

## OPINION

# Don't force our judges to retire at 70

The age rule was made in 1869. We all lose by pushing sage jurists out the door

BY MATTHEW F. DIDORA

New Yorkers have an opportunity next month to end the early departure of dozens of well-qualified members of the state's judiciary.

On Election Day, New Yorkers should vote yes on Proposition Six, an amendment to the state constitution that would end an arcane practice by extending the mandatory retirement age from 70 to 80 for judges on the Court of Appeals. The measure also would allow many trial court judges to continue on the bench for up to five two-year terms after turning 70, provided they are physically able and mentally competent.

If passed, the amendment would greatly improve the speed and efficiency of the judiciary by keeping experienced jurists on the bench. Our state courts are stretched too thin, understaffed and overburdened by heavy case-loads. Proposition Six would provide the much-needed resources to ease the current case backlog.

A recent poll by Siena College Research Institute indicated that 71 percent of those surveyed oppose the amendment. Proponents of the mandatory retirement at age 70 often cite the diminished physical and mental capabilities that come with age. If diminished capacity at age 70 were a legitimate concern, one would expect elected officials to be subject to similar mandatory retirement. But no other state employee is subject to such a requirement.

The drafters of the state constitution assumed that only judges were no longer fit for service after 70. When the retirement provision was established in 1869, the average life expectancy was in the 40s. But people today live productive lives well into their 80s.

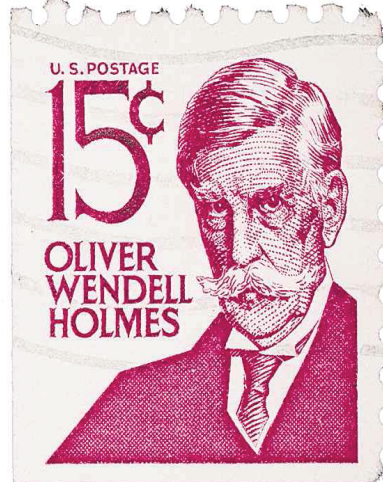
The federal court system, which has no mandatory retirement age, serves as a prime rebuttal to our state constitution's presumption of physical and mental incompetence.

Many U.S. Supreme Court justices have served with distinction well beyond age 70, includ-

ing Oliver Wendell Holmes Jr., Louis Brandeis and Learned Hand. Four of the nine current justices — Antonin Scalia, Anthony M. Kennedy, Ruth Bader Ginsburg and Stephen J. Breyer — are at least 75 years old. Their decisions are required reading in law schools throughout the country.

In contrast, over the last several years, New York has seen the forced retirement of well-regarded judges at the peaks of their careers. Then-Chief Judge Judith Kaye, the first woman to serve on the state Court of Appeals and nationally known for groundbreaking decisions and for reforms to the court system, was forced to retire in 2008. Three years later, Judge Carmen Beauchamp Ciparick also had to step down from the state's highest court. Since then, both have led successful careers in private practice.

Judicial service comes later in life for most lawyers who



Oliver Wendell Holmes, depicted on a 1968 stamp, was a Supreme Court justice until age 90.

tion Six have expressed concern that it would scuttle advancements in diversity on the bench because it would reduce the number of jurists elected each year. The concern is unfounded because, under the proposition, judges who remain on the bench beyond age 70 would not count against the maximum number of judges allowed per district.

Two prominent legal groups, the New York County Lawyers Association and the Academy of Trial Lawyers, are recommending passage of the amendment. New Yorkers should follow that recommendation and vote in favor of Proposition Six on Election Day.



Matthew F. Didora is a partner in the Ruskin Moscov Faltishek law firm in Uniondale.

## No need to mandate backup camera as

A simple suggestion to mitigate the likelihood of hitting someone when backing out of your driveway is to back into your driveway ["Rearview safety," News, Oct. 13].

When backing in from the street, you have a more comprehensive view of the surroundings, and when you drive out headfirst, you also have a better command of the situation.

John Stone  
Wantagh



Some safety advocates would like to require that rear-view cameras and video be installed on all new vehicles.

## Leaf blowers exacerbate asthma

Why are landscapers allowed to blow dirt all over our streets and property?

An increasing number of children suffer from asthma, chronic bronchitis, emphysema and related breathing problems. Yet, people with leaf blowers send dust and dirt particles, rotted foliage

and other pollutants into the air.

As a society, we have tried to eliminate secondhand smoke. Why can't we have the same campaign against fouling the air with leaf blower? All gardens should be required to vacuum the debris from the laws and streets, then collect it in nonporous bags and cart it away.

Peggy Mulho  
Oceanside

## Plume sand public water supplies

The recent News 12-Newsday series about our water supply and waterways provided a much-needed wake-up call to Long Islanders about these vital resources ["Lawn Island," News, Sept. 25]. The public should understand our water comes from the ground be-

neath us through a vast aquifer.

The Massapequa Water District is one of the few remaining Long Island public water suppliers that has not been affected by aquifer contamination from an underground plume. However, our source water is being threatened by the well-publicized Grumman-Navy plume.

Although treatment systems protect public health, the public should not readily accept filtration treatment as a protective measure. The responsible parties that contaminated the aquifer should be held accountable to clean up these plumes. Our district continues to research options to provide pure water in lieu of treatment.

The public also should understand that water suppliers do not have control over aquifer protection or plume remediation. This responsibility lies with the U.S. Environmental Protection Agency and the New York State Department of

Environmental Conservation.

Thomas Hand  
Massapequa

Editor's note: The writer is chairman of the Massapequa Water District board of commissioners.

## Tea party wants fiscal responsibility

With all the selective reporting, it is no wonder many people blame the tea party Republicans for the shutdown ["It's up to the Senate," News, Oct. 16].

Conservatives want spending slowed to shrink the deficit. Waste is out of control under this administration, and there has been an accumulation of debt exceeding \$6 trillion in five short years. Where is the outrage?

The status quo must change. Handouts will never fix these serious problems; only sacrifice and hard work will.

William W. Bruner  
West Babylon

## Private sector unions support Suozzi

The headline "Unions stay out of race" [News, Oct. 22] was very misleading.

On Long Island, there are more than 120 local unions, with more than 300,000 of our Long Island neighbors carrying union cards. Of those, 36,000 are in the building trades.

Thomas Suozzi, the Democratic candidate for Nassau County executive, has earned the endorsement of the Long Island Federation of Labor, the AFL-CIO and the Nassau Suffolk Building Trades Council — that is, every union on Long Island except three.

The Nassau County Civil Service Employees Association Local 830, which is part of the public workforce, has not endorsed either candidate, and the organized labor community understands why. CSEA is bargaining for its survival, so why jeopardize progress in negotiations during an election?

That doesn't mean that Nassau County's public employees, even as they are bargaining with County Executive Edward Mangano, won't go out and support Suozzi.

George Bloom  
Farmingdale

Editor's note: The writer is the president of Communications Workers of America Local 1104 which represents telecommunications technicians.

## Federal and NY situations differ

I read Peter Goldmark's column "Lessons from New York's near-default" [Opinion, Oct. 20]. I remember when New York was on the brink of financial collapse, and I appreciate his role in fixing it.

But it seemed strange that Goldmark didn't note the difference between the New York situation and the federal situation. New York had to balance the budget, and although it borrowed money, the funds had to be repaid. The federal government can continue printing money and push the obligation down the road, until it reaches the point of no return.

Fitch Ratings warned that it might downgrade the federal government's credit rating, and if we did not do something, it could drop. The battles between Congress and the president are more important than your opinion, which seems to denigrate the reasons behind the bickering.

The truth is that we are spending and creating debt faster than any time in our history. The Senate and the president have given lip service to cutting the deficit, but either they await a miraculous growth of the economy to bail them out, or they hope a future administration will do the unpopular work of cutting entitlements, both personal and corporate, so our children and grandchildren don't suffer from our profligate spending.

Alan Kristel  
Cold Spring Harbor

## Dismayed over Glen Cove coverage

Shame on Newsday for continuing to bash the Glen Cove school district ["New trustee in Glen Cove district," News, Oct. 22].

This story, announcing the results of the school board election, again rehases the test-fixing allegations from spring 2012. This news has been mentioned many times, in depth, whenever possible.

Glen Cove is trying to recover from this reeling situation. Give us a break!

Ruth Dichiaro  
Glen Cove

Editor's note: The writer is a retired Glen Cove school district employee.

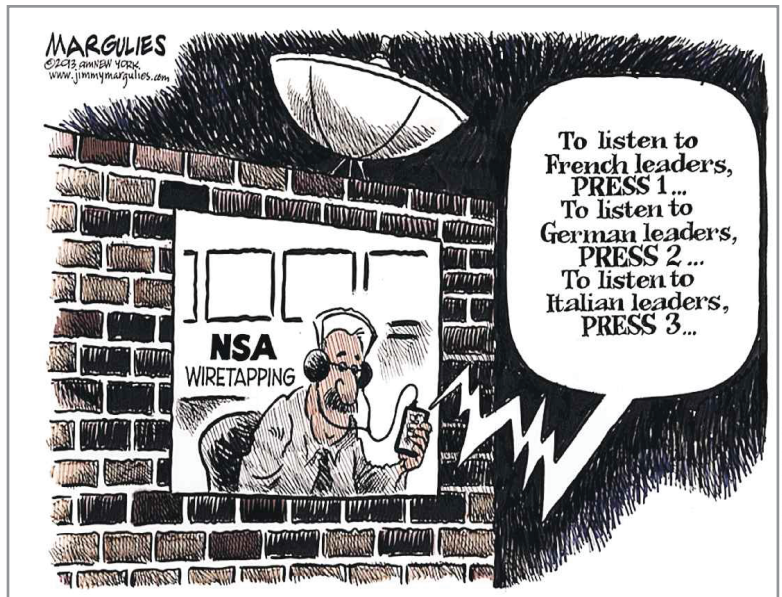
## Alternative to raising judges' age

Matthew Didora's opinion piece on Oct. 18, "Don't force our judges to retire at 70," was very interesting but in some respects misleading. For example, he includes Learned Hand as a Supreme Court justice who worked past 70. However, as great a judge as he was on the Second Circuit Court of Appeals, he never served on the U.S. Supreme Court, and in his later years, he sat as a senior judge, which enabled him to limit the number of cases he heard.

The situation is not that bad for New York Supreme Court judges, who today can get extensions to serve up until they are 76.

The comparison between state judges and lifetime federal judges is somewhat unfair. Federal judges can take senior status and choose the number and types of cases they wish to hear, while receiving full pay even if they choose to hear no cases.

There is an alternative to extending the age limit to 80. That would be to increase the number of judicial hearing of-



Walt Handelsman is off. See more editorial cartoons: [newsday.com/opinion](http://newsday.com/opinion)

## Large fuss about medium

Regarding the flak over a psychic appearing at the Hauppauge Public Library, this lecture is apparently being billed as entertainment and educational ["Battle over a psychic," News, Oct. 24]. As far as entertainment goes, many people take this kind of thing very seriously; look at the full-house attendance at these events.

As far as education goes, all Jews and Christians should be aware that divination and consulting a medium or spiritist are expressly forbidden by the Bible.

Ron Enners  
West Babylon

I was a skeptic until I

used a popular psychic to communicate with my mother, and later through other psychics, to communicate with my dad and several times with my pet. I have even looked into exploring more about the psychic media from a scientific point of view.

History has taught us that we have been deaf and blind to several facts in the name of religion. Science is a creation of God or the superpower or whatever people want to call the creator. These psychic events should be carried out as scheduled, to experience the (at least for now) unexplainable. This is also one opportunity for healing the very

many who cannot afford a psychic.

Dr. Sharada Jayagopal  
East Williston

How sad that the Hauppauge Public Library, an institution that purports to provide information and education with taxpayer money, thinks it's appropriate to allocate \$450 to present a "psychic medium."

The library board president's statement — "We do not validate or endorse what is said by this person. ... But many people do enjoy the program, so we have the program" — rings hollow.

H. Mitchell Schuman  
Brightwaters

fers, who are former judges wishing to continue service. Age is, so far as I know, no restriction on such service.

Ira Zuckerman  
Great Neck

Editor's note: The writer is a lawyer.

## Neglect of fracking dooms NY economy

The legacy of Gov. Andrew M. Cuomo's tenure will be that of naive leadership and feckless guidance. Pennsylvania is experiencing a boom in energy production, productivity, employment and prosperi-

ty due to the unlimited energy being tapped from the Marcellus Shale deposits.

New York, on the other hand, has placed its future in the hands of gamblers ["Casino expansion a key referendum before voters," News, Oct. 20] and start-up firms with unproven abilities to turn a profit ["10-year no-taxes offer," Business, Oct. 23].

Cuomo will be remembered as the governor who could have done something remarkable for New York's economy and its taxpayers, but chose instead to sit on his hands in fear of the environmental lobby.

He has chosen handouts and special deals for the chosen few instead of supporting vital national interests by tapping a cheaper, cleaner and relatively unlimited energy source for all New Yorkers.

His behavior is almost un-American and should qualify him for immediate recall if the state had such a process.

David Barth  
Huntington

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