

PRESIDENT'S PERSPECTIVE

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In Support of an Independent Judiciary



Throughout its 110-year history, the New Jersey State Bar Association has always stood behind the belief that independence is an essential component of building and preserving an effective and respected judiciary. We take

great pride in the role we have played interviewing and reviewing judicial candidates since we began performing the nonpartisan process 40 years ago, under a longstanding agreement that began with Gov. Richard J. Hughes.

Fueled by the notion that judges should pass judgment without fear of reprisal from the political process, in June the NJSBA Board of Trustees approved a resolution supporting New Jersey Supreme Court Justice Barry T. Albin's re-nomination to the high court, a stance that ultimately helped solidify his place on the bench. This marked only the third time in the past 25 years the state bar has taken a public stand supporting tenure for a member of the bench. Previously, state bar presidents testified on behalf of former Chief Justice Robert Wilentz and former state Appellate Division Chief Judge Sylvia Pressler.

The decision to publicly support Albin was prompted by unfair attacks by Republican politicians and legislators who labeled him an activist, and requested the state Senate Judiciary Committee set aside three days for his hearing. While the posturing and invectives reached a fevered pitch because of Albin's position as a member of the state's high court, the misguided approach has become commonplace for re-nominations of lower court jurists as well. Increasingly, senators grill candidates over single cases overturned on appeal. They make comments about nominees' family members. And, they use the bully pulpit of floor speeches to attack candidates.

The drafters of the 1947 New Jersey Constitution crafted a

document to insure the process of selecting judges would *not* be mired in politics. That is why we don't elect judges in New Jersey, and today our judiciary is a model around the country.

Nothing is more important to our justice system than a careful and thorough evaluation of a person's credentials for a seat on the bench. No one is suggesting candidates should not face scrutiny on their intellectual ability, integrity and demeanor, but the independence of the judiciary must take precedence over partisan politics. Sometimes opinions grounded in the facts, law and precedent are unpopular in the court of public opinion.

While the NJSBA's resolution spoke to Albin's deep commitment to his work on the bench, characterizing his term on the Supreme Court as one of distinction "due to his strong intellectual capabilities, demeanor, unquestioned work ethic, impartial approach during oral argument, grasp of the law and clear writing style," more broadly it stated that members of the bench and candidates for all judicial posts should be insulated from politics and evaluated on their aptitude.

"The New Jersey State Bar Association supports an evaluation of judges and judicial candidates, in particular Justice Albin, by the Governor and Senate that is studious, fair and nonpartisan," the resolution states. It goes on to say the evaluation of a judicial candidate ought to be "based solely on whether the judge or candidate has demonstrated the intellectual ability, integrity and judicial demeanor to serve in judicial office, without regard to philosophical differences and with due respect for judicial independence."

As this issue of *New Jersey Lawyer Magazine* goes to press, we are poised to witness the confirmation hearings for U.S. Supreme Court nominee Sonia Sotomayor. Hopefully our federal lawmakers will mirror the ultimate actions taken in New Jersey, and her evaluations will be based on judicial commitment and accomplishment rather than politics and opinion. ☪