



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Speeches

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For Immediate Release

A SALUTE TO THE CITY OF NEW YORK

SPEECH GIVEN BY MICHAEL A. CARDOZO TO THE LEAGUE OF WOMEN VOTERS OF THE CITY OF NEW YORK; ANNUAL LUNCH ON JUNE 9, 2006

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov

Introduction

This is a particularly special occasion for me.

I have long been an admirer and supporter of the League. In fact, I joined the League shortly after men became eligible to do so, encouraged to become a member by my wife Nancy, and who was a long time, very active member of the League of Women Voters of Scarsdale, and who was in charge, for many years, of that League's membership records and statistics.

In addition, as I will discuss in a few minutes, over the years I have worked with the League in a number of areas to try to reform government.

This week is one to celebrate the history of reform. As most of you probably know, 87 years ago, this week, states began passing the 19th Amendment to the U.S. Constitution, which provided women with full citizenship, by guaranteeing them the right – long overdue – to vote.

The New York State Legislature moved quickly to ratify the Amendment, and we became one of the first states to do so.

You heard that right: I said the words "New York State Legislature" and "moved quickly" in the same sentence.

Four decades ago, the idea that New York State would be in the vanguard of a reform movement was no surprise.

Sadly, times have changed. Our current status as the State with the least effective legislature in the entire nation is an accomplishment of dubious distinction.

We must reverse this trend.

New York City's Reform Efforts

Fortunately, New York City, as distinct from the State, has carried on the great tradition of reform.

We have enacted laws providing for public funding of campaigns and banned corporate contributions, as Governor Theodore Roosevelt first proposed a century ago.

We have brought sunshine to campaign financing through electronic records readily available on the Web.

We have created a Conflicts of Interest Board that is recognized as a national model.

Lobbying Reform

And next week, Mayor Michael R. Bloomberg will sign into law a package of groundbreaking lobbying reforms that will move the City into the vanguard of this arena.

The law will ban gifts from lobbyists to all public officials; it will expand public disclosure of lobbying activities; it will provide for random audits of lobbyists' reports, and it will prohibit public funds from being used to match campaign contributions from lobbyists.

There is absolutely nothing wrong with lobbying government – it is one of our fundamental rights as citizens.

But we also have the right to expect that our elected officials will not benefit from lobbying either by accepting personal gifts or by receiving additional matching public campaign funds because a lobbyist made a political contribution to the official.

And it is essential that whatever lobbying is done be transparent, and completely known to the public.

The reforms that the Mayor will sign into law next week are a major step to implement these goals.

New York City Achievements

This package of lobbying reforms is not the only reason that you have honored the City of New York with your annual award, but it is indicative of the broader reason: Mayor Bloomberg's success in making City government more open, ethical, and effective.

It is an honor for me to accept this award on behalf of the Mayor, and an honor to be serving a Mayor that I believe, with admitted bias, will likely become one of the all-time greats.

When the Mayor came into office, few believed that New York City could rebound so quickly from the devastating attacks of September 11th.

Few believed he could improve on Mayor Rudolph Giuliani's record as a crime-fighter.

Few believed he could actually make any difference in the schools.

And few believed that he could win the confidence – and the votes – of an incredibly broad, diverse group of New Yorkers.

But he's done that – and much more.

Today, as most people recognize, New York City is stronger than ever – and it's no coincidence that the City's good fortune coincides with what is unquestionably a great era for good government.

When Mayor Bloomberg came into office, he didn't owe anyone.

No party bosses got to pick commissioners, and no friends got patronage jobs.

He picked the best and the brightest to serve in the highest ranks – and, I'm pleased to say, he also picked me.

He gave his Commissioners the freedom to be creative and innovative...demanded that we find ways to do more with less...and held us accountable for what we did.

As a result, we've had pioneering new programs not just to fight crime, but to dramatically increase affordable housing, combat homelessness, revitalize our waterfront, promote emerging industries, and achieve real dollar savings.

For example, by changing the way we handle tort cases the Law Department last year was able to reduce payouts in tort litigation by 12%, thereby saving the City approximately \$70 million.

Having the freedom to innovate – and the mandate to think boldly – is an opportunity that every manager dreams of – and that attracts the stars of tomorrow.

Yet, for all the reasons to be optimistic about our future, the constant reality of City government is that we cannot tackle some of our most intractable problems without a full-faith commitment from the State.

Today, I'd like to touch on three concerns that I think all of us in this room share, and that threaten to dishonor our great state's history as a national leader in reform.

HAVA

First, New York still has not met even the most basic requirements of the federal Help America Vote Act, known as HAVA. We are the only state in the nation to have earned this dubious distinction.

By law, we are supposed to have new voting machines up and running by this fall – but at this pace, we'll be lucky to have them in place by 2008.

About 18 months ago, Mayor Bloomberg asked me to head a special task force on election modernization.

We joined with the League (including your co-president Mary Lou Urban) and many other civic groups in pushing the State to comply with HAVA.

We issued reports, held press conferences, worked the phones, met with legislators...

But it was business as usual in Albany.

After years of delay, when it finally came to make the big decision on what type of modern voting machine to purchase – Albany punted, kicking the decision to each of 57 County Boards of Elections and to the City's Board of Elections.

Today – almost a year after the long-overdue state legislation was passed – the State Board of Elections has still not even certified any new machines eligible to be purchased by the County Boards.

And so now we have no new electronic voting machines, as HAVA mandates, nor do county boards even know which machines they are permitted to buy.

As a result, we are in danger of losing millions of dollars in federal funds.

And even more significantly, we face the very real prospect of complete confusion at the polls if, after all this delay, there is a sudden rush to put the new machines in place.

The resulting chaos could make the problems resulting from the hanging chads in Florida pale by comparison.

We need the State, and the State Board of Elections, to show significant urgency in complying with HAVA – and we can only do it by continuing to make our voices heard.

We have also pushed the City Board of Elections to get prepared for HAVA – but it, too, has moved at a snail's pace.

And that brings me to the second issue I'd like to discuss: the modernization of the Board of Elections.

Shortly after the 2003 election, which was marked in New York City by voter confusion caused by a breakdown in the City Board's telephone and website, Mayor Bloomberg called for the Board of Elections to be run according to professional – rather than partisan – standards.

This call for professionalism was echoed almost a year ago in a report issued by the Commission on Federal Election Reform, co-chaired by former President Jimmy Carter and former Secretary of State James Baker.

Their report concluded: "To minimize the chance of election meltdown, and to build public trust in the election process...election administrators should be neutral, professional and nonpartisan."

Unfortunately, in New York, the Board of Elections stands in sharp contrast to this standard; in fact, it is the last bastion of political patronage in New York City.

Its members are selected by the county leaders and many of its employees are more often hired based on their party connections than on competence.

While the Board's Executive Director, John Ravitz, has done an excellent job, the fact remains that the organization's structure is a recipe for inefficiency and ineffectiveness.

Nearly every other city agency has been transformed, or is in the process of being transformed, into a modern, customer-focused, professional outfit accountable to the voters.

As I am sure Adrienne Kivelson, your loyal member who attends virtually every meeting of the City Board of Elections can attest, the Board has never excelled at customer service.

There's a simple reason for that: there's no accountability, no performance standards, no expectation to innovate.

Political parties play an important role in the election process, but we've learned from experience that giving them control over election operations leaves voters and taxpayers poorly served.

Given the difficulty we have had implementing HAVA, winning reform of the Board of Elections is not likely to occur anytime soon. But as we all know, reform is not for the short-winded, and you can't cross the finish line without entering the race.

Judicial Reform

I want to conclude by talking about the crisis of confidence in our judicial selection system...

While most judges in this State are fair and conscientious there is a large cloud hanging over the judiciary today. Consider this:

Within the last 18 months two Supreme Court judges in Brooklyn have been convicted of a felony; and a third judge is awaiting trial.

Another Supreme Court judge, this one from Queens, has been recommended for removal for improper judicial conduct.

And a number of other Supreme Court judges have been disciplined for improper behavior.

Yet this conduct by judges sworn to apply and uphold the law doesn't seem to shame the politicians who control the process by which we select Supreme Court candidates.

Last year, for example, 9 of the Brooklyn Supreme and civil court candidates on the ballot were found unqualified by most major bar associations. But the politicians nominated them anyway.

One of those found unqualified had been nominated because he was supported by the former Brooklyn Democratic party leader.

Conversely, a Civil Court judge was denied nomination to the Supreme Court not because she was unqualified but because she had previously refused to hire as her court attorney the district leader's daughter.

Earlier this week a Federal Appeals Court heard an appeal from a lower court ruling that had declared the system used to select our Supreme Court judges unconstitutional.

The system had been found illegal because, given the way delegates are selected to the judicial convention, it is virtually impossible for a candidate not supported by the party establishment to be nominated.

During the argument one of the judges even suggested that the system could be characterized as "totalitarianism."

These judicial selection problems all arise because party judicial conventions in New York are completely controlled by the party leaders, and conventions nominate candidates for the Supreme Court with little or no regard for the candidate's qualifications.

And at the general election the voters, knowing nothing about the candidates, then rubber stamp the politicians' choices and thereby anoint them for 14 year terms.

Ladies and gentlemen, there is a judicial selection crisis in this State. The system has not only been found unconstitutional, but it is not producing the most highly qualified candidates. What should be done?

Ideally I believe, as does the Mayor, that we should have a merit selection system where judges are appointed by the chief executive, following nomination of a limited number of candidates to the executive by an independent panel.

This is the way Mayor Bloomberg appoints judges to the criminal and family court. This is the way judges to the State's highest court have been selected since 1977, following adoption of a constitutional amendment championed by, among others, this League. And this is the system the League, along with countless good government groups, including two that I have had the honor of heading, has championed for decades.

But, and this is a very big but, to effect such a change requires a state constitutional amendment.

We have been trying since the 19th century to amend the constitution to affect a merit selection system.

It is my view, based on more than 30 years of lobbying for this reform, often in partnership with representatives of the League, that it is more than doubtful that the legislature will adopt a merit selection amendment in the foreseeable future.

What then to do?

Open primaries are not the answer.

I don't believe, and I suspect most of you don't either, that judges should be elected at all, and certainly not in an open primary.

Imagine a judicial primary in this City. Will you vote for Candidate A because she says she will be fairer than her opponent or because her ads promise she will be a "lock 'em up judge"?

And if judges are to be elected who will contribute to their campaigns? I suspect it will be the very lawyers who will later appear before the ultimately victorious judicial candidate. This is not a result that will engender confidence that the judge will impartially decide the case on the actual merits.

Yet the alternative to an open primary system, the judicial convention system that was followed until it was recently declared unconstitutional, produces undemocratic results and too many mediocre candidates.

Is there a third alternative? Mayor Bloomberg and I believe there is: fix the flawed judicial convention system so that it will be both more democratic and will result in the political parties to nominating only candidates of merit.

We think the system can be made more democratic by legislation that will reduce both the number of signatures required for delegates to be elected, and the number of overall delegates to the convention.

And we think merit nominations can result if legislation mandates the creation of independent judicial qualification commissions who will recommend only the most qualified people to the convention.

This is not the ideal solution. But to paraphrase Mayor Bloomberg, the surest way to stop progress is to insist on perfection. The change I am proposing – correcting the flaws in the judicial convention system rather than holding out for merit selection – is by no means perfect. But it would be a vast improvement to what we have today.

Conclusion

Thank you, again, for honoring the City – and let me say again that it is an honor to accept this award, and to be with you all today.

The League is a vitally important institution to our City, our State and our country – now more than ever.

Today, New York's good name in the good-government world – founded on the shoulders of Roosevelt, Hughes, Wagner, and Smith...and carried along by the reform community here in the City... is at risk.

Now, we need Albany to take action to ensure the integrity of our electoral and judicial process, just as it did 87 years ago this week.

The League has won some historic victories over the years, and I have every confidence that – if all of us keep working together – there will be more on the way, hopefully in the near future.

Thank you.

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