure is enclosed.

Judicial Roulette describes the political realities underlying the federal judicial selection process, as well as the dysfunctional and sham nature of the Senate confirmation process, which the Task Force concluded was a "rubber stamp" (at p. 96). Based upon CJA's more recent study and its direct, first-hand experience, the shameful situation described eight years ago in Judicial Roulette remains unchanged. This includes procedural aspects of the confirmation process, as to which Judicial Roulette had stated:

"Major reform of the politics of judicial selection or an elusive quest for precise nonpartisan standards is not realistic. More promising for improving the quality of the federal bench are procedural changes ... Through these changes, the politics of appointing federal judges should become more visible, accessible, and publicly accountable." (at p. 98, emphasis added).

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Because CJA is action-oriented, we are working to build a coalition of organizations to achieve non-partisan "procedural change" of the Senate's judicial confirmation process. This includes reforms recommended in Judicial Roulette and, specifically, the following recommendation:

"At a minimum, confirmation hearings on nominees for the lower courts should be announced in advance with notices in appropriate legal newspapers and the periodicals of state and local bar associations. In addition, the Task Force is in general agreement that the Senate's advice and consent function under the Constitution could be made more effective were a subcommittee to conduct open hearings in the locale in which a nominee would be seated on the federal bench." (at pp. 7-8, emphasis added)

Plainly, in devising a strategy to achieve long-ago recommended reforms, it is valuable to know what was previously done to move those reforms forward. It was for that reason that we called.

In response to my inquiry as to whether Judicial Roulette had been presented to the Senate Judiciary Committee, you stated that it had. However, you were unsure as to the particulars. We would greatly appreciate if you would be good enough to dig into the Twentieth Century Fund's archives and obtain for us more information. How was Judicial Roulette presented? Was it accompanied by any written letter highlighting the Task Force's conclusions and recommendations? Was it also presented to Senators outside the Committee, the American Bar Association, the Justice Department, etc.? Was any written letter or request for action made to them?

Perhaps Judicial Roulette was the subject of testimony by members of the Task Force on Judicial Selection at a congressional hearing. For example, in June 1989, the Twentieth Century Task Force on Federal Judicial Responsibility testified before the House Judiciary Committee as to the conclusions and recommendations thereafter contained in its report, The Good Judge.

Obviously, we are extremely interested in knowing what kind of response the Twentieth Century Fund received to Judicial Roulette and its recommendations for change. Could we see copies of letters, press reports, academic critiques, etc.?

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As I mentioned, two years before Judicial Roulette, Common Cause issued a more limited, but no less valuable, report about the Senate confirmation of judicial nominees. Entitled Assembly-Line Approval: A Common Cause Study of Senate Confirmation of Federal Judges¹, it also included important recommendations for change. As may be seen from our enclosed August 19th letter to Common Cause, we have similarly asked that organization for information about the "after-life" of its 1986 report and recommendations. For your information, the pages from the Common Cause report describing those recommendations are also enclosed.

We are most excited by the prospect of building upon the important work already done by the Twentieth Century Fund and Common Cause. We hope you will share our enthusiasm so that those long-ago recommendations for non-partisan reform may sooner become a reality.

Thanking you for your time and attention,

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

- Enclosures: (1) CJA brochure
(2) 8/19/96 ltr to Common Cause
(3) Assembly-Line Approval: pp. 4-5, 25-33

¹ Judicial Roulette relies on the Common Cause study in its Chapter 4 "Senate Confirmation: A Rubber Stamp?" (See, p. 65, fn. 2, 4, also fn. 48).