



NINTH JUDICIAL COMMITTEE

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November 23, 1993

Mr. John Caher, Albany Times Union
Box 15000
Albany, New York 12212

Dear John:

Following up our telephone conversations, I am enclosing a "clean copy" of the Ninth Judicial Committee's September 7, 1993 statement in opposition to the confirmation of Justice Howard Levine, as well as the supporting Compendium of documents that accompanied it.

Any objective evaluation of our aforesaid presentation would not only establish that what Judge Kahn did in his Castracan v. Colavita decision (pp. 4-32) was legally and factually insupportable, but likewise, what was done thereafter by the Appellate Division, Third Department (see pp. 33-102).

We trust that the law professor-"experts" participating in this investigative project will recognize, as a threshold matter, their obligation to disclose any conflict-of-interest or disqualifying relationship with the judges or "judge-making" power-brokers involved. As you know, this is something which the judges of the Third Department did not do.

On that subject of disqualification, I enclose the New York Times November 11th article "A Judge Finds His Credibility Is Questioned"--which will underscore the attention this issue is currently receiving in Connecticut.

The Senate Judiciary Committee's peremptory interruption of my mother's testimony and its conspicuous failure to question Justice Levine--even on the subject of the "appearance of impropriety" created by Appellate Division judges who, in a case involving the legality and constitutionality of judicial cross-endorsements, were themselves the product of cross-endorsements--dramatically reflects their lack of respect for fundamental ethical concerns that must guide a judge's conduct on the bench, if he is to promote public confidence in the judiciary.

As set forth in my mother's letter, published in the enclosed September 20th issue of The Legislative Gazette:

"...the fact that Judge Levine was not even required to deny or refute my specific documented charges reflects the Senate Judiciary Committee's awareness that no response by him could have kept his nomination alive."

By obtaining "expert" opinion as to the significance of our opposition to Justice Levine's confirmation, you will simultaneously be facilitated in presenting a proper evaluation of the Senate Judiciary Committee's conduct at the "public hearing" and its representation thereafter made on the floor of the Senate that:

"Unfortunately, there was a person in opposition who had no substance to their complaint and, in my judgment, was totally out of line, and the entire committee dismissed it as not--not relevant." (at 9705-6)

As you know, the unidentified person alluded to was my mother--a woman whose solid credentials in the field of judicial selection were presented at the "public hearing" (at p. 65-69). Your "experts" will confirm for you--based upon review of her testimony and the accompanying Compendium--that my mother's presentation was substantial, documented, and highly relevant and that the protestations to the contrary by the Senate Judiciary Committee Senators are indefensible.

In view of your description in your November 7th article of what took place at the "public hearing":

"Sassower carried on at such length during Levine's confirmation hearing that the exasperated members of the Senate Judiciary Committee adjourned and left the room while she and her daughter ranted about corruption and cover-ups", (emphasis added)

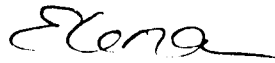
I am enclosing the video of "Inside Albany", aired on September 9th, as well as the pertinent pages of the stenographic transcript of what occurred (pp. 55-102). We are sure when your "investigative series" comes out, you will want to recast your inaccurate and pejorative descriptions.

November 23, 1993

We look forward to working with you in developing what we trust you--and the Albany Times Union--will recognize as a major news story and a prize-winning one. FYI, I again enclose information about the American Bar Association's "Silver Gavel Awards Competition" since we have no doubt that this story will earn for you and the Times Union a top prize in this and other journalistic competitions.

Should you--or the law professor "experts"--wish to see the fully indexed and organized Castracan v. Colavita file, which we provided to the Senate Judiciary Committee in advance of the hearing, or the file as to my mother's suspension, which we brought to Albany at the time of the hearing (DLS statement, p. 15-6), we will be most pleased to send them up.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Ninth Judicial Committee

Enclosures:

- (a) 9/7/93 Testimony & Compendium
- (b) *Video: "Inside Albany", aired 9/9/93
- (c) Transcript, 9/7/93 Senate Judiciary Committee
(pp. 52-102)
- (d) Transcript, 9/7/93 Senate session (pp. 8700-8707)
- (e) "Levine Story, Senate Action Criticized", The
Legislative Gazette, 9/20/93
- (f) "A Judge Finds His Credibility Is Questioned", NYT,
11/11/93
- (g) ABA "Silver Gavel Awards Competition"

P.S. Kindly return the "Inside Albany" video to us as soon as you as possible since it is the only copy we have.

FYI, I have also enclosed a NYT article from 5/4/90: "On Legal Pundits and How They Got That Way", which I thought might be of interest.