The Inside Scoop: Legislative Counsel Marc Bloustein

John Caher: Welcome to Amici, news and insight from the New York courts. I'm John Caher.

Today we are going to explore the history of the Office of Court Administration with someone who actually *is* the history of the Office of Court Administration. Marc Bloustein, our legislative counsel, has served under every single Chief Administrative Judge in the history of OCA during his 50 years in the courts. In a couple of weeks, for the first time since Richard Nixon was handing over the presidency to Gerald Ford, Marc Bloustein will not be working directly for the people of New York State. He's retiring on September 26th.

Marc, it's a pleasure and honor to have you on the program, and a pleasure and an honor to call you my friend.

By my count, you've served under a dozen Chief Administrative Judges or Chief Administrators, which tells me a couple of things. One, you've been here a *really* long time and, two, Chief Administrators don't last very long. Maybe you wear them out! Other than the two anomalies—Judges Jonathan Lippman and Lawrence Marks, who served 11 and eight years respectively—the average tenure of Chief Administrators in New York is not quite three years. Why is there such a revolving door in that office, why do you think?

Marc Bloustein: Well, first of all, John, thanks for inviting me to sit down with you. I appreciate that.

To your question, why the revolving door? I think there are several reasons, two of which immediately come to mind. First of all, it's a really demanding office. The incumbent is responsible for 1,300 state-paid judges and 15,000 or so non-judicial employees that work in hundreds of courthouses around the state. The Chief Administrator prescribes their assignments, negotiates with their unions if they're non-judges, oversees the preparation and the implementation of the court system's $3 billion annual budget, fixes procedures for the conduct of litigation and, perhaps most important of all, works with the Legislature and Governor to advise them concerning court needs and to respond to their outreach regarding the court issues that have been raised by their constituents. There's no downtime to the job and none of the issues is easy. Under the circumstances, it's real, real easy for me to see how there must be a burnout factor.

Secondly, there's a very practical reason why Chief Administrators may not last that long: They're the appointees of the Chief Judge and the Chief Judge is subject to the mandatory retirement age, 70. So it should be no surprise, I think it shouldn't be any surprise, that when a Chief Judge retires and his or her successor is appointed, it's often the case that the successor wants to install his or her own person in the office of Chief Administrator. The two offices work very closely together and it certainly makes sense that the Chief Judge would want to make sure that he or she has confidence in the Chief Administrator and that the two of them are simpatico. If we look back at the past chief administrators, we can see that for most of them their departure from office was more or less contemporaneous with, or following shortly after, the retirement of the Chief Judge with whom they worked or the leaving of office of the Chief Judge.

So, Dick Bartlett left after Chief Judge Breitel, retired. That was in 1978, end of '78. Bob Sise left office after Chief Judge Cooke retired, and that was the end of 1984. Matt Crosson left office just after Chief Judge Wachtler stepped down. I forget whether it was late 1992 or right at the beginning of 1993. Gail Prudenti left office shortly before Chief Judge Lippman retired, and that was the end of 2015. And Larry Marks left office not long after Chief Judge DiFiore stepped down, and that was in the late summer of 2022, something like that.

You mentioned the anomalies, Judges Lippman and Marks. The fact is that the Chief Judge during Jonathan Lippman's long tenure as Chief Administrator was Judith Kaye. And she served as Chief Judge for more than 15 years. So there was no external reason for Lippman to leave office early. Same thing with Judge Marks. He started service right at the tail end of Judge Lippman's service as Chief Judge and then served for more than seven years all under Chief Judge DiFiore. So there really was no reason for him to leave sooner.

Anyway, those are the reasons I think that best explain why the turnover is as it is in the Office of Chief Administrative Judge.

John Caher: I think that explains it very well. Now in your time, you've obviously witnessed a great variation of management styles, and I don't mean that in a positive or negative way. Everyone has their own way of doing things. What stands out to you?

Marc Bloustein: There certainly have been wide variations in management styles among the seven Chief Judges that I've worked for and the 12 Chief Administrative Judges, or 12 Chief Administrators. Without naming names, some have been micro managers, some have been more inclined to delegate responsibility. I really don't have a lot to say here, other that from what I've seen, there've been pros and cons to each approach.

I want to single out two of the judges who styles that I felt, continue to feel, were ideal for the times in which they served: Dick Bartlett, who was the first Chief Administrator and who was my first boss here, and Jonathan Lippman, who was long the Chief Administrator and then later the Chief Judge. Very different men in most respects, but they were similar in that both were really sharp politically and, to the extent that I was in any position to judge this, both were very comfortable in hearing contrary voices among their subordinates and quite willing to have them challenge their thinking. I always admired this in them and I thought that we were much the better organization for it.

John Caher: That's interesting. Now, Chief Judge Breitel was the last person elected Chief Judge, and shortly after you arrived I believe the citizens of the State amended their Constitution to provide for an appointive Court of Appeals. Did that change things administratively?

Marc Bloustein: Well, one obvious change to an appointed bench and to an appointed Chief Judge, I think, was to give the Governor the power to have some influence on the way in which the courts would be managed. And that was especially so because the change in selection process from appointive to elective was contemporaneous with the constitutional reform of court administration that transferred management authority to the Chief Judge. I'm certainly not in any position to speculate whether the courts today would be operated differently if Chief Judge Cooke, Wachtler, Kaye, Lippman, DiFiore and Wilson all been elected rather than appointed, or in fact whether we might've had an entirely different cast of Chief Judges.

John Caher: Oh, I'm quite sure we would've.

Marc Bloustein: I'm pretty sure, too. But it only makes sense to imagine that, notwithstanding the separation of powers, a Governor and his or her Chief Judge would enjoy a certain relationship, a certain simpatico, at least as the latter began his or her term of office.

John Caher: I see. Now you mentioned in passing that 1977—78 reforms, which I think were seismic. Can you give me a brief rundown of what those were and what was the impetus? How did that even happen?

Marc Bloustein: It's a complicated story, but until the early 1950s, the trial courts in the state pretty much ran themselves. They were reliant upon local governments for resources. They paid the salaries for whatever nonjudicial staff they had and whatnot. But the judges themselves pretty much ran their own courts, within the constraints of statute. They set their own procedures for the lawyers in front of them. They were the ones who prescribed rules of court. There was no larger authority to do that, and as I said, that was the system as it existed since colonial times all the way to the early 1950s. But then it began to become apparent that this approach, this system, was not going to be sustainable going forward.

So, World War II ends, America goes back to business as usual and one of the things that marks that period of time in the late '40s and early 1950s was a proliferation of automobiles, and with the proliferation of automobiles, there was a proliferation of automobile accidents, and from automobile accidents there was tort litigation. And by the early 1950s, if you were a tort plaintiff, you had to expect to wait years—six, seven years in some places— to have your claims litigated in court, to get your trial, to get your day in court.

Public pressure really grew in response to this, and so in '52— '53, Governor Tom Dewey called for the establishment of a special commission to study the courts and to make recommendations for ways in which they could be improved, their structure altered so that the State would have a better chance to deal with this burgeoning caseload.

This commission was called the Tweed Commission, named after its chair, not Boss Tweed, but Harrison Tweed, who was a lion of the New York City bar. This Commission sat four or five years, made reports every year. Legal luminaries of the time made up the members of the Commission and ultimately made a raft of recommendations, some to restructure the courts, some to change the way they were managed, some in the procedures that courts followed, and in 1958 they issued the last report. Averell Harriman, who was then Governor, also called upon the Judicial Conference, which was the Chief Judge, the four Presiding Justices of the Appellate Divisions, and representative of various levels of trial court to make recommendations for some reform of the system.

All of this stuff gestated for three or four years and ultimately the Legislature gave first and second passage to constitutional amendments, which among other things did two things that are noteworthy for our conversation. One, it included a partial merger of the New York City trial courts. Prior to that time, there had been more trial courts in New York City than there are today. They had county courts in various counties and there were certain city courts that no longer exist. And then secondly, and most importantly, they called for regional court administration. That is to say, each Appellate Division and its Presiding Justice henceforth would be responsible for overseeing the day-to-day operation of the trial courts. They also established a central policymaking body. It was called the Administrative Board of the Judicial Conference and included the Chief Judge and the four Presiding Justices. They were charged with setting policies to guide court system operations. So, the Legislature approved the amendments. They went to the voters in November of '61 where the voters approved them. In September of 1962, this whole new system went into effect.

Unfortunately, it wasn't all that effective and as we went through the '60s, it really didn't make much of a dent in the court caseload. Plus, there were new elements to that burgeoning caseload. Crime was rising, prosecutions were increasing, drug traffic, drug crimes increasing mightily. This led to the early 1970s adoption of the Rockefeller Drug Laws, so the courts were still awash in cases and there was an awful lot of public pressure for the Legislature and the Governor to do something about it.

And so in 1970, then-Governor Rockefeller called for the establishment of yet another commission. This one was called the "Dominick Commission," named after Clinton Dominick as chair, a State Senator from, I think, Orange County. The Dominick Commission, also a real blue ribbon panel, made a variety of recommendations over its three-year life for various court reforms including centralization of court operations and a restructuring of the trial courts to cut down on the number of courts that we had. They called for centralization, of course, financing from the state and a variety of other things.

Again, there was a gestation period and then in 1975 there was a fiscal crisis, statewide and nationwide, and this fiscal crisis combined with the existing crisis in the caseload. Again, if you were a tort plaintiff, you had to wait years and years.

I remember when I first started in 1974, the conventional understanding was that, to get a trial date for a tort case in Schenectady County, where I

come from, it was a seven-year wait, which was completely unsustainable. With the fiscal crisis, New York City was going broke, upstate counties were really fiscally strapped. The Legislature and Governor had no choice. First, they enacted what we call the "Unified Court Budget Act," which was a takeover of court funding by the State from local governments. And then, recognizing they had to do something, or at least appear to be doing something, to better manage the caseload, and also because they now had a centralized court budget in the State, they needed some central agency that could prepare that budget and administer that budget.

And so, the Legislature and Governor gave first and second passage to a constitutional amendment to change this regional method of court management to a centralized system under this new office, which is to be called the Chief Administrative Judge, and who would be working for the Chief Judge, who would become the sole policymaker for the court system. The latter would replace what had been the Administrative Board of the Judicial Conference as the chief policy-maker, and there were other amendments as well.

We've already talked about the appointed bench for the Court of Appeals. It was conversion of the Court of Appeals from an elective bench to an appointed bench that required a constitutional amendment, and there was also a strengthening of the state's machinery for judicial discipline, which likewise required a constitutional amendment. All these constitutional amendments went to the voters in November of 1977, they were approved and the new court management system took effect on April 1st, 1978.

John Caher: I see. So that was a long, long, long time coming with all kinds of nuances along the way, and it was going on for basically 25 years or so.

Marc Bloustein: Oh, absolutely, absolutely, and the Legislature and Governor really had no choice.

There's another element to this that I didn't mention. If we've got the time, I'll mention it. I think it's worthwhile to have a fuller understanding of why the court reforms of the late-1970s took place.

So, Charles Breitel became Chief Judge. He was the last elected Chief Judge. He had been elected in November of '73 and one of his first acts was to change the position of state administrator. There had been a state administrator for the court system going back to, I think, 1955, but it was basically a research and consultative position; it had no affirmative

management authority. Judge Breitel decided he was going to make that position more muscular. In order to do that, he had to persuade the four Presiding Justices, who were the management authority under the 1962 change. He had to persuade them to surrender, to delegate a measure of their administrative authority to this state administrator, which they did, surprisingly. There are some reasons I can speculate as to why they did it, but in any case, the first state administrator to have this new authority was the fellow I mentioned earlier, Richard Bartlett, who had been a Supreme Court justice in Glens Falls. Earlier,he had been an assemblyman from upstate and he also had been the driving force behind the Penal Law reforms that the State had undertaken back in the '60s. He was a pretty prominent guy.

Anyway, he becomes the first state administrator and, in collaboration with Judge Breitel under their management the courts, began to do a better job of dealing with the caseload and other problems that we were facing then. This, I think, gave some momentum to the constitutional amendments, the Legislature's willingness to adopt the constitutional amendments that the voters approved in '77.

John Caher: What stands out to me is that all of this happened mainly because the Governor and the Legislature really didn't have a choice. They had to do *something*, which brings me to the next topic ,and maybe the reason we can never get it done is because they don't *have* to do something, and that would be the elusive goal of every Chief Judge I'm aware of: court merger. For reasons that we need not get into, we've never been able to get court merger through. Is that a regret? I know you've worked tirelessly on that many, many, many times. I know some Chief Judges have put in Herculean efforts and we've never been able to streamline the courts. Is that because the Governor and Legislature don't have to?

Marc Bloustein: In short, yeah. Early on I experienced a lot of frustration at the continuing unwillingness of the Legislature and Governor to get their act together to merge the trial courts, which is transparently a very obvious thing if we really want to make our courts more efficient, more effective. Early on, as I say, I was frustrated by that.

But then as the years went by, and I'm going to tell you a story in a second that kind of exemplifies all this, I came to the realization that, exactly what you just said was true. That the reason the Legislature and Governor were not doing this, were not acting more aggressively to merge the trial courts, was precisely because they didn't have to and politically it was easier for them not to do it than it would have been for them to do it.

The story I want to tell is there've been three serious runs at court merger during my career. By serious, more than just mere dabbling, more than an occasional speech or press release by a Governor or by a Chief Judge expounding the virtues of trial court merger. But three real serious efforts.

One was in 1986 when the Legislature actually gave first passage to a constitutional amendment that would merge the trial courts. The second was in 2006, when Chief Judge Kaye established the Carey Dunne Commission to do a soup-to-nuts study of our system and to make a series of recommendations for its reform, and the third was Chief Judge DiFiore's run at it in the last few years of her tenure. Now, my story has to do with the 1986 effort.

John Caher: I would like you to explain that because the Governor and Legislature didn't have to do it then, either. But they did once, but not twice.

Marc Bloustein: That's the essence of my story. The context is really instructive.

In 1986, and up until 1986, every year governors—first Hugh Carey and then Mario Cuomo—dutifully in their State of the State message at the start of the legislative session would say, "We need to reform the trial courts! I'm issuing a call for court unification, court merger!" We didn't have a State of the Judiciary message before 1985. Sol Wachtler gave the first one. It was a message delivered to a joint session of theLegislature, but prior to that, Chief Judge Cooke every year would, early in the year, issue a press release or deliver a speech in which he called for merger. But that was the end of it. Nobody lifted a hand, not Governors, not really Chief Judges either. Beyond that, it was just a dabbling. In 1986, the same thing happened at the start of the year.

Mario Cuomo says in his State of the State, "We should have court merger!" Sol Wachtler in his State of the Judiciary said, "We should have court merger!" We didn't have court merger. We go through the session, it's the last night of the legislative session. I remember the date. It was July 2nd, 1986.

Judge [Joseph] Bellacosa was Chief administrator then and it's five o'clock in the afternoon and I'm in his office and while I'm in his office, he gets a phone call from Jack Haggarty who at the time was counsel to the Senate majority, to Majority Leader Anderson. And Joe goes, "Hello, Jack, what's up?" And Haggarty says to him, "Listen Joe, I'm sorry, court facilities, we're bogged down. We can't do court facilities before we go home."

Court facilities, *not* court merger, had been our issue for 1986, trying to get a state aid program going to help local governments, who were responsible for providing court facilities, which were in a sorry condition at that time.

So, Joe thanks Jack and hangs up. Five minutes later, Evan Davis, then counsel to Mario Cuomo calls Joe and he says the following—Joe tells me this, he wasn't on speaker: "Joe, we're going to do a constitutional amendment tonight before the Legislature goes home to merge the trial courts. Could you please send somebody over to the second floor, the Governor's office. We're going to have them sit in the room and they're going to write this amendment." And Joe says, "Okay." He hangs up, points his finger at me and says, "You're the guy."

So I had no instructions. I had been working on court merger proposals on and off since 1976. My first one was a collaboration with counsel from Hugh Carey's office because Carey was interested in doing court merger, so I worked on, became generally familiar with Article Six, the Judiciary article. After that there were fits and starts over the years, other proposals, but they never went anywhere.

I walk over to the Capitol and I sit down with these other lawyers and, to cut to the quick, we sat in a room from about 6:30 in the evening until about 6:15 in the morning. We were given only time for bathroom breaks and one interaction with our principals, and we wrote a constitutional amendment merging the trial courts.

It's four o'clock in the morning. They moved us from the Governor's office over to the Bill Drafting offices. And every so often Paul Burgdorf, who was [Senator] John Dunne's chief of staff, would come to the door of our room, knock on the door and timidly stick his head in and go, "Is it ready yet?" And we'd yell at him, "Go away, go away, go away, send sandwiches." Finally, at about 6:00, 6:15 in the morning, we finish our task. And sure enough at about 6:30--7 o'clock that morning, in its last act of the 1986 Legislature, both houses give first passage to this constitutional amendment that was drafted in 12 hours.

John Caher: Now, this was clearly a surprise to the Chief Administrative Judge, Judge Bellacosa. Do you think it was equally a surprise to the Chief Judge Sol Wachtler?

Marc Bloustein: I can't speak to that. I have no idea. But I don't know how much of a surprise it was to Joe because, honestly, my recollection is that if I were sitting in his chair and this were coming at me fresh, I would've been

startled and I think his affect would've been somewhat different than it was at the time. So if I had to bet, I'd say they knew something was up, but I can't be certain of that. Anyway, they get first passage and we get all excited. I get all excited, "Oh my gosh, this is the Holy Grail! We're on the precipice."

1987 comes and, to your listeners who are not familiar with the process to amend the Constitution, you have to have passage by two separately elected Legislatures. 1986 was an election year, it was a Governor's election year. It was election of all members of the Legislature, so a new Legislature had come in in '87 and needed to give passage again to the same proposals. They didn't let it get out of committee. It didn't go anywhere.

John Caher: Was that because there was never any sincere intent for it to go anywhere, or because the newly elected Legislature—which probably very, very closely mirrored the prior Legislature—had changed its opinion or changed it stance?

Marc Bloustein: I don't really think there was any change of stance.

Years later, I was on a panel at the State Bar Association. The panel was to talk about the court reforms of the late-1970s, and the panel was a good panel. It was Dick Bartlett, it was John Dunne, and it was Mike Cardozo, who'd been very active helping Hugh Carey with his effort to get court merger, and myself, and I had occasion to tell this story, and I said directly to John Dunne, "John, I wondered for years, why did we go through this charade? Could it have been because it was an election year and the Governor and legislative leaders thought that they needed something to take to the electorate to show that they were taking care of the courts?"

They just failed to create a program for court facilities, and maybe they didn't do much else that session, and so, politically, it was to their advantage if they could show they were doing something, but they didn't want to do something that was hard, so they decided, "You know what? Why don't we do this? We'll give first passage and then next year we'll kill it. So in the process, we'll make the League of Women Voters and Common Cause and everybody else who likes the idea of court merger happy, we'll give them something to be excited about before the election, and then next year we can come back and for all those who hate the idea of court merger, who see their toes being stepped on, we can make them happy by killing the thing. Is that the reason?" John looked at

me with a big smile on his face and he said, "Absolutely. That was exactly it."

John Caher: I want to point out that John is Senator John Dunne.

Marc Bloustein: Yes. I'm sorry.

John Caher: By my account, you're now on your ninth Governor.

Marc Bloustein: Yeah.

John Caher: And I'm sure some of them had more interest in the judicial branch than others.

Marc Bloustein: Yeah, yeah, yeah. That's true.

Governor Carey stands out. As compelling as the situation was in the mid late-1970s, I don't think the court reforms of that era come about without him. I think he was, and this is just perspective from afar, but I think he was willing to put political capital into the project of reforming the courts because he felt that that was really important. I've sometimes wondered if subsequent Governors had the same commitment to the courts, as did Governor Carey, that maybe we would've had a better chance at getting further court reform, whether it would've been the merger of the trial courts or another reform, which we haven't mentioned, which is reform of the appellate divisions, which is desperately needed and has been for years. For good reasons and bad, subsequent Governors did not choose to lend their weight. Some did a little bit. Governor Pataki offered a version of court restructuring. I think Governor Spitzer, had he stayed around longer, would have been more engaged on the subject. But I don't think anybody matched what Governor Carey brought to the table.

John Caher: It sounds like the moral of this story is, it ain't going to happen until their backs are to the wall and they have to do something.

Marc Bloustein: Somebody's got to die. Seriously, somebody's got to die before attention will be paid to this, serious attention.

John Caher: You said a lot about the reform. From a writer's standpoint, not to mention a reader's standpoint, the New York State Constitution is a document dearly in need of an editor, and you've described the judiciary article, the 16,000 word summary that runs your professional life and probably mine, as a monument to "verbosity, prolixity and wordiness,"

noting that it's federal counterpart, Article III is a neat and concise 330 words. Does that make it difficult to implement any reform?

Marc Bloustein: First of all, let say that 16,000 words actually amounts to about one-third of the state constitution. Article VI, which is the Judiciary article, is enormous by comparison. The Executive Branch is set up under a much smaller article, Article IV, the Legislature Article III. They're tiny by comparison with the judiciary article.

Now, to your question, the sheer wordiness of the text is not really the problem, but it does mask a much deeper problem. The Federal Constitution, 330 words: There shall be a Supreme Court and such inferior courts that Congress shall from time to time ordain and establish, something like that. That's the operative language, and there are a couple of ancillary provisions.

When the framers of the federal Constitution put together that language, they envisioned that, from time to time, there would be need to change the way the federal court system operated. And so they wanted to give to the Congress, as opposed to necessitating further constitutional amendments, which is a very difficult process, the flexibility to do what would be necessary under the circumstances, create new judgeships to establish different courts and so forth. By contrast, the framers of the state Constitution long ago made a decision that they weren't going to trust the Legislature and the fickle electorate, and so they were going to make amendment of our court system, change in its basic structure, management provisions and so forth as hard as possible.

John Caher: And they succeeded!

Marc Bloustein: And they succeeded. A constitutional amendment is as hard as possible. The fact that there are 16,000 words, that's simply because they put every bit of detail as was necessary to create the court system that they wanted in the Constitution. There's just a lot of detail, so there's going to be a lot of words. But it's not so much the sheer volume of words. You can make your way through them. It's actually reasonably well written. But it's what it masks — the difficulty in changing things. Court merger is a perfect example.

John Caher: Let's take a big step back and delve into an area which I'm not familiar with much at all. I know you come from a very successful family, and that is a trend that I know you've passed on to your two very successful children, Jessica and Andrew. But let's go back to your roots. Where did you grow up? Where does Marc come from?

Marc Bloustein: Marc comes from the Bronx. He was born in the Bronx, lived my first five years there. My parents moved our family when I was five. I'm the oldest of two, I have a younger sister. We were moved to the Buffalo area. My father got a job teaching at Buffalo State. He was a college professor and he got a job teaching there. At first, in the Buffalo area, we lived briefly in a suburb, Cheektowaga, and I went to kindergarten at Cleveland Hill Elementary School, which was in the area. But then we moved to the town of Tonawanda, bought a home in Tonawanda, where I lived for the rest of my childhood.

John Caher: Do you have any strong racial or ethnic identities?

Marc Bloustein: No, not really. I'm just a white middle class guy. I was brought up in a Reform Jewish home, but today I have no conventional religious affiliation or any special ethnic identification.

John Caher: What did your parents do? You mentioned your father was a college professor.

Marc Bloustein: He taught at Buffalo State, which was a teacher's college. His students were future teachers of children with special education needs. My mother was a classic mid-20th century homemaker. She kept the hearth. Later on in life, very admirable thing, she became a braille transcriber. My mother had no visual impairment, but she volunteered. She learned braille and she acquired a braille typewriter, which is very special device, and she would type books and newspapers and whatever for people who were visually impaired in the community, and she did that for decades.

John Caher: That's fascinating. That's very interesting. Now, I believe you have a couple overachieving uncles. Is that right?

Marc Bloustein: Yeah, I did. I did. My dad had three brothers. They were all lawyers, unlike my father who was a PhD. The middle brother of the three, his name was Oscar, was no slouch. He came out at Frank Hogan's legendary DA's office in Manhattan, and then he went on to have a very successful career in private practice.

My dad's other two brothers were superstars. His oldest brother, Frank, had a storied legal career in New York City government. He began that career as law secretary to Fiorello LaGuardia when he was mayor of the city in the 1930s, and then he became acting corporation counsel for the City of New York in the early 1940s. LaGuardia died in '44. When O'Dwyer succeeded him as mayor, Frank became vice chair of the New York City Planning Commission. I think that's the Zoning Board of Appeals

for the city. He worked very closely with its then chair, Robert Moses. He stayed with the Planning Commission through the next three or four mayoralties. They kept reappointing him to it. And then in the mid-1960s, Frank was elected as a Supreme Court justice in the Bronx where he served for 14 years. All in all, he enjoyed a stalwart career in public service for people of the city.

My dad's youngest brother, Eddie, had an equally impressive legal career, if not more so. A philosophy professor at Brooklyn College in the mid-1950s, he decided when he was in his mid-30s to become a lawyer. Now, for him it was pretty easy to change course like this because his wife, my Aunt Ruth, was a pediatrician and she was able to set up a practice to support their family in Ithaca while Ed went to Cornell Law School. After he graduated law school in 1960 or so, Eddie first became a law clerk to then Judge, later Chief Judge, Stanley Fold of the Court of Appeals. After that gig, he was hired by NYU to teach law in its law school. There he became a nationally known expert on privacy law and had, among his students, Judith Kaye, later Chief Judge of New York ,and Paul Tagliabue, later commissioner of the National Football League.

John Caher: Oh, wow! Holy cow!

Marc Bloustein: In 1965 or so, Eddie moved on to become president of Bennington College. I don't know the backstory to that. He had been an educator, but he was a law professor before that, a philosophy professor. I don't know what management experience he had to take on the reins of the presidency of a college. In any case, he must have done a good job because after four or five years in Bennington, he relocated to Piscataway, New Jersey where he served as president of Rutgers University.

John Caher: You had some pretty prominent early role models. Were there any others?

Marc Bloustein: I don't know that my uncles were really role models. We moved to Buffalo when I was five, and I didn't really have much contact with my extended family after that. They were down in the New York City metropolitan area, and we went maybe once a year for a family gathering.

My role model was my dad, and even though he died 50 years ago, he continues to be the single most important figure in my life. He was a very quiet, unassuming guy, but one who was oh-so-rational all of the time. And it was this rationality, this unfailing reasonableness, the way he

conducted his life, the way he communicated his expectations for me, that became my goal for myself.

How many times as a kid when I did stupid things, as kids do, I heard him say, "But Marc, how much sense does that make?" With that plaintive quality to his voice. I could still hear him saying that, and so in the way that young children learn their life lessons from their parents, I built my life around the goal of always doing the reasonable thing. Haven't always succeeded, but I've certainly tried.

I have another role model that I do want to mention, and that was Judge Bob Sise, who was formerly DCAJ for courts outside of New York City, and for a brief time in the early 1980s, the Chief Administrative Judge. I met Judge Sise early in my career-

John Caher: For clarification, DCAJ is the Deputy Chief Administrative Judge.

Marc Bloustein: I met him early in my career as a lawyer, and as it happened it was not very long after my dad had died in 1977. Already a father of nine sons, Judge Sise quickly took a very paternal approach to me. I sometimes felt like I was his 10th son. He exemplified for me all that I have come to realize as best in a judge—wisdom, compassion, knowledge, and humor. And rarely does the day go by, and I'm not exaggerating when I say this, even today years after Judge Sise passed away and even more years after I worked for him, that I don't think of him and in doing my job try to imagine his reaction to the choices that I made.

John Caher: What a wonderful recollection. Am I correct that that Judge Sise is the father of the Presiding Judge of the Court of Claims, Judge Richard Sise?

Marc Bloustein: He's the father of Judge Richard Sise and father of Joe Sise, who was a Supreme Court justice in the Fourth Judicial District for a number of years.

John Caher: Wow. Another high achieving family. Now, you were a product of the post-World War !! baby boom and a child of the 1960s. What were you like in the '60s? Were you a hippie?

Marc Bloustein: Far from it, far from it. I didn't go to Woodstock! To be more accurate, I was a teenager of the 1960s. I was a child of the 1950s, having been born in 1950. As a young boy, I was really very shy, and this was partly an inheritance from my parents, somewhat withdrawn people. I also think it was a consequence of the environment in which I grew up. When my

family moved to Buffalo from New York City, we left behind our extended family.

We also left behind the Jewish community that had informed family life. While we lived in the city of Buffalo, we lived in a neighborhood that had no Jews, and to put it candidly, that was not a community that was all that welcoming to us, so I found it most comfortable to live in the shadows. But one thing I did that got me out of my shell, I was a pretty good athlete and I started playing organized football when I was eight years old. As it ended up, I played 14 years of organized football. I played Pop Warner for six years, four years high school, four years college. Football became a great equalizer for me, and it gave me confidence and certainly a good core of buddies. I wasn't shy on the football field. And as time passed, there was a spillover of this into other aspects of my life.

John Caher: Where did you go to college?

Marc Bloustein: I went to Wesleyan University in Middletown, Connecticut, from which I graduated with a degree in English in May of 1972. I then went to Albany Law School. I graduated in June of '75, and I was admitted to the bar the following February.

John Caher: At what point did you decide you wanted to become a lawyer?

Marc Bloustein: I knew you were going to ask me that question. This is a little embarrassing to say, but I wasn't really attracted to law school at all. In fact, it was almost by default that I ended up going to Albany Law. So let me take a step back.

Early in my college years, I took a test. I think it was referred to at the time as an "interest inventory." We've probably all taken something like that under whatever name at one time or another. There are hundred or so questions. They test your level of interest in vocations. Months after I took this test, I got the results.

They took the form of a chart that scaled you from zero to a hundred on dozens of professions. Theory was the lower your score on a profession, the less likely you would find satisfaction in itin a future career. The higher your score, the more likely you would find that profession rewarding. Now, whereas most of my peers recorded a few high scores in the 80s or in the 90s, meaning that they would really enjoy being a doctor or a lawyer or a teacher or something, I didn't record a score over 30, meaning that I probably wouldn't find a great deal of satisfaction in most professions.

Now, I didn't think too much of the test at the time, but as the years passed, I came to realize that it actually fairly described me—a guy with no real professional passions.

Now this said, when I was in my fourth year of college, I knew that I'd have to do something with my life. There had to be a next year. So as it happened at Wesleyan when I was there, typically one quarter of each graduating class went on to medical school, one quarter to law school, one quarter to graduate school, and one quarter went out into the world in business or whatever. Well, I knew that being a doctor wasn't for me, and without an intellectual passion, graduate school was out. I certainly wasn't ready to head out into the world. What was left? Law school. So that became my choice.

John Caher: Well, it worked out pretty well.

Marc Bloustein: I wish I could tell you that one of my uncles, my lawyer uncles, put his arm finally around my shoulders and said, "Marc, let's talk about your future," and I ended up saying, "Geez, I really want to be..." Didn't happen that way.

John Caher: Well, that would be a nice story, but it wouldn't be true. And then you would violate everything you learned from your father, right?

Marc Bloustein: Absolutely. Wouldn't have been reasonable.

John Caher: So as a little boy or a law student, was it your life goal to become legislative counsel to the Office of Court Administration?

Marc Bloustein: Seriously?

John Caher: How did you end up here?

Marc Bloustein: Well, the story about my interest inventory shows I didn't really have any genuine passions. I will say that while in law school, as I learned more and more about the law and its provenance, I recognized that however casual my decision to go to law school might have been, it was proving to be a good one. I saw that my commitment to rational thought, learned at my dad's knee, combined with the pleasure I'd long found in writing, especially writing with precision, would be real assets to a lawyer. And so while I didn't really know where I was going to end up after graduation, I began to imagine that I could have a satisfying career writing law, maybe working for the Legislature or for some government agency.

John Caher: But then how did you end up here?

Marc Bloustein: It was completely serendipitous.

As I reached the end of my second year in law school—this would've been the summer of 1974—I was undecided whether to remain in Albany, where I had an apartment, and seek a summer job locally or to return to my parents' home in Buffalo and to try and find something there. After my first year, I had gone back to Buffalo and I ended up working as an intern in the State Attorney General's Buffalo office. Ultimately, I decided to remain in Albany, but my indecision had cost me. While I was waffling, all the local jobs for law students had been sucked up by my classmates and I was left without options.

So I called the dean's office at the law school and, after explaining my situation, I basically, I asked them if the school received any belated requests from local lawyers at the last minute needing a law student, a job that hadn't been available earlier, would the law school be kind enough to pass along my name?

Now as it happened, at the same time, OCA had just established its new Albany office. Remember, I said that Judge Breitel took office at the beginning of '74, and then he named Dick Bartlett to be State Administrative Judge? One of the first things that Judge Bartlett did is he decided to set up an Albany office for OCA.

Up until that time, OCA only had its New York City office, which was at 270 Broadway in Manhattan. He decided the courts needed an Albany presence to be near the Legislature and also to help better meet the needs of the upstate courts.

Now, fortunately for me, just as I was giving my name to Helen Wilkinson, who was then the registrar at Albany Law School, the Court of Appeals decided they wanted a law student for some summer project in the clerk's office at the Court. The Court asked the new OCA office to recruit this law student, and for whatever reason the office here decided to call Albany Law School, who had just heard from Marc, and they were asking for the name of a law student who could be available for the work. School gave OCA my name, I interviewed for the job, I got the job. The rest is history.

John Caher: Wow.

Marc Bloustein: As it turned out, there's a coda to this. As it turned out, between the time I was told I had the job and the time I reported for work, the Court of Appeals project was abandoned. But OCA's legislative counsel at the time, guy by the name of Fred Miller, who was stationed in this new Albany office, recognized that he could use a law student to assist in moving what then was intended to be an expanded legislative agenda for the courts. So I was kept on, and when the fall came and I entered my third year in law school. I was invited to keep on working as my school schedule would permit. Turns out that like many of my classmates at the time with what had been their summer internships, I effectively worked full time during the school year.

We all needed the money. The money was a godsend to me, and as I expect most third-year law students will tell you, by the time that third year comes along, you've had enough of the classroom and you want to seriously apply this legal training you've been acquiring. So I worked through my third year of law school. After that, Judge Bartlett asked me to become his law secretary after graduation and the bar examination. He told me that he was winding down his Supreme Court work so he could devote full time to his administrative duties, and the bottom line was that for a year or so, I could expect to help him with his cases, but then, after that, I would transition to become an assistant counsel at OCA. And that's how it happened.

John Caher: Great, great. Now I believe the Bloustein family gets two checks from the court system every payday. Tell me about your wife, Diane.

Marc Bloustein: After I retire, Diane will be the breadwinner and I'll have to go to her for an allowance. Diane and I just passed our 48th wedding anniversary.

John Caher: Congratulations.

Marc Bloustein: Thank you. She is a 1975 graduate of Skidmore College. She later received graduate degrees in education from SUNY Albany and started out her professional career as a teacher, reading teacher. But about 20 years into that career, as she explains it to me, she got tired of wiping noses and tying shoelaces. So she changed careers. She became a programmer and a computer analyst, and she came to work for our Division of Technology in 1998. So I just passed 50 years of service to the courts and she's now working on her 27th gear. I know there are other couples who work for the court system, but I'm not sure there are any who can match our nearly 77 years of service.

John Caher: I would doubt it. Where did you meet? Where did you meet Diane?

Marc Bloustein: We met when I was in law school and she was still at Skidmore. This is funny.

We were fixed up on a blind date by my roommate, who was a med student at Albany Med at the time. He needed a ride up to Skidmore because he was seeing someone there. He had no wheels, but I did. So he figured that if I were seeing someone at Skidmore, he'd have ready transportation. Now, Diane and I hit it off. He broke up with his girlfriend three weeks later.

John Caher: Well, at least you were the one with wheels, so you could keep going up to Skidmore.

Marc Bloustein: And I did!

John Caher: I mentioned earlier your two children, Andrew and Jessica. Tell me about them if you would. I know you're very proud of both of them.

Marc Bloustein: Oh, I am *really* proud of them. I don't know what we did to deserve them.

Andrew is our youngest. He's still a bachelor. He lives in Chicago, having gone to Northwestern University and deciding to remain in Chicago after he graduated in 2006, I think. He has a job that I would positively kill for. He's a freelance TV production guy. He directs TV broadcasts of the Chicago White Sox for NBC Sports Chicago, and college football, Big 10 college football games, and men's and women's college basketball games for the Big 10 Network.

My daughter Jessica graduated in 2003, I think, from Wellesley College in Boston, and later she got a master's at the Medill Journalism School at Northwestern. Since graduation, she's worked as a reporter for Albany's local NPR affiliates. She's worked as a freelance writer. And for the last several years she's been a multimedia producer for the *Albany Times Union*, living in Albany with her husband Rick, who is a writer for the *Daily Gazette* in Schenectady. Jessica is the mother of my two grandchildren, Kinsey and Calvin.

John Caher: Great. And what are you going to do in retirement?

Marc Bloustein: At this juncture, I'm not entirely sure.

Not too long ago, I think it was shortly after I made the decision to retire, I heard a radio interview with Karen DeWitt, who was a longtime political reporter on the Albany scene. Karen had just retired. And when the

interviewer asked what she was planning to do in retirement, she replied, "Nothing for the first six months. I'll see how I feel during that time, and then going forward I'll do whatever the spirit moves me to do." I think that's pretty good.

I have one or two feelers out for some part-time work, but for now I have a handful of projects that I've been putting off for years that I'd like to work on—scanning and archiving thousands of photos that we have around the house, doing a better job of inventorying the many books that we have in the house. Beyond this, I like photography. I have a bunch of hobbies that I think will keep me pretty busy.

John Caher: I have every confidence you'll remain very busy. Now, a question that factors into, every single conversation we've ever had: What book are you reading now?

Marc Bloustein: John, as you well know, I'm a compulsive reader. It's rare that I'm actually not reading at least three or four books at a time. Right now, I'm in the middle of four books, reading four books.

One of them is a historian Brenda Wineapple's book on the Scopes Monkey trial. It's called *Keeping the Faith*. I've read a number of books on the Scopes trial, including Edward Larson's *Summer of the Gods*, which was a very good read. This book is terrific. It's a great synopsis, late 19th century, 20th century history. It's a little bit of a biography of William Jennings Bryan, and of course it's going to feature an account of the Scopes Trial.

I'm also reading *The Age of Great Dreams*, which is a book about the 1960s. Always fascinated by books about the '60s, when I came of age. There's a lot of nostalgia attached there.

And I'm reading two fiction books. One is *The Sign of Seven*, which is a collection of Sherlock Holmes pastiches. I've read a lot of Holmes pastiches and this is a really good one. The collection is really good.

And the last book is called *The Affair of Styles*, which is one of Agatha Christie's murder mysteries. My New Year's resolution for 2024 was to read the entirety of the Sherlock Holmes canon, four novels and 52 or 54 short stores or novellas. I've actually read them twice before, but it had been a while, so I wanted to reread it. And then I also wanted to read all of Agatha Christie. And that's truly ambitious, she wrote maybe 60 stories. Got a long way to go, but maybe once I'm retired I can devote more time to reading Agatha.

John Caher: All of that sounds like much more enjoyable reading than the New York State Constitution, frankly.

Marc Bloustein: It has its moments.

John Caher: Looking back, what has been the most satisfying and fulfilling part of your career?

Marc Bloustein: I think it's been the chance I've had to be something of a player in the formative years of our modern court structure. I was so fortunate to come along when I did.

As I said, in 1974 Dick Bartlett had just been named State Administrator and centralized court administration was in its infancy. I got to have a hand in the effort to produce the 1977—1978 Constitutional Amendments, and then to work with Chief Judges and Chief Administrative Judges over the years in fleshing out the new management structure that was authorized by those amendments.

I leave my office now having played, I think, a significant role in drafting the statutes and rules that guide our operation. I even have some constitutional text I can point to and say, "I authored that." There's huge professional satisfaction being able to say these things, so I've had a chance to have relevance over the years, and that's my greatest satisfaction.

John Caher: You had more than relevance, and I want to thank you for that. And finally, what is your advice to what I think of as a very unfortunate person who has to follow in your footsteps?

Marc Bloustein: Why unfortunate?

John Caher: Because they have big shoes to fill.

Marc Bloustein: Listen, as I just said, mine's been a fantastic job. I've met some wonderful colleagues over the years, the work has been genuinely interesting and, as I said, I've had an opportunity to contribute in meaningful ways. It's truly been a job for a lawyer's lawyer. And however serendipitously I fell into this job, I'd do it all over again in a heartbeat.

Advice for my successor: Simple. Beginning, on day one in the job, learn as much as you can about the courts, about their history, about their structure, about their operation. While you may have been hired to be a bill drafter and a lobbyist, your greatest value to the courts, I think, will

lie in your ability to contribute to the choices that its leadership makes day to day. For me, that meant not merely executing a Chief Judge's or a Chief Administrative Judge's orders, but being able to offer them ideas to inform their choice of orders.

To do this, you've got to be steeped in our system. Of course, in my case I had an advantage. When I started with the Judiciary, it was at the dawn of court administration, modern court administration. This gave me an opportunity to see and understand the whys and wherefores of all the changes that we were making and even at times to contribute to them.

Also, as the years have passed, I've been fortunate, privileged really, to witness many of the other events and changes that have been part of the life of our judiciary. All this has given me insights that have proved more and more useful to succeeding generations of new court administrators. I can be the guy in the room that says, "Hey, we tried that 20 years ago. This is why we abandoned the idea." Now, for sure my successor won't have had the benefit of my experience and this perch that I've been privileged to occupy, so my advice to that person is, spend a lot of time right out of the gate educating himself or herself.

Also, I would encourage them to take every opportunity to meet with judges and court personnel out in the field. It's all well and good to be a good bill drafter and even have a solid understanding of the legislative process and the ways of the legislator, but our legislative counsel best serves the courts when he or she knows enough of our system that he or she can be a good explainer to legislators of the Judiciary and its ways, and especially when he is able to be a good and credible ambassador to our judicial associations and their members. We are ambassadors and it's important that our judges have the confidence in us to represent them in the halls of the State House and so forth, and to know the people who are doing this. There's no substitute for going to judicial conferences, taking every opportunity to meet with judges, to build confidence, their confidence in you, and your confidence in them, because they know a lot of stuff and we're foolish if we ignore it.

John Caher: That's great advice. And Marc, thank you for your time today. Thank you for your service all these years, and thank you for your friendship.

Marc Bloustein: Oh, John, it's mutual. I thank you for asking me, and I hope our friendship doesn't end with my departure.

John Caher: Oh, we have lots more books to talk about!

Marc Bloustein: I look forward to it. Thanks, John.

John Caher: Thank you, Marc.