

State of the Judiciary  
Chief Justice E. Norman Veasey, Delaware Supreme Court  
Message to the Legislature  
January 12, 1993

Governor Carper, Lieutenant Governor Minner, Speaker Spence, President pro Tem Cordrey, members of the 137th General Assembly, members of the Judiciary, distinguished public officials, Governor Carvel, leaders of the Delaware Bar, distinguished guests and citizens of Delaware.

It is a high honor to present the State of the Judiciary Message to this Body. I am particularly grateful to the members of the House and Senate for extending this distinct privilege to me at this time. I have served a little over a year in this term and I have learned a great deal about the judiciary and the role of the branches of government. Most of all, I have learned and I have mentioned to many of you on several occasions that one should never take anything for granted.

And I do not take for granted your invitation to present the State of the Judiciary Message. I know that, in the exercise of your independent role as the legislative branch of government, you will scrutinize carefully any requests that I may present to you for your consideration and I expect that and I welcome it. And in all events I appreciate your continuing support for the courts! I know there are perhaps differing views within this State and in this country about the function of a State of the Judiciary Message presented by a Chief Justice to a legislative branch of government. And I have read State of the Judiciary Messages which have been presented by my fellow Chief Justices to their legislatures, and I see quite a variety of approaches.

Delaware law requires the Chief Justice to present the State of the Judiciary Message. 10 Del. C. § 1901. The language of that statute is virtually identical to the language in the Constitutional provision (art. 111 § 15) requiring the Governor to give the State of the State Message to the General Assembly. Like that constitutional provision, the statute relating to the Chief Justice simply says:

The Chief Justice shall from time to time give to the General Assembly information concerning the judiciary and recommend to its consideration such measures as he shall deem expedient.

And I would expect that on some occasions it would be sufficient, with your approval, to fulfill this message in writing. I particularly appreciate your invitation at this time, shortly after the end of my first year to deliver the message personally, because I think we are at a watershed now in developing long- range structural solutions to some of our problems.

The next question is: What should a State of the Judiciary Message be about? And I do not believe it should be a long "wish list" detailing all the needs of the courts. It should not be repetitive of, or a substitute for, the detailed presentations to the Joint Finance Committee in connection with the budget or the capitol budget committee or presentations that I have made at the request of the House Judiciary Committee or the invitations that I have received from Senator Sharp's committee to speak to the Senate Judiciary Committee.

I like to limit this message to one central theme and that's a partnership among the three branches of government to forge a refined structure for our judiciary so that it will more efficiently, fairly, promptly, inexpensively and competently serve the citizens of the State and so it will become a model for the nation.

Many of you, perhaps all of you, are familiar with Senate Joint Resolution 14 which was introduced last Thursday. I appreciate very much the fact that there are many co-sponsors among the leadership of this body on that Joint Resolution and it relates to the commission which I am about to discuss.

Delaware has benefited from the competence, hard work and national preeminence of our judiciary and today I ask you and the Governor to join me in a partnership to assure that Delaware will be preeminent not only in the quality of its judiciary and its judicial decisions, but in terms of the structure of its judicial system. That structure does need attention, possible revision, new resources, and coordinated planning to achieve excellence as we approach the 21st Century.

It is my mission and that of my fellow judges to provide fair, prompt, competent, inexpensive decision making for our citizens. That means that it is our job to manage what we have, with the resources that are provided, to carry out our constitutional mandate.

The powers of these three branches are exercised separately and independently, but in a spirit of partnership and harmony, much like a symphony orchestra. One branch does not invade the turf of the other, yet we are interdependent. The judiciary cannot function effectively without adequate resources and wise legislation from this Body. And without the Governor's wise exercise of his appointing authority and the Senate's wise exercise of its power to consent to such appointments the judiciary would not have the quality personnel it needs to operate the system.

While the Constitution delegates the administration, and supervision of the judiciary to the Chief Justice there is a limit on the ability of the judiciary to arrange the structure to keep up with the challenges of today, and those which lie ahead as we approach the 21st Century. We need your help in helping us to think through the kinds of structural improvements which are appropriate, and to provide the statutory and constitution changes which will be required.

That is why I respectfully urge you to pass and the Governor to sign Senate Joint Resolution 14, that proposes a joint task force "Commission on Delaware Courts 2000." This task force most notably involves the three branches working together to make Delaware a model state.

Why do we need this? Isn't it just another study committee? To be sure, we have had very effective study committees in the past. In 1986 we had the Court Consolidation Commission; we had Superior Court study committees, a recent committee on the Common Pleas Court. We have a Delaware Courts Planning Committee, which is a permanent committee advisory to the judiciary.

But, in my view, what we really need is an action-oriented, broad-based task force directly

involving all three branches of government to move immediately and comprehensively to address the problems that are interconnected among our various courts and I hope that committee will report and get their work done in less than a year. At least 33 states around this country have some form of futures commission which has recommended changes to their legislative bodies. We need to review those studies and those methodologies, but we don't necessarily need to copy them because we're unique. We're small enough and we're good enough so that we should have the best state court system in the country.

Why is that important to us? It is not simply to win an award for the best structure. Most important is the fact that it will help the people of this State who live here and who deal with our courts every day. I am concerned about people in all walks of life who may find themselves in a Justice of the Peace Court, the Municipal Court, an Alderman's Court, the Court of Common Pleas, the Family Court, the Superior Court, the Court of Chancery, or even in the Supreme Court. We need to provide those citizens with a framework which makes sense and will enable us to provide our citizens with those prompt, fair, inexpensive, and competent decision making that they deserve.

Delaware also has, as one of the major components of its public policy, a judiciary which is truly national. More than half of the Fortune 500 companies are attracted to Delaware, not only because of the advanced legislation for which this body is responsible, but because of our judiciary that administers our law. Today we have in Delaware 207,721 domestic corporations whose businesses and affairs are often determined by our courts in one way or another. Streamlining our court structure will help that image and will be to Delaware's economic advantage.

So the problem areas should be brought into sharp focus by this Commission, because many are interconnected. Action affecting Court A will probably affect Court B or will affect other parts of the justice system, the Department of Justice, the Public Defender's office. There are a number of specific areas that have to properly fit into the mosaic of a modern, smooth functioning, and model structure. The Commission should, in my view focus on the following areas among others:

Court of Common Pleas. We've had a study that suggests a merger with Superior Court. That may or may not be the best idea. It has recommended other steps in terms of jurisdiction. They need to be studied because they have an effect on other courts. Other areas include the Wilmington Municipal Court, the Alderman Court. Whether we should have a unified general trial court with divisions such as a Family Division, an Appellate Division, Common Pleas Division, Criminal Division and a Civil Division.

Whether the Family Court or the Court of Common Pleas or both of them should become constitutional courts. That's a very important issue that this commission should focus on.

One should focus on the jurisdiction of the Justice of the Peace Courts. What are the impact of "minor traffic offenses," in terms of the burdens on the Court. What are "minor offenses". How about the jury system, how can we improve that? Is there an impact of mandatory minimum sentencing that ought to be looked at, whether it should be changed. We ought to know what its impact is.

A permanent solution to the security problems in Delaware courts needs to be undertaken. A model is the US Marshal system. That's very expensive, that's long range. But I'm worried about the security in our courts, particularly in our Justice of the Peace Court which is one of my highest priorities in this next coming budget year.

We need a permanent solution to our housing problems for courts. Georgetown is an immediate problem, Wilmington Justice Center is the next problem, the next shoe to drop if you will. We need to study all kinds of issues: what is a fair compensation system, what is the flexibility needed by the Chief Justice in order to move things around within the system and not violate any caps on the budgetary system.

Do we really need a senior judge system. We have one leg of a constitutional amendment. This commission should study that issue.

We need to, most of all, I think in the end we need to consider the feasibility of establishing goals involving enhanced non-judicial staffing: commissioners, masters, staff attorneys, law clerks, advanced technology and other resources, particularly alternate dispute resolution mechanisms, mediation and arbitration and the like.

This final item may be last on this list, but it's not least, because it calls on the Commission to consider the feasibility of establishing goals in those areas. To be sure, we have an immediate need for two Superior Court judgeships today. That's the number one priority. That cannot wait. But what do we do in the future?

This Commission will study caseloads, will study projections and will see how we can deal without involving additional judgeships anytime soon, how we can deal with the situation with these other tools that we have available and come up with a plan for when we're going to need these judgeships.

The Superior Court and the other courts are already making great strides alternate dispute resolution mechanisms that are attached to the Court, court-annexed. The Superior Court, for example, has mandatory arbitration for cases involving \$100,000 or less and, if the litigants don't like that they get a trial de novo. This weeds out over 80 percent of the cases and that's a good system.

The Family Court and other courts have outstanding alternate dispute resolution mechanisms. We need to strengthen that. The Superior Court has trained mediators who are trained to talk to people in court to keep the case away from involving juries and judges as long as possible. To be sure you have to have a judge at the end of the line as an enforcement mechanism but we need to look cooperatively as a partnership at all of these methods to try to come up with a solution.

In the technology area, the Superior Court, for example, has its Complex Litigation Automated Docketing system which is nationally known for its efficiency in electronic filing. I think we need to look and see how that can be expanded.

I have not mentioned the Supreme Court or the Court of Chancery. The Supreme Court has a tremendous workload but I don't recommend that we add any more judges to the Supreme Court or that we add another layer of courts, an intermediate appellate court. What we need are more staff and more mechanisms through the way of staff attorneys which is one of my high priorities or law clerks in the future. The Court of Chancery, which is our outstanding business court, nationally known. It's a Court whose resources are valuable to the State and perhaps they can be expanded.

I'm particularly delighted that Governor Carvel is here because we have a Supreme Court of five justices now and he started with the help of this body many years ago in 1951, the separate Supreme Court which has helped propel, I think, our judicial system into national recognition along with the quality of our judiciary. Governor Carvel has been a leader in judicial reform and he's a prime example of what we're about today in 1993 as we start on this new venture. Thank you for being here.

Unlike most states we can get things done in Delaware. We can get it done cooperatively. We can all work together. You all have been very kind to me in the number of times I have been before you and I know we can get this done. If you look at Senate Joint Resolution 14, you'll see that it proposes a commission of sixteen people. The chairs, cochairs, of that commission are named in there, O. Francis Biondi, Esquire and Rodman Ward, Jr., Esquire, who are here. They would be outstanding leaders for this commission. It also calls on the Governor to appoint four, the Chief Justice to appoint four and the President Pro Tem to appoint two, the Speaker to appoint two, all bipartisan and there are mandates in there to appoint members of the public who are not lawyers and not public officials. The key, however, is having members of this body involved in the process.

When should the Commission report? Well, as I mentioned earlier in this message, I think it would be desirable for the Commission to have presented to you for your action, constitutional and legislative changes to implement their study early next year. Any constitutional changes then can be considered by the 137th General Assembly in 1994. This is a very ambitious undertaking but I'm certain we'll have an outstanding and hardworking commission who with your help will get the job done.

You're gracious to have invited me and you have been extraordinarily courteous and attentive to me, not only today but each time I have had the privilege of speaking with each of you directly or in your committees or on the floor. And as I said at the outset, I do not take that for granted. I think it is important to maintain frequent contact and work together. My door is always open to you and I will always return your phone calls, the same day if it's at all possible and I'll always be available to you to answer any questions you may have about judicial administration or legislation or structural change. I cannot speak to you and no judge can speak to you about any case but I welcome the opportunity to discuss these matters with you at any time. I think that's about twenty minutes, in the Supreme Court we limit the lawyers to about twenty minutes so now I will thank you very much for your attention. I appreciate it.