

CENTER for
JUDICIAL
ACCOUNTABILITY



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October 6, 1994

FAX COVER SHEET

6:30 p.m.

DATE

TIME

TO: ARI GOLDMAN, COLUMBIA SCHOOL OF JOURNALISM

FAX NUMBER: 212-854-7837 (212-854-4150)

This fax consists of a total of ⁹ pages, including this cover sheet. If you do not receive the indicated number of pages, or if there is a question as to the transmittal, please call (914) 997-8105.

FROM: Elena Ruth Sassower, Coordinator

MESSAGE:

As discussed, I enclosed the New York Times' two editorials "New York's Mystery General" and "No Way to Pick a Judge", together with my two "Letters to the Editor"--as yet unpublished.

I hope you will agree that this is a dynamite story anytime--and, particularly, in the election season.

Elena

9/17/94 NYT

After the Primaries *New York's Mystery General*

What, exactly, does the New York State Attorney General do? What should the job be?

In the end, Karen Burstein's victory in Tuesday's Democratic primary probably turned less on her answers to these questions than on her appealing manner and the usual political demographics of geography, sex and ethnicity. Money, for a change, was not the deciding factor. Ms. Burstein, a former state legislator, commissioner and judge, lagged far behind her opponents in campaign spending and fund-raising.

The general election race now pits Ms. Burstein against Dennis Vacco, a former U.S. Attorney in Buffalo. Voters can only hope that the campaign will go beyond the posturing on crime-fighting that dominated much of the primary, to discuss some of the fundamentals of the office.

Like two of Ms. Burstein's primary opponents — Charles Hynes, the Brooklyn District Attorney, and Eliot Spitzer, a former Manhattan prosecutor — Mr. Vacco argues that the office should be more concerned with criminal law enforcement. He is

trying to cast the election as a choice between a Republican concerned with citizens' safety and a Democratic "social engineer."

Ms. Burstein, meanwhile, promises a "crusade" against domestic violence and raises questions about Mr. Vacco's law-and-order credentials on the issues of gun control and protecting abortion clinics from violent protesters.

All well and good. But some of the more basic aspects of the job warrant at least as much attention. The Attorney General, as Ms. Burstein has pointed out, is not a district attorney. Who can run a huge legal shop responsibly and who would do the best job of recruiting talented professionals?

Beyond any proposed new dimensions in crime-fighting, the voters need to know how the candidates intend to handle the job's meat-and-potatoes work of defending the state against legal actions, and how they would use the Attorney General's considerable authority to bring lawsuits in the areas of consumer fraud, antitrust violations, price-fixing, civil rights, labor law, and the environment.

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September 25, 1994

Letter to the Editor
The New York Times
229 West 43rd Street
New York, New York 10036

Dear Editor:

Your September 17th editorial about the New York State Attorney General recognizes that "voters need to know how the candidates intend to handle the job's meat-and-potatoes work of defending the state against legal actions".

We agree--and believe you should alert voters to a particular legal action, defended by the Attorney General. It is a case about which the candidates for that office must be specifically questioned since it will be on the desk of whomever is elected our next Attorney General.

The case, entitled Sassower v. Hon. Guy Mangano, et al., directly affects the public. It charges high-ranking judges with abusing their judicial office for political, retaliatory purposes. It is instructive to see how the Attorney General defended the judges sued in that legal action. He refused to enforce the law and rules governing judicial disqualification and

permitted the very judges sued in the proceeding to decide their own case. How did the judges decide? Predictably, they granted the motion of their own attorney, the Attorney General, and dismissed the case against themselves. This may sound like something out of Alice in Wonderland, but the result has been a very real cover-up of judicial corruption--aided and abetted by the Attorney General.

Presently, the matter is before our State's highest Court, the New York Court of Appeals--where the Attorney General argues--without the slightest legal authority--that there should be no appellate review of his judicial clients' self-interested decision in their favor.

For the voting public to choose intelligently who should be our next Attorney General, the press must insist that each candidate respond to the facts of this extraordinary case. Those facts show that a major governmental scandal has taken place and that our constitutional rights are imperiled by the very government officials whose duty it is to protect those rights, including the Attorney General of the State of New York.

Any candidate who cannot unequivocally condemn the abandonment of the most basic rule of law that "no man can be the judge of his own cause" lacks the competence and courage required of our State's highest law enforcement officer.

Finally, since the next Attorney General will, upon taking office, have the irrefutable evidence of judicial corruption that is fully documented in this case, the issue of judicial corruption is not an abstract one. It is immediate and grave. Consequently, the candidates must also define the role that the Attorney General will play, as "the People's lawyer", in safeguarding the integrity of our third branch of government. At present, the Attorney General's office neither investigates complaints of judicial corruption nor even refers them for investigation.



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability

The Center for Judicial Accountability is a non-partisan citizens' group working to improve the quality of the judiciary.

NVT 9/27/94

No Way to Pick a Judge

Talk about cozy. As a member of the New York State Assembly, George Friedman sponsored a bill this summer creating a new state Supreme Court judgeship in the Bronx. Wearing a second hat as chairman of the regular Bronx Democratic Party organization, Mr. Friedman helped orchestrate the party's judicial convention, which met last week to nominate candidates for that new judgeship and two others at stake in the Bronx this November.

Now, guess who is going to be a judge? None other than Mr. Friedman. The convention, controlled by party leaders, chose him for one of the three coveted openings, virtually insuring his election in the overwhelmingly Democratic borough.

In terms of experience, temperament and political independence, there might well be better choices for the state's highest trial court than Mr. Friedman. As is often the case under New York's system of judicial elections, however, his ascension

to the bench is part of a larger political deal. This one cleared the way for Bronx Borough President Fernando Ferrer to install his own hand-picked candidate, Assemblyman Roberto Ramirez, as the new party chairman, succeeding Mr. Friedman.

Mr. Friedman, not incidentally, conveniently kept his judicial ambitions in check until after his name was already on the ballot for re-election to the Assembly. The timing means that party insiders — not voters — will now get to choose his replacement, in effect choosing the next assemblyman.

Like Representative José Serrano, who waged a losing race for the party chairmanship, Mr. Ferrer and Mr. Ramirez now pledge to democratize the party and introduce a merit screening process that would, presumably, place a higher value on important judgeships, which are too often treated as golden parachutes for party loyalists. Too bad they did not think of that sooner.

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October 5, 1994

Letter to the Editor
The New York Times
229 West 43rd Street
New York, New York 10036

Dear Editor:

There is an important, but scarcely recognized, connection between the Times' September 27th editorial "No Way to Pick a Judge" and its September 17th editorial "New York's Mystery General". What the September 27th editorial describes is a reprehensible and cynical horse-trade in judgeships. However, in 1990 and 1991 when a similarly noxious manipulation of judgeships was challenged in the Election Law case of Castracan v. Colavita, judges of our state courts--themselves beneficiaries of judge-trading deals--dumped that case by disregarding the law and falsifying the factual record. They then used their judicial office to go after the lawyer who, pro bono, had brought such precedent-setting challenge to judge-trading. That lawyer, Doris L. Sassower, was suspended by the Appellate Division, Second Department in an order stating no reasons, making no findings, and not preceded by any hearing.

The Appellate Division knew such order was unlawful at the time it was issued. Yet, in the more than three years that have since elapsed, it has, without reasons, refused to vacate such findingless suspension order and refused to direct an immediate hearing as to the basis of that suspension.

This brings us to your September 17th editorial which asks about the function of the New York State Attorney General. When Ms. Sassower thereafter sued the Appellate Division, Second Department for retaliating against her by a fraudulent suspension of her license, it was the Attorney General, our state's highest law officer, who defended the judges. And how did the Attorney General defend his judicial clients in Sassower v. Hon. Guy Mangano, et al.? By disregarding unequivocal law and rules regarding judicial disqualification and arguing, without any legal authority, that his judicial clients were not disqualified from deciding their own case. And who did the Attorney General argue this to? None other than to his own judicial clients, the Appellate Division, Second Department, who were only too happy not to allow allegations that they had engaged in criminal conduct to be decided by an independent and impartial tribunal--as the law required.

Last week, the New York State Court of Appeals denied review of the Appellate Division, Second Department's self-interested dismissal of Sassower v. Hon. Guy Mangano, et al. much as it had, three years earlier, denied review of Castracan

v. Colavita. It did so in both cases by falsely ruling that there was "no substantial constitutional question".

And so, with the blessings of our state's highest court and our state's highest law officer, judgeships will continue to be traded--and few lawyers will be willing to challenge the "business as usual" politicking in judgeships, when to do so means putting their licenses and livelihoods on the line.



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability

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