

briefly read through it as [deleted] asked [deleted] about a company by the name of Sea Crest, a firm that was under investigation by D.E.A. and the Manhattan District Attorney's Office in a joint investigation of Capital National Bank (C1-90-0101). [Deleted] explained the role of Sea Crest in suspected skylocking, extortion, and drug smuggling in the Bronx and Washington Heights area. The scheme involved numerous "bodegas" in the aforementioned areas and [deleted] explained how this led to his meeting S/A Occhipinti. Occhipinti had started a project called "Operation Bodega", involving the use of bodegas in the illegal immigration of various Hispanics and their employment by such stores which are also "fronts" for illegal gambling money laundering, food stamp violations and drug dealing.

[Deleted] stated that Occhipinti had been indicted on several searches which he allegedly had performed without the consent of the store owners but had reported them to INS as consent searches [deleted] advised [deleted] that [deleted] had briefly explained the background over the phone.

[Deleted] had stated that Occhipinti was in charge of a group of "young kids" and that they had very little experience in such searches. [Deleted] further stated that some "green assistants" handling the cases had raised doubts about the validity of the searches. He said the cases were then referred to the Department of Justice O.I.G. The O.I.G. found no evidence of wrongdoing and returned the cases to the Southern District of New York. The "Southern District" felt that the O.I.G. investigation was inadequate because they had done "desk investigations" rather than "field interviews". [Deleted] said they then broke down the cases into three groups. Cases involving arrests of those with criminal records were put aside. Cases where no arrest was made but a criminal record was found were put aside. Only cases where no arrest occurred and no criminal record appeared were selected for interviews. These people were "assumed" to be "legitimate" bodega owners. [Deleted] stated that it could also be assumed that these individuals were possibly smart enough not to have been caught in the past. This conversation occurred on April 4, 1991 over the telephone with [deleted].

As the interview with [deleted] continued [deleted] referred [deleted] to the indictment. Count Six alleges that on or about January 17, 1990, Occhipinti conducted a warrantless non consensual search of a grocery store at 2262 Jerome Avenue and another count charges an illegal search of the residence of the grocery manager [deleted] advised [deleted] that [deleted] and I.R.S. [deleted] were present at the grocery store and also accompanied the manager and Occhipinti to the manager's apartment to obtain his passport. [Deleted] noted [deleted] surprise on learning that [deleted] were present [deleted] said he didn't know these facts, as he was under the impression that another INS agent had gone to the apartment. [Deleted] stated that the manager [deleted] had voluntarily gone to the apartment and invited the agents to accompany him in [deleted] own vehicle. [Deleted] further stated that no search had been performed by Occhipinti at the apartment.

Shortly after this exchange [deleted] entered the office and the interview continued following a summation by [deleted] of the conversation up to that point.

[Deleted] reiterated that the January 17th search had not occurred and that due to the fact that Occhipinti did not know [deleted]

that well, it would be bizarre to believe that Occhipinti would perform an illegal search in their presence. [Deleted] expressed amazement that a charge was brought against Occhipinti on the strength of an unsubstantiated allegation without an attempt to verify the truth. [Deleted] stated that allegations were made by several bodega owners in the Washington Heights area [deleted] stated that the bodegan in Washington Heights are very often fronts for gambling and other criminal activity such as drug trafficking and money laundering. [Deleted] stated that when one sees a huge Pathmark Supermarket in the neighborhood and three bodegas directly across the street, one can assume that they are not just selling groceries. [Deleted] stated that it was indeed possible. [Deleted] stated that gambling was a common occurrence in Washington Heights and that [deleted] should not make a blanket statement about the entire neighborhood. When [deleted] asked [deleted] why he had not interviewed law enforcement personnel prior to the indictment [deleted] replied that they did not want to come up against "the blue wall of silence" that occurs where a "cop" is being investigated. [Deleted] replied that [deleted] was now blanketing the law enforcement profession in the same way he accused [deleted] of doing to Washington Heights.

Following this exchange it was revealed by [deleted] that they had interviewed all of the complainants in regard to their relationship with Sea Crest [deleted] expressed shock and dismay that they had seen fit to compromise an official investigation in the Southern District without any consultation with the agencies conducting the investigation [deleted] further stated that Occhipinti had apparently caused much uneasiness on the part of certain interests in Washington Heights and perhaps there was pressure exerted to eliminate the threat. [Deleted] stated that both he and [deleted] expressed their opposition to personally conducting an investigation of Occhipinti due to the fact that they both knew him previously but that they were overruled and ordered to conduct the probe.

[Deleted] asked if [deleted] had given an itemized list of suspect bodegas to Occhipinti [deleted] said no, that the Capital Bank case involved obtaining a list of Currency Transaction Reports from the bank and these contained numerous forms showing cash transactions in excess of \$10,000 by several bodegas. Certain targets may have resulted from referrals of such listed businesses to the Manhattan D.A.'s detectives also involved in the case. [Deleted] one of the detectives had stated that [deleted] implicated [deleted] in cocaine trafficking. [Deleted] further stated that if the rest of the indictment was based on the kind of reliability attributed to [deleted] a grave injustice was being done by indicting Occhipinti. Incredibly, at this point [deleted] stated that "he can be unindicted too." [Deleted] said he had not realized in twenty years of dealing with the law that such a phenomenon existed. [Deleted] then asked if [deleted] would check D.E.A. files for records on the businesses listed as complainants in the indictment. [Deleted] was also asked if [deleted] could be reached at [deleted] office [deleted] replied in the affirmative and the interview was terminated.

It should be noted that although [deleted] was briefly introduced to one of the two Assistant U.S. Attorneys assigned to the case neither he nor the other A.U.S.A. took any part in the interview. [Deleted] was also informed that [deleted] was not a target of the investigation.

THE RECONFIRMATION OF
FEDERAL JUDGES

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1995

Mr. FIELDS of Texas. Mr. Speaker, today I am introducing a proposed amendment to the Constitution requiring that Federal judges be reconfirmed by the U.S. Senate every 10 years.

Presently, Mr. Speaker, Federal judges serve life terms once they are appointed. The only constitutional mechanism for removal of these judges is impeachment. As we all know, impeachment is a long and arduous process. Historically it has been exercised on only 10 occasions, resulting in actual removal from office of only 5 judges.

In the absence of any other effective formal procedure for removal, Federal judges have been elevated to a stature unprecedented and unequaled by any other Federal official. Consequently, and to the citizenry's misfortune, there is no procedure for the removal of a judge who may be dysfunctional, dishonest or in any other way unfit to fulfill his or her constitutional responsibilities.

According to article III of the Constitution, Supreme and lower court judges are appointed to office for a term of good behavior. I certainly recognize and compliment the wisdom of the Framers of the Constitution who, by separating judicial officials from the political process, preserved and defined the principle of separate, but equal, branches of Government.

However, I continue to believe that this separation has resulted not in a more effective judicial system, but rather in a greater disparity between the various branches of Government. The life tenure of these judges has them less, not more, accountable for their actions and decisions.

Moreover, the increasing use by these judges of their judicial power as a means of effecting social policy is troubling. Our judicial system was established to interpret the law, not to formulate national policy. However, within the past 15 years, many of our Federal judges have taken to "backdoor legislating" on such controversial issues as school prayer, busing, and abortion. In my own State of Texas such "backdoor legislating" has occurred on such issues as prison overcrowding and the provision of educational services to illegal aliens.

I sincerely believe that neither this legislative body nor the American citizenry can stand by and watch this transgression of constitutional authority. National policy decisions should not be promulgated by our courts, but rather should be duly deliberated and decided by the people's elected representatives in Congress.

Mr. Speaker, I urge expeditious consideration of this legislation so that our Nation can once again be assured of three separate, but equal, branches of Government.