

Separate Branches, Balanced Powers
Law Day
Court of Appeals
May 1, 2006
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On behalf of my Colleagues, Judges Smith, Ciparick, Rosenblatt, Graffeo, Read and Smith: Welcome to our Law Day celebration. Special welcome to our former Colleagues, Chief Judge Wachtler, and Judges Wesley, Levine and Bellacosa, and to Chief Administrative Judge Jonathan Lippman, and thanks to all of you for bringing with you this glorious Spring weather so we can enjoy the great outdoors. Profound thanks also to the Storm King Brass Quintet of the United States Military Academy for getting these festivities off to such a rousing start, and to Senior Court Attendant Michelle Perry, who will magnificently conclude today's program.

The incomparable privilege of being Chief Judge carries with it the task each year of presiding over Law Day ceremonies. It's one of the many "fun" parts of being Chief Judge.

The occasion, of course, defines itself. Law Day is a celebration of the Rule of Law that governs this great nation--an annual event initiated nearly half a century ago by the American Bar Association as America's counterpoint to the Soviet Union's May Day display of military might, which was the foundation of

its government. And I do love marking Law Day in a traditional American way--with our flag, with red-white-and-blue banners and balloons, stirring patriotic music and all of you.

In return for originating Law Day and stimulating celebrations across the nation these past 48 years, the American Bar Association gets to designate the theme that unites Law Day ceremonies nationwide. This year's theme is: "*Liberty Under Law: Separate Branches, Balanced Powers.*" Seems particularly topical these days, doesn't it? As always, the theme provides a good deal of food for thought and material for what I know will be the inspiring messages of Attorney General Spitzer and State Bar President Buzard, who follow me.

In conversation with our Deputy Clerk Marjorie McCoy about my own Law Day remarks, she had the terrific idea that I just pick a few things I feel passionate about and talk about them. After all, one way or another, everything can be made to fit under the umbrella of "Liberty Under Law." So here's my short list of passions.

For starters, like all of you, I am passionate about the American justice system, about our Court of Appeals and the great New York State Judiciary, about our separateness, our independence from and parity with the other branches. Indeed, judicial independence has been a cornerstone of American

government from this nation's beginnings. In Alexander Hamilton's words, "there is no liberty, if the power of judging be not separated from the legislative and executive powers. The complete independence of the courts is . . . essential."

As judges, we are proud of the role that the Judicial Branch plays and has played throughout the centuries in preserving, protecting, safeguarding our nation's fundamental ideals--of the many struggles fought and won in our nation's courts--because an independent judiciary has the competence and the courage to hew to the requirements of the law, even in the face of controversy, criticism and outright condemnation.

Within the judiciary we are passionate additionally about assuring that the prized American justice system is more than a paper promise, that it remains truly accessible to the public. We are passionate about legal services for those who cannot afford counsel; about making the court process better understood, more user-friendly; about improving jury service and widening jury pools; about educating the public to greater appreciation of the Third Branch of government. How very sad it is that so many Americans have little understanding of the vital role, or work, of the judiciary.

I am passionate about the people who work in our courts--the people who every day serve the public so

outstandingly--and passionate about the people coming into our courts, to whom we owe clean, dignified facilities and effective, respectful attention.

And that, of course includes the Bar, which plays such an essential role in the American justice system--lawyers as counselors and advocates helping to assure that clients resolve disputes peacefully and act lawfully in pursuing their personal and business objectives; lawyers as leaders in securing civil rights and equal justice, in public service, in public interest work and in pro bono representation.

We are passionate about the judiciary's responsibility to remain attuned to the needs and demands of contemporary society that are reflected on today's dockets, such as domestic violence, drug addiction, mental illness, family law issues; and passionate about the children who are before our courts, about doing our part to ensure that they are in safe, loving, permanent families that will allow them to have, and to pursue, their dreams.

Given today's theme, "Separate Branches, Balanced Powers," on this Law Day in particular we celebrate not only the vital separation of the Judicial Branch in dealing independently with its massive caseloads, but we also celebrate how effective we can be in other respects when we work together with our excellent partners in government. Separate co-equal branches operating

independently, checking and balancing one another, but balanced in another sense as well. We must be respectful of one another's independence to be sure, yet each branch is strengthened in its separate role when the three can work together, on systemic improvements, for the good of the public.

Only months ago we had a sterling example of this when we joined in Child Welfare Roundtables with representatives from the executive and legislative branches, the bar and the private sector, to achieve long-needed comprehensive child permanency legislation. And for the past several years we have labored together to remove systemic obstacles to adoptions for children freed for adoption, and to secure permanency for all children in foster care. I am particularly passionate about the Permanent Judicial Commission on Justice for Children, another marvelous interbranch initiative--this one founded by my predecessor, Chief Judge Wachtler. Today, the Commission is focused like a laser beam on the health and education needs of children in foster care--and I am confident we will continue to make a great difference.

Too often in government we share failures; these joint efforts we call "Sharing Success." We look forward to sharing success in other important areas of common interest as well, most

especially just now in improving our systems for indigent defense and probation.

We are, in short, passionate about identifying and solving the critical issues within the separate, independent purview of the Judiciary; we are passionate about cooperating in systemic reform with our partners in government; and we are passionate about having the resources necessary to perform all of our essential functions effectively.

Passions of the moment inflamed by fear, ignorance and self-aggrandizement do not serve the ends of justice. No, justice thrives on passions born of shared values and common dreams entrusted to us by our founders, to be nurtured by each generation and passed on to future generations.

In the end, for me what is most energizing of all, what I am most passionate about, is the opportunity I have, and have had these precious, treasured years as Chief Judge, to join with all of you, and to enlarge the circle of dreamers and doers in the service of justice, as we work together to secure the great American ideal of "Liberty Under Law."