

## LECTURE

Dean Alexander Moot Courtroom  
Albany Law School  
Tuesday, October 11, 2011  
5:30 p.m.

### INTRODUCTION TO THE HONORABLE HUGH R. JONES MEMORIAL LECTURE

*Jonathan Lippman\**

I'm delighted to be here once again at Albany Law School and to be a part of the Hugh R. Jones Memorial Lecture. Let me start by thanking the Fund for Modern Courts, and its Chair, Milton Williams, Jr., for continuing what has become a much anticipated lecture series for all of us in the legal community, the Judiciary and, most especially, the Court of Appeals. We so appreciate the scholarly attention that you and Albany Law School devote each year to the work and history of our Court.

What a privilege it is for me to introduce former Chief Judge Sol Wachtler today—someone I have so greatly admired as far back as when I was a young court attorney and aspiring court manager working in the court system in the 1970s and 1980s. What a giant within the Judiciary, the legal profession, and the entire State—someone who had a meteoric rise to become the youngest judge ever to sit on the Court of Appeals.

Sol Wachtler obtained his law degree from Washington and Lee University and, after military service during the Korean War, he made his way to Mineola, New York, where he opened a law office and got involved in local politics. In 1965, he was elected Supervisor of the Town of North Hempstead, and from the beginning he showed the kind of bold leadership and strong commitment to equal justice that was to characterize his entire

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\* Chief Judge of the State of New York and Chief Judge of the New York Court of Appeals.

career in public life, including building the first town sponsored low-income housing in the state.

In 1968, he was elected to the Supreme Court, where he quickly earned a reputation as an outstanding trial judge. Having caught the eye of many statewide political figures, including Governor Nelson Rockefeller, he was encouraged to run for a seat on the Court of Appeals in 1972, when it was still an elected court. He was an underdog on the Republican and Liberal lines, but he ran a dynamic campaign and ended up being elected to the Court alongside two other new judges—Hugh R. Jones and Dominick Gabrielli. What an amazing infusion of talent for an already very strong Court boasting Chief Judge Stanley Fuld and future Chief Judge Charles Breitel.

Sol Wachtler served on the Court of Appeals during a period of great change, when our laws and our courts were constantly challenged to keep pace with unprecedented technological and societal developments. He proved again and again that he had the intellect, scholarship, sound judgment, and collegial skills to resolve these difficult and novel cases in a wise and fair manner. His majority opinions—and there were nearly 400 of them—are distinctive for their strong logic, clear reasoning, direct, powerful writing style, and his commitment to centrism and common sense. And he had a flair for putting things into language that the public could easily understand—like his famous line, quoted by Tom Wolfe in the *Bonfire of the Vanities* and now part of the American lexicon, that a grand jury would indict a ham sandwich if that's what the prosecutor wanted.

As a jurist, Sol Wachtler not only shaped the law of our state but influenced courts beyond our borders. In the pioneering so-called “right to die” cases the Court decided in 1981, *Matter of Storar* and *Matter of Eichner*, Judge Wachtler articulated the “clear and convincing” standard that was specifically endorsed by the United States Supreme Court. He also authored decisions involving First Amendment freedom of the press, particularly *Chapadeau v. Utica Observer-Dispatch*, that resonated nationally. And his opinion in *People v. DeBour* established the legal framework that has long governed whether and to what extent the police may intrude into the lives of private citizens.

And, yet, Sol Wachtler's jurisprudential contributions tell only half the story. His contributions to the administration of justice in his capacity as the Chief Executive of the state court system are every bit as significant as his adjudicative achievements.

When there was a vacancy for the position of Chief Judge at the end of 1984, many observers professed surprise that Governor Mario Cuomo would appoint a judge of the opposite political party to this powerful and highly coveted position. I happen to believe that Governor Cuomo recognized what many of us in the trenches of the court system had already realized: Sol Wachtler was the kind of forceful leader and strong administrator that our judiciary needed at that moment. He had the knowledge, credibility, political skills, and toughness to bring about systemic reform at a pivotal time in the history of the courts—the mid 1980s, when the crack epidemic was ravaging our communities and threatening to overwhelm our courts, and when our civil and family court dockets were exploding with the fallout from societal dysfunction, family breakdown, and growing litigiousness.

Chief Judge Wachtler stepped into the breach and laid the foundation for so much of the progress we have seen in the New York courts over the last twenty-five years. He started by changing the very way we did our daily business in the courts, eliminating the central calendar system, where different judges handled different phases of a case as it went through the system, and adopting the Individual Assignment System, where a judge is assigned to a case and remains responsible for that case throughout its lifetime. It was a huge cultural change that met with much resistance, but it was the right reform at the right time, streamlining the way we managed our caseloads and improving efficiency at a time of record filings. And for me, personally, it played a critical role in my career, as I was chosen to implement this new system in civil courts around the state, bringing me into direct contact with Chief Judge Wachtler and his Chief Administrator, Joe Bellacosa. I have to say, from that time forward, to this very day, I have had a stalwart supporter, champion, and warm friend in Sol Wachtler.

The organizational culture that defines who and what we are as a court system today owes much to the foresight and vision of Chief Judge Wachtler, including so many of the internal institutions and practices that we are so proud of today that relate to the fair treatment of minorities, women, and children. He showed great vision in creating the Franklin H. Williams Judicial Commission on Minorities—the first of its kind of the nation—which has become a national model for how state judiciaries around the country can make real progress on matters of concern to minority judges, employees, litigants, and communities.

In the legislature, Chief Judge Wachtler successfully advocated for the passage of a much-needed statewide court facilities act that has absolutely transformed the physical face of our court system by enabling localities to build and restore dozens of courthouses around the state.

It was Chief Judge Wachtler who championed the passage of the constitutional amendments that made the Court of Appeals a certiorari court that is today able to focus its resources on the worthiest cases, and which allows our court to hear certified questions from the federal courts.

And it was Chief Judge Wachtler who laid the early foundations for a specialized business court in New York—the Commercial Division of the State Supreme Court—which has been praised and emulated around the country and even internationally.

And no Judiciary in this country ever had a fiercer or more devoted defender of her independence and constitutional prerogatives—even to the point of suing the executive branch when he thought the courts were being deprived of the budgetary resources needed to carry out our constitutional responsibilities.

We have all benefitted, and will continue to benefit, for many generations to come from what Sol Wachtler accomplished and set in motion in less than a decade as Chief Judge.

And we have all been so pleased by his return to his family in the Court of Appeals and the legal community to make such positive contributions to our justice system. Over the last 20 years, I can think of no one in this state who has done more to advance our understanding of mental illness. He has helped all of us, whether we are lawyers, judges, law students, or lay people, to better understand and respond to the problems of mentally ill defendants and litigants in our courts. He has earned national recognition and received awards for the work he has done with the Depression and Bipolar Support Alliance, the National Alliance on Mental Illness, and the Law and Psychiatry Institute of North Shore-Long Island Jewish Health System, among others.

Throughout his life, Judge Wachtler's heart has always been in public service, in improving the lives of his fellow human beings, and that's what he continues to do today, advocating for mental health causes, teaching at Touro Law School, and remaining active in so many bar association, civic, and charitable endeavors. He remains an energetic and prodigious worker, serving as a successful mediator and author of numerous books and articles. His passion for the law and love for his family are the strong foundations of his

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life. If you've spent even a minute with him, you've experienced that great charisma, you've felt that warmth and compassion, and you've learned that his legendary sense of humor remains razor sharp.

And now it is now my great pleasure and privilege to present to you a truly great judge and public servant, the Hon. Sol Wachtler, who will deliver this year's Hugh R. Jones Memorial Lecture.