

Justice Mark Massa  
Investiture Remarks  
May 7, 2012

Thank you all very much. As my Mom and Dad slipped this robe on me, I couldn't help thinking of Bubba Watson last month at Augusta when they put the green jacket on him in Butler Cabin after he won the Masters, and Jim Nantz asked him to describe his emotions. Bubba said, "I never got this far in my dreams."

Well neither did I.

I'm reminded also of a scene from the movie "Broadcast News." You might recall that William Hurt plays a shallow, handsome news anchor whose career keeps getting better and better; Albert Brooks plays the more gifted but jealous network correspondent. At one point, Hurt asks Brooks, "what do you do when your real life exceeds your dreams?" And Brooks replies, "keep it to yourself!"

Well, I can't keep it to myself today, because my life *has* exceeded my dreams. And I'm telling you all so you will know just how grateful I am for it. How blessed am I to share this day with family, friends and colleagues, past, present and future.

To Governor Daniels, I will know no higher honor than to be selected and sworn by America's finest governor. What a privilege it was to serve under your command for four years at a time of unprecedented progress for our state. Thank you for all you have done for Indiana and may you keep finding ways to help us Keep our Republic in the years ahead. I hope you won't mind me re-telling one story that you've heard before that I can't help thinking of today, of all days:

I had a mentor during my years learning the craft of journalism at Indiana University. His name was Bill Pittman and he was an old newspaper man with the Indianapolis News. He taught me reporting and editing and we stayed in touch my first couple years after school when I was a reporter in Evansville. Then in the first of many lucky breaks, I was unexpectedly recruited to Indianapolis by Mark Lubbers to join Governor Orr's staff in 1985. I sheepishly broke the news in a letter to Bill and I said I hoped he didn't think I was selling out journalism by going to work for a politician. A week later I received his reply in the mail (this was before the internet, of course). I anxiously opened it, and inside I found the most gracious note of congratulations. He said, in part, that the world didn't need another ink-stained wretch in the news business, but, who knows? We could always use another Mitch Daniels." I slipped a piece of paper into my old typewriter and wrote back, "Dear Bill, thanks for the blessing and absolution. But who's Mitch Daniels?" (I should have known – he was only working for President Reagan at the time, in the White House.)

But I found out soon enough, when I started working for his protégé, Mark Lubbers, two weeks later. Mark was the first of many who inspired me to Aim Higher in the Daniels tradition, and that is why I am so honored by his presence and remarks here today.

I'm thrilled to introduce my family members who could join us today. First, though, let me mention my daughter Kelsey who cannot be here. She is studying abroad this semester in Seoul, Korea, where it is almost 4 o'clock tomorrow morning. Kelsey, if you're up and watching live on the internet (or if you're just getting in!), we all wish you were here. She will be a senior at St. Louis University in the fall in their pre-law scholars program. She wants to be a prosecutor. Imagine that.

My son Danny, who led us in the Pledge of Allegiance, turned 18 on Saturday. He will graduate from Cathedral High School in two weeks and will attend the University of Dayton in the fall. He and his sister are the most precious

treasures in the world to me and I am so proud of them both. They have turned out great and most of the credit goes to their mother and to their teachers at Immaculate Heart and Cathedral.

My sister, Marcia Hendrickson and her husband Kurt, are here from Madison, Wisconsin, as is her daughter Lisa and their son-in-law Brett Jondle. My brother John and his wife Mary are here from Milwaukee. Their two children, Haley and Mitchell are back home in school. My brother Michael, a 28-year veteran and captain on the Milwaukee Police Department and one of the great heroes of my life, is here with his sons Nick and Max. My brother Bill, his wife Cindy and daughter Dawn are here from Milwaukee, as well. Cindy is without question the person in the room most surprised by my appointment to this Court, as she still remembers a family vacation 10 years ago when the women beat the men in a game of Trivial Pursuit because I wrongly answered a question asking "how many eyes does a mole have?" (I thought it was a trick question! And for the record, my brothers were no help.)

My girlfriend, Maureen Keefe, attorney at law, is here. She, too, is a former Supreme Court law clerk, and her insight, patience and support throughout the nominating process was more than I deserved.

And then there are my mom and dad, Don and Eleanore Massa. Married 61 years. The living embodiment of the American Dream. Fifteen grandchildren and four great-grandchildren. My Dad's mom came to America from northern Italy just a few years before he was born. He married my mom, graduated from Marquette University with an accounting degree and retired as Senior Vice President and Chief Financial Officer of The Milwaukee Journal Company, where I first learned to love newspapers and the news. They raised a family that loves each other as much as we love them. And I have to share a story that says all you need to know about my mom and dad:

In 1969, when I was 8, my three first cousins were orphaned in a family tragedy, and my parents took them in. My cousins became my brothers on that day and two are with us here today. A third lives in England and could not join us. That's my brother Jerry. He and I are six weeks apart, so we played on the same Little League team. We had a teammate named Joey Bussalachi, another good Italian kid, and his mom would always sit in a lawn chair up against the backstop. One day I was swinging a bat in the on-deck circle; Mrs. Bussalachi called me over, pointed to my brother Jerry on the bench, and knowing our family story said to me, "there's a special room in heaven reserved for your mom and dad."

I didn't fully appreciate it then, but I do now. And I know she was right – but we're not eager to find out anytime soon! So Mom and Dad, thank you for all you have done for all of us, and for being here to share this proud day. I love you both so much and owe you everything.

Many thanks, as well, to two other great influences in my life, Chief Justice Randall Shepard, for whom I clerked and began an enduring friendship two decades ago, and whose chambers I cannot believe I now occupy, and Scott Newman, the greatest lawyer and most talented friend I have ever known, and a man of inspiring courage, resolve, and grace. I like to remind people that while I'm a proud product of the Big Ten, with degrees from Indiana University, I got an Ivy League education from three guys who went to Princeton – Randy Shepard, Scott Newman and Mitch Daniels. Throw in Yale's Bob Orr and Harvard Business School's Al Hubbard and Mark Lubbers and you'd think they'd give me some kind of certificate.

To Chief Justice Dickson and my new colleagues on the Court, I can tell you the last five weeks have been the greatest experience of my legal career. (Some of you here may not know but I was quietly sworn in a month ago so I could get to work before this formal ceremony and maintain the Court at full strength.)

A special mention too, to my colleague Justice Frank Sullivan, who announced his plans to retire only hours after I was sworn. (Not sure what to make of that.) You have served this state so well as budget director to Governor Bayh and on this Court for 19 years, and in the words of a great old Brad Paisley country song, "I wish you'd stay."

Justice Sullivan has been part of a Court that has become one of the best in the nation. Many words were spoken on the topic in this room a month ago when we marked the retirement of Chief Justice Shepard, and all of them were true. I need not repeat the record today, but I can promise to do my best to uphold the tradition. It is a high standard that Randy Shepard, Frank Sullivan, Ted Boehm and their colleagues have set. It is humbling and sobering that the responsibility has passed, in part, to me.

The great Sarah Evans Barker, who with her federal colleagues cannot be here today because of the 7<sup>th</sup> Circuit conference in Chicago, sent me a beautiful hand-written note upon the news of my appointment, with advice I will cherish and take to heart. She said “you will no doubt discover what all judges soon come to know, and that is, that there really isn’t any effective way to prepare to meet the kinds of challenges that will confront you. You simply learn by doing and, for that to work, you have to treat each case and each decision as important as the one before and the one that will come after it. Meeting these challenges and responding properly will make the work hugely satisfying and fulfilling.”

I have no doubt she is right, both in her advice and prediction. But I can also tell you this: We will not always get it right. For all the wisdom in this room, we cannot create heaven on earth in a court system that resolves disputes and imposes punishment. I once heard Charles Colson say it was the ultimate conceit of man to believe he can create heaven on earth. Colson, who went to prison in the Watergate scandal but later built a meaningful life ministering to prison inmates until his death two weeks ago, may have been quoting C.S. Lewis, but in any event, he went on to say that both ends of the political spectrum are guilty of this hubris, the Left believing it possible through the coercive power of government; the Right through the invisible hand of the free market. He was talking about something a little broader than our case law, to be sure, but his point still applies. We are fallible, as we are human. Our public institutions reflect it, and we should have the humility to acknowledge it.

So what can we promise? A British journalist once went to see Mother Teresa of Calcutta to do a story on her mission in one of the worst slums on earth. Seeing the despair that surrounded, he asked her how she could ever hope to be successful. She took his hand and quietly said, “God doesn’t expect us to be successful, he expects us to be faithful.” And so it is with this Court and my twenty percent role in it. I cannot promise you that I, or that we, will always be successful in finding the right outcome, but we will be faithful; faithful to the rule of law, faithful to the principles of equal justice, faithful to a promise of patient and civil treatment of lawyers and litigants, or as Socrates defined the judge’s charge, “to hear courteously, to answer wisely, to consider soberly, and to decide impartially.”

That is my promise to you today: to strive every day to meet Judge Barker’s challenge, courteously, wisely, soberly, impartially; not perfectly...but faithfully. I thank you all again for making this an unforgettable day for me and my entire family. God bless you all, and this Honorable Court.

Thank you.