Ballot Law Commission c/o Seoretary of State William M. Gardner State House Room 204 Concord, NH 03301

ATTORNEYS AND THE SEPARATION OF POWERS

Dear Commissioners:

I want to say that it is wrong for attorneys to hold office outside the Court system.

It is wrong because in recent years attorneys officially became Officers of the Court. Part of that change occurred in 1969 with the Unified Bar, and part in 1981 with the elimination of lay judges. Ever since they became Officers of the Court, it has been wrong for attorneys to hold office outside the Court system.

It is wrong because our Constitution makes it clear that it is not correct for one person to hold office in two different branches of government. See Part I Article 37, "In the government of this state, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity."

It is wrong because the Supreme Court controls the actions of all attorneys under Part II Article 73a "The Chief Justice ... shall make rules... The rules so promulgated shall have the force and effect of law." Attorneys are by law, under the rule of the Chief Justice, and the Supreme Court. For this reason also, attorneys must be limited to holding office only within the Court system, and must be removed from offices outside the Court system.

I ask the Ballot Commission to implement Part I, Article 37 of the Constitution.

Since attorneys and their spouses are legally one person, I ask the Ballot Commission to remove from the ballot all attorneys and all spouses of attorneys, because the Constitutional separation of powers should be enforced.

Submitted by:

Robert Kingsbury Republican Candidate for Governor

Robert Kingsburg

WHERE WE CAME FROM AND HOW WE GOT HERE

ARMED EQUAL AND FREE

The Saxons came to England from Germany in about the year 450 AD. They were armed equal and free. With everyone pulling on an oar and equally armed, they crossed the North Sea in longboats. Each individual had a vote. They elected their leaders. Juries settled problems between people. The only taxes that could be levied were those that they voted to apply to themselves. All of these features of government were included in the Saxon Coronation Oath, which the Saxons brought with them. (Women were essentially equal to men. The Saxon Coronation Oath permitted women to rule. It was because of this oath that Elizabeth I (daughter of King Henry VIII) was permitted to be Queen of England)

THE NORMANS FROM WILLIAM TO KING JOHN
After the Saxons arrived in England, every king was required to take the Saxon Coronation Oath. This included William the Conqueror and all the Norman kings who followed him including the infamous King John.
King John was just as bad a king as the story of Robin Hood says he was. In the year 1215 AD, fifty-five of the barons of England gathered outside London. They required King John (who only had five barons supporting him) to put his royal seal on a written version of the Saxon Coronation Oath. This written version is called the Magna Carta. King James I (1603-1625) and King Charles I (1625-1649) both governed under the Magna Carta. The Charters of the American Colonies were written during those years. Therefore the governments of the American Colonies operated under the Magna Carta.

FROM OLIVER CROMWELL TO THE AMERICAN REVOLUTION After the governments of the American Colonies were formed, Oliver Cromwell came to power in England (in about 1650). He removed the King (King Charles I) and many of the Magna Carta restrictions on government in England. As long as Parliament restricted itself to running things in Great Britain this posed no problems for the American Colonies. However during the rule of King George III Parliament began applying taxes to the American Colonies in violation of the rules of the Magna Carta (and the Charters of the American Colonies which were based on the Magna Carta). The American Colonies (quite correctly) objected to Parliament violating their Charters..

"These are times that try men's souls," wrote Tom Paine about the taxes Parliament applied to the American Colonies (without the authority to do so.) King George responded by sending troops over. First his agents stole the Charter from Massachusetts Colony. They tried (but failed) to steal the Charter from Connecticut Colony. The British troops then tried to disarm the colonists by confiscating the gunpowder stored in Concord, Massachusetts. This confrontation led in 1775, to our War for Independence, and in 1784 to the Constitution of the State of New Hampshire (and the US Constitution in 1789).

The connection between the Magna Carta and the Constitution of the State of New Hampshire is so close that Part First, Article 15 of the New Hampshire Constitution is a close copy of Chapter 39 of the Magna Carta. (the Magna Carta was written in Latin)

Ballot Law Commission, 9/13/02 ATTORNEYS AND THE SEPARATION OF POWERS

1. I took my oath of office to support and defend the Constitution of the United States on October 26, 1951. My oath of office was administered to me by officers Authorized to administer such oaths. I am acting as a requirement of my Oath of office. (Copy follows)

"I, having been appointed a Second Lieutenant, Army of the United States, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same, that I take this obligation freely without any mental reservations or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter; so help me God."

Robert Philip Knigsbury
26 Oct 1951

2. The Constitution of the State of New Hampshire consists of two parts.

Part First, containing 39 Articles is the Bill of Rights of the Citizens of State of New Hampshire.

Part Second defines our form of government

Article 37 of our Bill of Rights requires the separation of powers of the legislative, executive, and judicial branches of government. I ask that you implement, protect and defend this right our citizens

[Art.] 37. [Separation of Powers.] In the government of this state, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

June 2, 1784

- 3. The Constitution of the United States prohibits ex post facto law and by extension, ex post facto rulings. Therefore any ruling made on this request would not affect the general election scheduled for November 5 of the year 2002. Any new ruling would become effective on January 1, 2003.
- 4. This year there were 9 candidates for governor. I was one of those candidates. To my knowledge, none of these 9 candidates for governor was an attorney, or the Spouse of an attorney. Therefore my request to implement the Constitutional requirement for the separation of powers does not apply to the governor's race I was in. This is not a personal request.
- 5. Locally, public statements made by attorney Arthur Nighswander of Laconia dealing with a school board law suit first alerted me to the problem of separation of powers and attorneys. Attorney Nighswander stated that the attorney school board member of that school board should resign his school board position because it was a conflict of interest for an attorney to hold office in an agency being sued.

This request is a change required by three recent actions of government in our State. These changes resulted in attorneys being made Officers of the Court.

The first change was the 1969 requirement for a Unified Bar in NH

The second change was the 1978 amendment that gave the Chief Justice the power to make rules for the court system that had the force of law.

[Art.] 73-a. [Supreme Court, Administration.] The chief justice of the supreme court shall be the administrative head of all the courts. He shall, with the concurrence of a majority of the supreme court justices, make rules governing the administration of all courts in the state and the practice and procedure to be followed in all such courts. The rules so promulgated shall have the force and effect of law.

November 22, 1978

The third change was the 1981 elimination of lay judges from the court system These three changes occurred during my lifetime. These changes eliminated lay people from the Judicial system.

These changes have made today's Judicial Branch markedly different from the judicial system of the days of Daniel Webster, and Abraham Lincoln

Since attorneys are now Officers of the Court, I ask that they be limited to being officers of that Branch only.

Also, since attorneys and their spouses are legally one person, I ask the Ballot Commission to remove from the ballot all spouses of attorneys, because the Constitutional separation of powers should be enforced.

I ask that the rights of our citizens as listed in Article 37 of our Bill of Rights be implemented, and that beginning on January 1,2003 that attorneys be limited to running for office in the Judicial Branch of government only.

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