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Kerr, John Hoare (1978-1984): Correspondence 05

John Hoare Kerr

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March 9, 1984

The Honorable Claiborne Pell, USS
Ledge Road, Newport, RI

Derrydown" RFD#1
Newport, RI 02840

My dear Senator,

I realize this run-down is long over due but the wheels of Justice grind exceedingly fine, if slow, and so it is only now timely in both MSPB and EEOC cases. I hope after my long history of ardent support for you no matter what political party I put my faith in at the time (and it is a flowing cornucopia of values we face today, ever in flux), I may write you in strictest confidence as a constituent sharing your devotion to the Endowments you established? Actually, because you were helpful in advising me to "be Prudent" in the matter of my restoration after illegal separation from Federal service of myself and the other National Endowment for the Arts (NEA) Program Directors in the Biddle administration of NEA in the 1978/79 periods, I thought to update you and seek any advice with appreciation for your previous sage advice which (with prayer) bolstered me to patiently, expensively, and above all, "prudently" (Your choice of words had great impact) allow the law and the courts to take their time. Now it is some (5) five years from my illegal dismissal in 1979. To date I seem to have proven my case, as a chain of substantial, favorable decisions (alas accompanied by endless NEA personal harrassment of me from the Chairman on down) has come about which are appealed regularly by NEA and which have been avoided by every legal and non-legal means by both the Biddle and Hodsoll administrations who obviously retaliate for my having successfully pursued this matter. So harshly have they treated matters that my health and well being are shot. MSPB observing facts of this recommended Biddle's agents in this, his General Counsel and Personnel Director, should be removed from having anything further to do with my case. Biddle's leaving made him beside the point they felt as he was out of office. Hodsoll has carried on as Biddle alas. The EEOC examining matters stated Biddle's testimony under oath and his statements submitted were "beyond credence". I am told the Harvard Business School or Law School would find this a classic case in abusive bad management and illegal practice. Yet in all it continues. My favorable ruling from the US Federal Court of Appeals mandates MSPB orders be carried out and not subverted by a restoration to a sham position stripped of all real duties and that MSPB not avoid enforcing its own decisions. Lawyers tell me this obvious logic is a precedent setting decision that will impact on the entire Federal workforce. Yet NEA still avoids restoring my former duties. Rhode Island's Jordan Stanzler and Washington's Matthew Myers (Once Judge Pettine's law clerk in Providence)

Have been my attorneys and are still trying to reach an accomodation in the MSPB case to preserve (restore) my health and career ruined by NEA's vendetta for having successfully pursued my case. Yet in truth to date NEA's solutions are at my expense and to be rid of the embarrassment of my legal success on the cheap and with maximum damage to me and minnimum penalty to themselves.. There is no thought of making me whole or providing adequate safegaurds for a man 53 to start a new career as NEA has ruined him in his own field despite outstanding performance prior to illegal dismissal. Their lawyer once offered 4 years at Harvard^(PhD) under salary and schooling fully paid to commence negotiations after one of my victories. I was interested and they indicated all legal fees would be paid...but as soon as I committed my lawyer to negotiate (Jordan Stanzler at the time), they reduced the terms insultingly so we had to await better good faith. It is similar now that I have won not only my lawyer's victory which pertains to restoring me to my former duties which NEA resists to date but another victory with EEOC which I handle legally as my bills climbed in the other case alarmingly beyond my capacity to absorb them easily. Fortunately I am a keen observer and dedicated worker, and with some gratis legal advice from Jordan Stanzler and Matthew Myers and recalling their skill, without legal training, I faced down the best legal talent the Endowment has to win a victory which stated the Biddle retroactive 5 year and out rotation policy was illegal and harshly criticized Biddle based on his own statements and the facts. You can emagine Endowment Chairman Hodsoll (a lawyer who warned me he'd prevail and I'd get nothing but a survey to do under his administration) and Jeff Mandel, his new General Counsel, don't like me any better for having won despite their best efforts...one of their lawyers has been let go just as the former General Counsel, but that does not alter their techniques. It is like being in reverse therapy dealing with this attitude at the NEA. And Senator, I could have accomplished so much for the arts if my outstanding references had not been verbally undercut, etc. This all comes out in two transcripts of Hearings (one MSPB and the other EEOC plus Federal Court...and makes fascinating reading. I may write a novel, yet....). My favorable ruling from the US Federal Court of Appeals mandates MSPB orders be carried out in good faith and not sunverted by a restoration to a sham position stripped of all real duties and requires that MSPB not be "chicken" in enforcing its own decisions. Lawyers tell me this will impact on the entire Federal workforce as a major decision advancing Justice as I mentioned earlier. Well EEOC decision may even be more telling as not only does it find Biddle's Pol illegal but it finds he used illegal means to prevent me from being named Director of Museum Programs (among NEA's largest) and offers as solution

naming me Director of Museums by March 14'84 or so (one of NEA's largest).

Hope you are doing well. Our family (practically half the island when you realize in New York City (where most of Manhattan fell to the clutches of ancestors in the Morris, Shradly, Newius, Gould, etc branches and in R.I., Mass, N.J. and PA hoardes of Almy, Cornell and others) spread out leaving floods of descendants in R.I. from Hazards to Kerrs.....

I'd guess my soms are the 13 or 14th generation there in the Newport area and we will probably be here to vote for you in every election you chose to run in.....as you know I still hope to venture an arguement that will make you anti-abortion. Our President knows well the value politically of waving the flag over the right to life and prayer in the school even if he has not been able to produce as promised on these issues or the Federal Deficit. People as comservative as I am in religion as a Roman Catholic with a branch of our family, headed by Bishop Kerr in Vermont as Episcop^lains, tend to feel our Law most horrid crime is the millions slaughtered by their own parent in abortio... More in the past two years than Hitler's ovens for Jews and Christians, more than many, many wars and $\frac{1}{2}$ almost if not more than $\frac{1}{2}$ Stalin massacred in his put-down of the Kulaks in collectivisation in the 30's. Who will invent, fight, govern, print, sell... if we keep this sum up?

If you hear from our mutual friend Hugh Lathram (in France?) give him our best. My son Angus tells me many speak well of you at the Brook Club in NYC where he has many friends, and when the strains of being an undergraduate (hopes for a diplomatic career) get too much for him he is dined there now and again by kind frêinds. His uncle in Paris, Van Kirk Reeves, is a member, but the relationship is tenuous at best since Mrs Kerr and I separated in '72 to go our separte ways. She is in Texas where my ^{Kerr} great grandfather's ranches were before the civil war in the days of the Republic of Texas. He lived New Orleans and NYC mostly though and was trained in law at University of Edinburgh....a canny Scot. My mother's people were pre-Culloden Chiefs of MacDonald from around Moidart, but my Texas Kerr was a Border Scot. I still serve with Lord Lothian (Kerr Chief) as Director of the Kerr Family As When he comes next, could we dine with you or lunch in the Senate ^{Dinner Room} at my exper

as he had me to the lunch table at the House of Lords and it would be a fitting return. Clan and family ties endure over the borders of countries still. Cornwallis was defeated instead of a Kerr as the numerous Kerrs here prevailed on the Kerr General to refuse Command in America offered by the King as Kerrs did not want to fight each other. They were the most fierce, tenacious, ruthless enemies of the Border Wars in Scotland. I asked Lord Lothian why he was so powerful and lauded everywhere I went. He said, "The Kerrs were entrusted by the King to take care of the Borders, instead we took care of ourselves". Very honest if too modest. President Roosevelt appointed my father, General Kerr, to head all exports during Lend Lease Days. The Ambassador negotiating Lend Lease here for Britain was the Marquess of Lothian...head of the Kerrs. My parents were at the British Embassy a lot in those days. Well I ramble as it is snowing and I am snowed in until the plows come to plow us out to the road. The ocean view is lovely I am sure today if the snow would clear so one could see. This is still in spots a lovely island as I recall it in the 30's.

Best,



John Hoare Kerr

* Drew Pearson referred to him as the Bulldog of Export Control and, perhaps in a bow to his R.I. and his New York ancestry stated he was "the hegemonian as a claim" about what was going on in those days.