

Editorial

Judge's Removal Shows No One Is Above The Law

Last Tuesday, Queens Supreme Court Justice Laura D. Blackburne was removed from the bench by a decision of five of the seven justices sitting on the New York Court of Appeals. Blackburne's removal, a severe penalty for what some have maintained was a single incident in an otherwise blameless career as a jurist, was precipitated by her decision two years ago to aid a robbery suspect in evading arrest. Though some have called the decision a sad day for the judicial branch of the government of New York state we salute the Court of Appeals for recognizing that Blackburne's decision, as a spokesman for Governor George Pataki declared, "exceeded all bounds of acceptable judicial conduct".

Blackburne was presiding over Queens Treatment Court, in which some individuals found guilty of drug offenses are sentenced to treatment, rather than incarceration. Derek Sterling, a defendant undergoing court-ordered treatment at a residential drug treatment program, appeared before Blackburne. New York City Police Detective Leonard Devlin told Blackburne's court officer, Sergeant Richard Peterson, that he wanted to question Sterling in connection with a robbery. Devlin waited outside the courtroom for the proceeding before Blackburne to conclude. Peterson, meanwhile, informed the judge that Devlin was present and wanted to question Sterling.

Though she later changed her mind,

Blackburne's initial reaction was outrage at Devlin's "ruse". She told Peterson to show Sterling out a secure rear exit so he could elude the police officer. Peterson thus found himself between a rock and a hard place: worried that he would get in trouble if he disregarded Blackburne's instructions and fearful that he would be guilty of obstructing justice if he did as he was told. He consulted with an assistant district attorney, who agreed it would be inappropriate to help Sterling evade arrest and told both Peterson and Blackburne so.

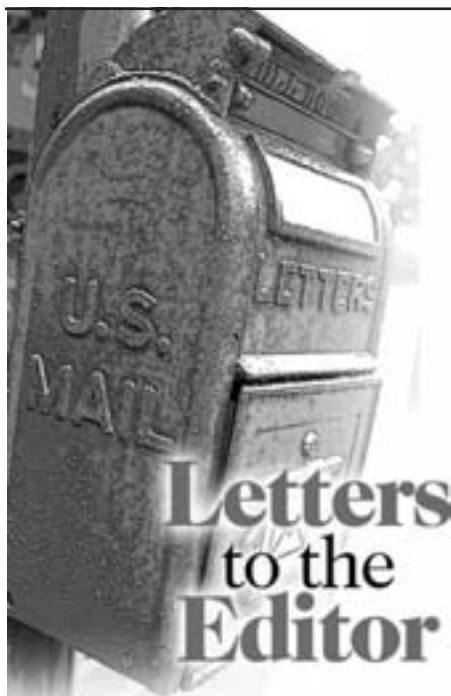
Blackburne's response was to declare that if Peterson did not take Sterling out the back stairwell, she would. Peterson, concerned at that point for the judge's safety, reluctantly showed Sterling out. Sterling was arrested the next day at the drug treatment program. He was charged with assault and robbery—charges that were later dismissed.

After an investigation and a hearing before a referee, Blackburne was found guilty of misconduct. The state Commission on Judicial Conduct voted 8-2 for removal, with two dissenting commission members maintaining that censure was a more appropriate penalty for a first-time offense. Blackburne appealed. For the Court of Appeals, the sole issue was whether her first-time misconduct was so serious as to warrant the harshest available penalty. As was the case with the commission, the majority opinion prevailed, with two dissenters. Judge George

Bundy Smith and Judge Robert S. Smith argued that Blackburne was being treated more harshly than other jurists, some of whom had committed more serious offenses. They expressed concern over removing a judge for a single incident of poor judgment.

Blackburne could and probably did argue that no real harm came from her actions. However, the possibility existed for serious consequences. The charges against Sterling were dropped, either from lack of evidence or because another person might have been found to have committed the crimes. He appears to have returned to his drug treatment program without further incident. However, other people out on bail, probation or parole have been known to commit other crimes. Blackburne took a chance. That there were no further repercussions was in no way attributable to her.

Nassau State Supreme Court Justice F. Dana Winslow, president of the state Association of Justices of the Supreme Court, said, he believes the decision could have "a chilling effect on the conduct of judges throughout the state". We beg to differ. The Court of Appeals decision can only serve to remind everyone in the judicial and law enforcement systems of New York state that no one—not defendants, not prosecutors, not cops, not judges—is above the law.



Learning Beats Testing

To The Editor:

The Department of Education is expanding its so-called Empowerment Zone to include roughly one-fourth of the city's public schools. This means that the principals of these schools, rather than the regional or central bureaucracies, will have new authority over key educational policies. In exchange for this they accept greater accountability for outcomes.

This initiative covers not only professional development and program support, but also the option of either implementing the DOE's core curriculum, which critics contend it has in

effect abandoned long ago in favor of test preparation, or proposing alternatives. The same choice theoretically applies to systems of assessment.

Participating principals have been given new discretion over funding sources, prioritization, and spending. Restrictions on their existing budgets are relaxed as well. They must consult, but don't require the consent of teachers and parents. Union contracts stay in force.

Eric Nadelstern, the former principal of a charter school, is the Chief Executive of the Empowerment Zones schools.

How will these schools, formerly known as "autonomous", be evaluated? Basically they will live or die based on test data and measures that the Department of Education continues to select from non-bid contractors. There is typically no independent oversight from researchers or experts from outside the tightly controlled system.

This lack of transparency is a stubborn problem under [Schools] Chancellor [Joel] Klein. It has been identified as such by thinkers on all sides of the ideological spectrum.

Careers will sink or swim based on doubtful tests and dubious statistics gathering. Certainly tests can be a logical way to judge whether things work. But it is more urgent that students learn than that they be tested, especially since learning is for the sake of children and the view of most educators is that testing, as it has been morbidly imposed under Chancellor Klein, is for the sake of his public relations team.

Test preparation has already usurped instruction as the activity of record in the class-

room.

Tests are a valid tool when they are the right test given the right way for the right reason, not when they fail to measure what is relevant or measure what is not.

Principals who seek some professional liberty and relief from some of the massive micro-management that has enslaved them in recent years, have no choice but to sign the Empowerment School Performance Agreement. This spells out "leadership changes" that result from two consecutive ratings of "undeveloped", a highly inexact category, on their school's annual "progress report".

A principal stands to lose his job if the flow chart doesn't look pretty. Imagine the pressure on them and, realistically, the trickle-down stress on children. Perhaps that is the cost that must be paid to achieve a significant educational purpose. But is it?

Interestingly, the answer may have come more than once from Mr. Nadelstern himself.

Just a few years before he parlayed an earlier passion into a career move made possible by adopting a contradictory conviction, he wrote

Beg Pardon

The library under construction at 21st Street and 38th Avenue as noted in "Dutch Kills Civic Ends Meeting Season With Party" by Thomas Cogan (*Gazette*, June 14, page 20) is a branch of the Queens Borough Public Library system.

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E Mail Address

QGazette@AOL.COM

Business Office and Display Advertising
42-16 34th Avenue, L.I.C. N.Y. 11101
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