

Litchfield Superior Court

LAW DAY

May 1, 2013

Law Day Address by Judge John F. Blawie

Thank you, Attorney Dwyer; thank you, Judge Ginocchio; my fellow distinguished judges; members of the Litchfield County Bar; ladies and gentlemen of the public; the Liberty Bell Award recipient, Mark Shea; I've been only here, as you all know, for about a month, but I've been very gratified by the warm welcome I've received from everyone and today is no exception. And thank you, also, to Litchfield County Bar for hosting today's event.

We're here today not only to honor the rule of law, but to honor those folks who have devoted their lives to legal service in one way or another.

I first met Judge Marano over nine years ago in judge school. We were sworn in together and we were judicial classmates. We've had the privilege of sitting together in Bridgeport and our time overlapped in Danbury a little bit. And I just wanted to echo, not only are we delighted to have Judge Marano back, but all of the comments he made about the staff who we recognized here today with certificates and other folks that were not recognized, I want to thank you all for making my job so much easier and for making me feel so welcomed.

And as I look around at the talent I see in front of me, both on the bench and the bar and the staff, I'm really not sure there's much I can tell you about the law that you don't already know, at about five o'clock on a Wednesday.

But this year's national Law Day theme is *Realizing the Dream: Equality for All*. And, of course, it's because of the 150th anniversary of the *Emancipation Proclamation* where Abraham Lincoln finally -- as Mark put it so eloquently, "lanced the boil of slavery." And during that same pivotal war year, Lincoln, in his Gettysburg Address, rededicated our nation to that great proposition in the Declaration of Independence, that all men are created equal.

And then more recently in our time, and I say "our time" because I remember as a little boy, Dr. Martin Luther King and his stirring, "I Have a Dream" speech, on the steps of the Lincoln Memorial where he called for this nation to live up to the true meaning of its creed. So we have this mix of the revolutionary era of 1776, President Lincoln's stirring words and rhetoric during the dark days of the civil war, and Dr. King's words in our era. But that's still a relevant principle or it's our guiding principle as a country today, because while -- as other speakers have noted, there is still work to be done in reaching the goal of full equality for women and for minorities, we all have a right to claim equality as American citizens. And here on Law Day we

gather to celebrate that right.

In a legal context, equality means like cases should be treated alike. But that word, alone, doesn't really tell us that much; it doesn't give you that substantive criteria for deciding how you do judge cases. I don't think here in the United States the world is divided into people who favor equality versus people who oppose equality. I think the disagreements arise over what substance we pour into that receptive vessel. And on a daily basis, it's up to us, as judges and lawyers and court staff, and here in Litchfield County I think you succeeded on an astonishing level, to make real the promise of equal justice. That means fairly administered, based on discernible rules with respect for the participants, for their dignity and for their basic human rights. It doesn't necessarily mean you're going to have an equal outcome, but it does mean you're going to have an equal opportunity to be heard.

Several years ago the Judicial Branch established a Public Access task force, and I was privileged to sit on one of the committees of that task force. And the rationale for that force, of course, was that we have to have the trust and confidence of the public in order to do our jobs effectively. And it's not necessarily that everything that happens in this courtroom is of great interest to anyone else other than the participants. But every citizen should be able to walk into any courtroom in this country and satisfy themselves as to the manner in which justice is being administered and performed.

So we celebrate, in this historic courthouse, which is only a short stroll from America's first formal law school, where we're going to have a reception in a few minutes.

And speaking of law school, let's also remember on this Law Day, as we acknowledge those of you who have contributed a pro bono service on more than one occasion, to understand that there is still a great demand for pro bono work, and the supply of it far is short of that demand. Because there's a real irony of that, if you think about it, we all know there are too many people studying for their law degree, getting their J.D.'s, the market is saturated with legal talent. And those I really feel for are young attorneys. It's not the same as when I got out over 30 years ago, because they're facing not only a bleak job market, but often very high monthly student loan repayments. So the irony is we have an unmet need for pro bono activity at the same time people say, we have too many lawyers. But there's never enough competent pro bono legal representation for the most needy here in Superior Court.

Right now, according to recent statistics I read, only about 1 in 10 folks who use the court system have counsel. Many people think that when they go to court, they have the right to an attorney. We all know that that's not true except in criminal cases and in certain juvenile matters. But, the good news is, more attorneys in the State of Connecticut in the past year, as you heard from that long list that was read, are engaging in pro bono activities. And I want to thank all of you who do so, for recognizing that success and a sense of satisfaction in helping your fellow man can't solely be measured in billable hours.

So to keep the goal of equality from becoming a hollow phrase, let's remember there is still more to be done in this area.

And I want to talk a little bit about the Judicial Branch, because we're here about equality. The Judicial Branch, both under the Connecticut and Federal Constitution, is considered an equal branch of government. People without a legal background generally know a little bit about the Supreme Court, but they don't seem to know much about the State and Federal Courts where over 95 percent of our country's legal issues are resolved in rooms just like this one.

But courts cost money to run. And the recent budget cuts in judicial funding coincide with a rise in the number of self-represented litigants who -- and as the ABA recently put it, the underfunding of our judicial system threatens the fundamental nature of our tripartite system of government. And the late great Judge Learned Hand also had a more spiffy way of saying it, he said, "if we are to keep our democracy there must be one commandment, that thou shall not ration justice."

One way or another, Courts have to deal with society's problems. And we are pretty well equipped to deal with most of the properly pleaded issues before us. But if you think about it, we've really sort of become society's emergency room, haven't we? Every problem that manifests itself in society sooner or later comes into a court of law. And that's been true of every major domestic story I can think of since 9/11, in this century. And the delivery of justice is necessarily a people intensive work, and the need for justice doesn't diminish with a shrinking economy.

So I mentioned earlier that it's not really important that justice actually be done, but it has to be seen to be done. The appearance is just as important as the reality.

Even the robes we wear as judges carry an air of tradition and dignity. And they remind us that while we possess great power, we really should wear them with deep humility. And in adorning these robes, we make a visual promise that we are moving our personal idiosyncrasies outside of the courtroom. We shed our distractions by wearing the simple black robe in favor of objectivity, fairness, and a common high-minded purpose.

We may all be imperfect, we are human after all, and the work of the world doesn't wait to be performed by perfect people. But accepting that we're fallible doesn't keep us from thinking that we're right, it keeps us from thinking that we couldn't possibly be wrong. And that's a good thing. A judicial mindset doesn't necessarily always have the right answer, but it does try to ask the right questions. And the ability to listen and to revise your beliefs in light of new information are all part of what make a good judge, and it's what we're striving for.

I've learned to be patient as a judge, to be less quick to reach firm conclusions until I've heard all of the evidence in the entire case. I came up with a counterintuitive maxim when hearing a case: Don't just do something, sit there; you've just got to wait, listen, listen it out.

The late Max Reicher who sat as a judge in Connecticut here until he was over the age of 100, some of you may have had the pleasure of appearing in front of him, once said that the biggest thing you have to learn as a judge is to have patience and also to be a good listener, that's the only way you'll learn something.

The black robes we wear symbolize to the common man who walks into a courtroom that there's a person, man or woman, who will listen, and he can have a fair shake. They serve as a visual reminder of the high-minded purpose of the law, that under the law, everyone is equal; gender, religion, race, economic class, sexual orientation, it doesn't matter.

The robes we inherited from our British legal traditions. Unfortunately for people like myself, we jettisoned the wigs that came along with that robe. This is an interesting point, because it bears right on the issue of equality. I didn't know this, they were enacted by the British 300 years ago to try to eliminate distinctions between individual judges, because it afforded the judges and the lawyers wore them in those days - and they still do in England - a bit of anonymity, in other words, you can't really tell under those goat hair wigs or horse hair wigs or whatever those scratchy things are made out of, who it is. In other words, it's one

more reminder that you are now not so much yourself, but you are an instrument of justice. So I find that to be interesting. - I didn't know that until I was researching my remarks for this speech. The only other thing I'll mention too, we're all familiar with the statue of Lady Justice, you know, she has a sword in one hand and scales in the other. That's equality right there.

That scale has to start out dead level before the evidence begins. She's blindfolded to keep her from being distracted by outside influences. All right. But what's in the other hand besides the scales, it's what? It's a sword. Because if you don't have a sword, the Court's impotent, it can't enforce its judgments. And if you don't have those scales and only the sword, you get the kind of arbitrary decisions a dictator might make. So it's a very effective symbol of our nation's justice system, Lady Justice. And most judges, including myself, have one of her statues in our chambers to remind us of that.

Alexis de Tocqueville, in his classic, *Democracy in America*, said that there's hardly a political question in the United States which it does not sooner or later turn into a judicial one. And that observation is still true today. America's favorite pastime has increasingly taken the form of litigation.

But of all the institutions of government, the Judicial Branch, I would tell you and submit to you, is the one that's most dedicated to the individual. In courtrooms like this one, every man and woman is an equal of their neighbors and of the most powerful corporations and, even in many cases, equal to the government itself. People want to point to large jury verdicts against certain corporations as evidence of a problem with the court system, but I say think about this: do we not believe that with freedom comes responsibility and accountability? If someone violates your rights, shouldn't they be held accountable? And isn't it better for businesses to be held accountable on an individual, fact-specific basis, rather than to be smothered with a myriad of government regulations that stifle creativity and profitability, even when no one's existing legal rights are affected? So, I think we have a great system. Is it perfect? No. But it's a great system, and it's the best one that this world has ever come up with.

American citizens are privileged. They have two levels of control. One is the ballot box and the other is the jury box. It's the only place left in America these days where the elite sometimes have to sweat it out and rub shoulders with the working guy, and it's mandatory. All right. I'm not an idealist to believe firmly in jury duty, because a court is only as good as its

jury and a jury is only as good as the folks that make it up, you know. If you didn't live in this district, served by this courthouse, none of you would be here today.

And if you take nothing else away from my remarks here today, you have to remember that the court system is you guys. We're not a separate government agency doing business for ourselves. We don't exist except to serve the people. And that's what makes a career in the law so rewarding both, speaking for myself and anyone who's a practicing attorney or a member of the bench or court staff. They're not self-executing. So they need your participation and active involvement if we're going to fully realize Dr. King's dream of equality for all.

And I want to tell you in parting, I want to thank you again for your warm welcome and how much support I've received. There's so much all of you could teach the more populous areas of the state, and I'm going to carry that with me and remember this time here always.

Thank you so much.