



# AMERICAN CIVIL LIBERTIES UNION

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May 18, 2010

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The Honorable  
Phil Mendelson, Chair  
Committee on Public Safety and the Judiciary  
Council of the District of Columbia  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004

**Re: Bill 18-652, the "Local Court Reform Amendment Act of 2010"**

Dear Chairperson Mendelson:

The ACLU of the Nation's Capital supports the local appointment of District of Columbia judges as an important element of home rule. For too long, the residents of the District of Columbia have been wards of the federal government. Either we believe in their capacity and right to govern themselves or we don't. The choice is that stark.

It has been argued that giving the Mayor and the Council responsibility for selecting District judges will politicize the process and result in the appointment of less competent persons. But the bill before the committee protects the integrity of the judicial selection process in the District by continuing the role of the Judicial Nominating Commission. As in the past, the executive's choice of a nominee must be from among those presented to him or her by the Commission. Given that protection, there is no reason to think that judges nominated by the Mayor and confirmed by the Council will be worse than the judges now nominated by the President and confirmed by the Senate. And consistent with the principle of home rule, the presence of the federal government is removed from the Commission in favor of local participation.

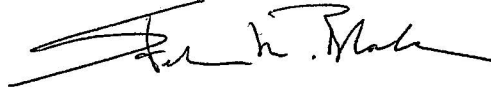
The question of who should appoint judges in the District of Columbia was thoroughly vetted by the D.C. Third Branch Project Committee of the Council for Court Excellence. Its findings were

published in the Law Review of the University of the District of Columbia David A. Clarke School of Law.<sup>1</sup> We agree with the Committee's conclusion:

[T]he case for appointment and confirmation of District Judges by District officials is compelling. The current process of judicial selection has yielded a bench that is high in quality, diversity, and independence. Transfer of the role from the President and the Senate to the Mayor and the Council, under the current judicial nomination regime, promises no diminution in quality and has a distinct prospect of greater diversity (in the sense of legal background and experience) as well as more rapid filling of judicial vacancies, both of which would be substantial improvements. Even apart from these specific advantages, the desirability of having judges selected and confirmed by officials elected by the people who are subject to the judicial power cannot be overestimated. In a real sense, the citizens' confidence in the judiciary will be greater if the selection power is exercised and confirmed by officials elected by and responsible to the people who inhabit the District. Citizen confidence in the judiciary is a vital part of the foundation of a democratic government, and in this case, fortifies the conclusion that the judicial selection process for local judges ought to be exercised by locally-elected officials.<sup>2</sup>

Please include this letter in the committee's record on the bill.

Sincerely,



Stephen M. Block  
Legislative Counsel

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<sup>1</sup> Volume 11, Winter 2008, Number 1, available at:

[http://www.courtexcellence.org/PublicationsNew/policy\\_reform\\_reports/Third%20Branch%20Article%201%20Prologue.Fields%20&%20May.pdf](http://www.courtexcellence.org/PublicationsNew/policy_reform_reports/Third%20Branch%20Article%201%20Prologue.Fields%20&%20May.pdf).

<sup>2</sup> Charles A. Miller, Who Should Appoint Judges of the D.C. Courts?, Law Review of the University of the District of Columbia David A. Clarke School of Law, Volume 11, Winter 2008, Number 1.