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Ambassador Hotel  
Washington, D. C.  
January 25, 1937.

Judge Ewing C. Bland  
Kansas City Court of Appeals  
Kansas City, Missouri.

Dear Ewing:

I have received your letter of the 20th consisting of ten pages written with a pen. I will answer this letter in detail eventually, but can only answer part of it at this time owing to the fact that I am very much engrossed in some matters that will require my full attention for the next four or five weeks.

In the first place, you are in error when you say that I suggested that you indulge in a threat to resign with no intention of carrying out the threat. My letter certainly was plain enough on the point that you owed it to yourself to resign if it were a fact that the Court was dominated by the machine to such an extent as to direct whom it should employ among its personnel. My last two letters were written on the assumption that such domination had occurred and my belief was based upon a passage in a letter written me by Miss Plummer and on a passage in your letter of the 16th.

On the 15th, Miss Plummer wrote me a letter containing the following:

"Just at 5 o'clock on the 12th, Jones told me that the Judges had decided it was necessary to cut expenses and that my services would be terminated February 1st. I went back to Judge Bland's office and found him in. I told him what had occurred and he said he had known it for a week but had not mentioned it to me as there was not anything that I could do about it, nor anyone for that matter. He said he had

investigated the matter and found that they had already been to see Jimmy Pendergast and he (Pendergast) said to Jones: "Whatever you want to do I will endorse."

In your letter of the 16th, you said:

"The matter has been so handled here by those who wish to supplant Miss Plummer that it looks like they have the matter all sewed up and, as my political influence is far less than you think it is, I can assure you, I am doubtful if you would care for me to hazard the chances of humiliating you and possibly Miss Plummer by going to the party organization here for assistance, especially in view of the small chance of success."

So, it seemed very clear to me from these two statements just quoted that Jimmy Pendergast had been the controlling power, and I still hold that view. In other words, it seems very clear that if Jimmy Pendergast had said "No, do not discharge Miss Plummer but discharge the other girl" that it would have been done. The fact that you had in mind, as shown by your statement above quoted, that the only way to change the situation was to apply political pressure seems clearly to confirm the opinion which I held when I wrote my last two letters.

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In expressing my views concerning your resignation, my idea was and is that if your associates knew you resented the interference of Jimmy Pendergast to such an extent that you would resign unless the interference was disregarded, they very speedily would disregard Jimmy Pendergast's interference. I certainly would not suggest or urge you to threaten to resign unless you intended to do so if the condition of which you complained were not corrected.

Of course, I know that you have never been very friendly disposed toward Miss Plummer and that you have only held her in the place on any account, but let me remind

you that I did many things for you that were decidedly distasteful. The only time that I was ever arrested in my life was when I was putting up your posters in St. Joseph in your first primary. And then there was the matter of getting the money for your advertisements in your last election. That certainly was a distasteful job to me. Frank Walsh, who professes to be your friend and who professes to have ideals, flatly refused to have anything to do with the transaction.

Now, I am convinced that this matter of economy which is put forward as an excuse for Miss Plummer's ouster is more or less of a subterfuge, for if economy were desired Stratton would be the one to go since his services could surely be dispensed with if Jones and his recently appointed deputy are as efficient as they are supposed to be. It would certainly be to the Court's interest to let Stratton out and end the plain violation of the law which continues while he remains in his present position.

In making the above statement, I have in mind the provisions of Section 1860, Chapter 9, Revised Statutes of 1929:

"\* \* \* No clerk or deputy clerk (of any Court of record) shall while he continues to act as such plead, practice or act as counsellor or attorney within the county for which he is such clerk or deputy clerk under any pretense whatever."

Section 1861:

"\* \* \* All persons violating the provisions of the last preceding Section shall be deemed guilty of a misdemeanor in office and shall be proceeded against accordingly."

Moreover, the writing of opinions by Stratton for the Judges of the Court of Appeals is a scandalous thing no matter how able, honest and conscientious he may be. The framers of the Constitution of Missouri and the Legislatures have clearly demonstrated their desire to throw every possible safeguard around the rights of litigants having cases

in the Courts of Appeals — cases involving the liberties, the reputations and the property of such litigants. The Constitution prescribes the oath which the Judges of the Court of Appeals shall take before entering upon their office and the Legislature, in Section 1824, Chapter 9, Revised Statutes of 1929, directs that the Judges shall take the oath prescribed in the Constitution and a certificate that the oath has been taken shall be indorsed on their commissions. To show how profoundly impressed the Legislature was with the necessity of this oath being taken by those whom it authorized to pass upon the rights of litigants, it prescribed in Section 1936A, Chapter 9, Revised Statutes of 1929, that commissioners of the Kansas City

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Court of Appeals shall "take and subscribe a like oath as the Judges of the Kansas City Court of Appeals."

Now Stratton before writing the opinions undoubtedly took no such oath, at least he had no authority for taking it, and no legal authority whatever to act in the capacity of a commissioner for the Court. It does not answer the object to say that before Stratton's opinions could become the law they had to be approved by the Court in conference. It is apparent that if the Judge for whom the opinion was written devoted as much time and labor to the case as he would have done if Stratton had not written the opinion, there would have been no point in Stratton writing the opinion. In any event, it is safe to say that the litigants and the lawyers who were interested in the cases decided against them by Stratton would make loud complaint if they knew what had happened and the general public undoubtedly would be amazed to know that the Court had indulged in such practice.

I feel quite sure that the irregularities above mentioned would not be tolerated by a high court if it were not situated in a community where the enforcement of the criminal laws and the nomination of judges were not in the control of a crooked political machine. In normal communities, where only those vote who have a right to vote where their votes are honestly counted, such irregularities would be indulged in with a great deal more

trepidation than in Kansas City. The fact that Stratton wrote no opinions for you has very little to do with the principle involved, assuming that you did not put on the record of the Court an objection to such practice.

In your letter of the 16th you state:

"I asked the Court to retain Miss Plummer but my associates said that the Statute provided that the clerk. should appoint his deputy and they were going to leave the selection of the deputy to him."

I find that Section 11655, Chapter 77, Revised Statutes of 1929 provides that the clerk may select a deputy whose salary shall be \$2,000 a year. Is it not a fact that the woman selected by the clerk receives a salary of \$2,800? And if so, by what, authority is the other \$800 paid to her?

You state in your letter of the 20th that Miss Plummer told you that I had written her it would be agreeable with me for you to see Aylward. Miss Plummer evidently misunderstood my letter, as I did not consent that you should see Aylward.

Now I want to say that I fully realize that the fact Miss Plummer has held her place for ten years has been a godsend to her and desire to express my appreciation to you for keeping her in the position that long. However, it was also a godsend to you to have your first twelve years in the Court and at the end of that time you not only felt the desire but the necessity to continue in office. Miss Plummer is in the same condition today. There is no more reason why she should be considered unreasonable for wanting to continue than there was for considering that you were unreasonable for wanting to continue. Moreover, you were far better equipped to make your own living in the open after twelve years than she is after ten years in office.

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In closing this letter, I revert to the position I took in my last two letters, that it is

perfectly evident Miss Plummer would not be disturbed if Jimmy Pendergast hadn't O.K.ed her ouster, and that being true you owe it to yourself either to have the Court repudiate such interference or resign your place.

I still am of the opinion, considering all the circumstances, that you could retain Miss Plummer if you so desired.

Yours truly,