

State of the Judiciary

Chief Justice Alexander M. "Sandy" Keith, Minnesota Supreme Court

Message to the Minnesota State Bar Association

June 23, 1995

As I prepared for our meeting today, I realized I have long passed the halfway-point in my term as chief justice. "The sun is in the West," as I tell my friends who turn 50, "and the best is yet to come."

I started my tenure as chief justice in 1990 when Tom Tinkham was president of the Association—then Bob Munson, Bob Guzy, Roger Stageberg, and now Mike Galvin.

All have made unique contributions to strengthening and improving the Association and the judiciary. We are very unique in Minnesota in that we have an unusually positive relationship between the bench and bar. Don't ever take this fact for granted. This does not occur in many states.

Next, I want to pay tribute to the governor and the Judicial Selection Commission under the leadership of Jim Gilbert for their work in screening and selection of judges.

Few realize the impact of a governor and this commission on the judicial process. Governor Perpich, between 1983 and 1990, appointed judges, including three on the Supreme Court, all members of the Court of Appeals, 139 or 57 percent of all district judges. In addition, he appointed all three members of the Tax Court, all five members of the Workers' Comp Court of Appeals and the chief administrative law judge—a total of 165 men and women.

Governor Carlson, in less than four and one-half years, has appointed 56 judges, two to the Supreme Court, five to the Court of Appeals, and 49 district judges. At present, there are seven district judge vacancies now being filled. He has appointed one or more judges in all 10 judicial districts, including 15 in Hennepin County. Of the 49 district judges, 17 were women and 32 men. He has appointed three African Americans, one Asian, and one Native American. In addition, he has appointed all three members of the Tax Court, five members of the Workers' Comp Court of Appeals, and a new chief administrative law judge. Today, we have 45 women on the district bench; three women on the Court of Appeals and three women on the Supreme Court. In addition, we have three women on the Tax Court and two women on the Workers' Comp Court of Appeals. This is a total of 56 women, up from 37 in 1990. At the present time, we have 11 district court judges of color, seven African Americans, one Asian, one Native American, and two Hispanic. We have one African American on the Court of Appeals and one on the Supreme Court.

In the final analysis, a court system is only as effective as its personnel. I can assure each of you in the association we do have outstanding people at every level of our judicial system.

Now I want to turn my attention to what we have attempted to accomplish the last four and one-half years. I learned early on, after being sworn in as chief justice, I was not in the Marine Corps. You don't give orders and tell anyone to drop and "give you 50." Fortunately, that's not my style anyway. My job is a job of persuasion and consensus building. Despite the occasional frustrations that come from trying to move an institution faster than it sometimes can be moved, I have found that working with our judicial leaders, the chief judge and assistant chief judge of

each district, the officers of the Minnesota District Judges' Association, and chief judge of the Court of Appeals has probably been the most rewarding aspect of the job for me. These leaders have developed a far more cohesive system with shared goals and interests. Specifically, the credit for this vital working relationship is shared with Judge Kevin Burke, who has done a remarkable job as chair of the Conference of Chief Judges and Justice Paul Anderson, chief judge of the Court of Appeals, who brought the intermediate court into the system as a team player, and now to Chief Judge Ed Toussaint who will enhance and build on that relationship in his own unique way. Three other outstanding chief judges deserve recognition for their leadership, hard work, and willingness to be innovative in the management of their districts. They are Chief Judge Ed Lynch from Hastings in the First District, Judge Donovan Frank for Virginia in the Sixth District, and Judge Russ Anderson for Crookston in the Ninth District. Together, we have been working together on our legislative and policy strategies and to support one another.

Basically, since I signed on as chief justice, we have been working towards developing three goals.

- A court system that is adequately funded and staffed;
- A court system that is accessible to the public;
- And a system that is proactive, as well as responsive, to societal changes.

In terms of a court system that is adequately funded and staffed, we have made some inroads. Despite the extreme pressure to hold the line in state spending, the court system's budget has been fully funded each year and we have been given in this past session the funds for five new judgeships which will come on line in the Fourth, Seventh, and Tenth districts within the next year and one-half. This brings our total new judgeships to 10 since 1990. In addition, we have been authorized and have hired 27 additional law clerks for our district judges in rural Minnesota.

Looking to the future—if the huge increases in

juvenile and criminal filings continue, Minnesota will face in five years the prospect of:

- A backlog of 100,000 cases affecting thousands of individuals.
- Up to a one-year delay in criminal cases.
- A doubling of the time needed to handle juvenile cases.
- And, if we choose to divert judicial resources from civil cases to the new criminal and juvenile cases, the backlog of civil cases would triple in time from 15 months to 42 months. We cannot allow this to happen.

Which brings me to the second objective: a court system that is accessible to the public. The work of the Gender Fairness Task Force, the Racial Bias Task Force, and the Juvenile Justice Advisory Task Force have made major contributions to furthering the goal of accessibility. Each of these task forces has pointed out the problems and has mobilized very aggressive implementation committees who are making sure that the recommendations are put into action. A new Supreme Court task force is focusing on the reforms needed in the civil commitment area and two other task forces are about to start working on our foster care and adoption systems and our guardian ad litem programs.

Accessibility means more than the inclusion of minority groups and addressing their specific needs. For example, we have started a four-state consortium to develop a court interpreter certification program. Each state in the consortium is developing a training, certification, and continuing education program in a particular language. In Minnesota, we are working on an extensive Hmong interpreter program. The participating states will develop a communal bank of expertise and share resources so that we can improve the quality of courtroom interpreting. Justice Paul Anderson is leading this initiative and a full-time administrator has been hired. A group of Spanish-speaking interpreters is going through the program now here in Minnesota and will be certified by September of this year.

We are in the process of strengthening our judicial orientation program. A few years ago, a judge put on a robe and walked into a courtroom. Now we have an immersion course given twice a year to better prepare judges for their responsibilities. In addition, individual districts, such as Hennepin, supplement the state program with mentoring and on-the-bench training and ongoing support.

The concept of accessibility also means that the system holds itself accountable, for making necessary attitudinal, procedural, systems, and statutory changes. Greater citizen involvement is a huge asset in this process. That is why I was pleased that the Legislature granted our request to raise jury fees (\$15 a day to \$30 per day) to ease, somewhat, the financial burden on jurors of limited means. This is just one initiative that is meant to broaden the pool from which you choose jurors.

We have citizens involved at the local level on the district racial bias task forces and the domestic violence coordinating councils and we want to continue to expand citizen participation. In addition, alternative methods of dispute resolution are expanding. The ADR rules for civil cases will have been in place for one year on July 1st and while we don't have empirical data yet, we are hearing anecdotally that ADR is gaining wider acceptance. I want to encourage each of you to become proficient in ADR methods and to present them in the most positive light to your clients.

Accessibility is an important issue, not only for the public, but for the practicing bar and for our partners throughout the justice system. We now have uniform general, local, and conciliation court rules, uniform criminal rules, and a wide number of uniform forms ranging from those for modifying child support to petitions for orders for protection. In our effort to assess the quality and accessibility of judicial services, focus groups consisting of justice system professionals across the state were conducted to discuss quality in the trial courts and to seek input for improvements. One of the most critical issues identified by the focus groups was, adequate time available to hear and consider matters before the court.

Along with adding resources that would make more time available, many participants recommended changes in the nature and management of judicial work, such as diverting certain cases, making greater use of alternative methods of dispute resolution, administrative processes and the ongoing implementation of innovative caseload management techniques. Another concern that came out of focus groups was the lack of information available to judges as they make their decisions. Participants also felt that coordination and communication within the justice system are significant problems facing the courts. Suggested solutions include improving communication through interdisciplinary training as well as cross-functional steering committees.

Our third objective—being proactive, as well as responsive to, changing societal needs and expectations—is a very exciting initiative. With the help of the bar association, in many instances, the courts have made a whole host of changes and many more are in the pipeline. These innovations which are designed to overcome resource limitations while providing better service include:

- Total Quality Management practices in three judicial districts—the First, Fourth and Eighth.
- Divorce with Dignity and administrative divorce options.
- Housing courts in Ramsey and Hennepin. Fast-track drug case processing.
- Testing applications of new technology including videoconferencing.
- Equalizing judicial workloads across judicial district. Testing total state funding in one of our 10 judicial districts. This is a concept that is working so well in
- the Eighth Judicial District—the Willmar area—we must now ask whether state funding should be expanded to other rural areas or the entire state as the demographics of the state continue to change.

These are a thumbnail sketch of what has been accomplished in the past four and one-half years and they dovetail into what we are working toward in the next few years. Looking to the future, we hope to:

- Implement judicial evaluation programs on a district-by-district basis.
- Address long-term resource shortages of judges (and their compensation) and the personnel they need to be efficient.
- Attempt to restore additional time to the court calendar for thoughtful consideration of complex issues.
- And enable the system to address the changing societal trends and demands through greater investment in evaluation and innovation.

If there is one constant that I am confident the judiciary values, it is the positive working relationship that we have with you. We encourage and appreciate your feedback. We see you as partners in shaping the future of the judiciary and the court system and we look forward to a continuing and productive relationship.