

State of the Judiciary in the Commonwealth
Chief Justice Robert N.C. Nix Jr., Pennsylvania Supreme Court
Message to the Pennsylvania Bar Association
May 8, 1985, in Hershey, Pennsylvania

I am pleased to again have the opportunity to address this distinguished assemblage. Last year the dark clouds of distrust, discord and disharmony hung heavily over the legal system. In that bleak setting I said to you that I nevertheless saw the promise of the moment. From the ashes of earlier mistakes it was evident, even then, that we in Pennsylvania had the potential to be one of the leaders in the continuing development of American jurisprudence. I have always remembered my mother saying that a mistake is only fatal when we fail to learn the lesson it teaches. We had made mistakes, the lessons to be learned were graphically apparent and we were in the position of seizing upon that moment to transform failure into unprecedented accomplishments.

At that time we identified certain priorities; they were: Excellence, Accountability, Openness, and Efficiency. We set as a goal - a fair, effective, efficient system dedicated to dispensing equal justice to all. During the past year, I am pleased to report that we have made substantial efforts towards that goal. We have remained faithful to our priorities. As a consequence, I can report to you today that your system reflects the vigor of a new beginning and looks with healthy anticipation to the promise of tomorrow. Our confidence in our ability to achieve our objectives has been confirmed and our commitment to persist in this pursuit has been reinforced.

APPELLATE COURT DOCKET STATUS

We are able today to boast of an accomplishment that I dare say few, if any, of the highly populous industrial states can claim. Two of our three appellate courts are maintaining a current docket. That means there is no delay either before argument or between argument and disposition. To give you some idea of the significance of this accomplishment - The Supreme Court was called upon during the calendar year of 1984 to handle 1,537 allocatur petitions and 1,306 miscellaneous petitions and to dispose of 224 argued and submitted cases, all in addition to our rulemaking and administrative responsibilities.

The only appellate court with a backlog is the superior court. I am pleased to note that the situation was not due to lack of industry on the part of the members of that court. The case load of the court and the manner in which it was previously structured made it impossible for it to maintain a current status. With the penalization of that court and the increase of its membership the disposition rate has markedly improved. Of even greater significance the quality of the work of that court is at its highest level.

Nevertheless, a backlog still existed because the inventory of the Superior Court continued at a rate significantly above what it could reasonably be expected to handle. To meet this problem, we began a special accelerated disposition program in January of 1985. Our objective was to reduce the inventory, which was inflated as a result of its prior situation, to a level where the case load could be maintained at an ongoing current status. During the first quarter of 1985 the Superior Court disposed of 2,665 appeals and reduced its court inventory by 1,273 appeals

(difference between the new cases filed during the period as against those disposed of during the period).

This outstanding accomplishment came about as a result of the diligent effort and cooperation of the members of that court and the senior judges assigned to implement the accelerated program. Extraordinary efforts of this nature will be continued, from time to time, until that court reaches a current status. It is my firm hope that that point will be reached by January 1986.

AUTOMATION OF CASE FLOW AND FISCAL DATA

To properly monitor the case flow of our trial and special courts requires a degree of automation technology that we do not presently possess. For years, we have attempted to discharge our responsibility of superintendence in these areas by relying upon the figures reported to us by the respective judicial districts. In the past, there has been a serious delinquency on the part of some of those courts in the discharge of their reporting responsibilities. I am pleased to report that since January 1984 those courts have been more conscientious in this regard. Nevertheless, under the present system, even with maximum cooperation from the reporting districts, we are still required to rely upon the accuracy and the completeness of the information supplied.

UNIFIED BUDGET V. COUNTY REIMBURSEMENT

In addition to case flow management a compatible system of automation technology is absolutely essential to our management of the fiscal affairs of the system. The system collects millions of dollars in fines, costs and fees yearly. Its expenditures, including county cost reimbursement, exceed one hundred million dollars yearly. Experts who have studied our system have called for the abandonment of county reimbursement and the adoption of a unified budget. I agree that such a change would strengthen control and accountability over the system's expenditures. At the present time county expenditures are determined by the county officials and the judge or judges involved. Neither the state administrative office nor the Supreme Court has input in those negotiations. There are fiscal procedures that the court is in the process of instituting, of which I will speak in a moment, which are designed to further strengthen our fiscal control. All of these programs can only be fully maximized with a substantial updating of our existing technology.

COMPREHENSIVE AUTOMATION STRATEGY

Compatibility of Information Systems Advisory Committee

Unfortunately, at no level of the judicial system can I state that we are sufficiently supported by technology which will allow us to perform these responsibilities in the most efficient and economical manner. At the local level, in some court's information systems proliferate without regard for compatibility with sister judicial districts. It is imperative that we avoid the mistake of other jurisdictions that have indiscriminately acquired hardware and software without a view to compatibility or a clear understanding of the ultimate objectives sought to be achieved by such acquisitions.

To meet this challenge, one of the first actions taken by me, as Chief Justice, was to urge a moratorium to halt the emerging trend of frenzied and often ill-advised acquisition of hardware and software within a number of the component segments of our system. We convened an advisory committee with the expertise and the objectivity capable of producing the automation strategy designed to meet our short-term needs as well as identifying and articulating our long-term objectives. We called upon the most outstanding and prestigious financial institutions in this commonwealth to supply us with the expertise to assist in this effort. I am pleased to note that Philadelphia Saving Fund Society, Penn Mutual and Mellon Bank enthusiastically responded by offering us the highest caliber of talent. We have also borrowed from our sister state, New Jersey, their former director of information systems. Those individuals have served without compensation, and their contributions have been invaluable. We are deeply grateful.

The advisory committee earlier this year completed a preliminary examination of the strengths and weaknesses of our computer utilization. It has set forth a procedure for us to follow in the development of a comprehensive automation strategy. The advancement of the Pennsylvania court system in this area of technological development is perhaps our most important endeavor without which we cannot achieve the level of efficiency and excellence we seek. Certainly, we will not be prepared to enter the twenty-first century with a system relying upon the pen and ink technology of the nineteenth century.

I am fully aware of the demands upon the tax dollar today. However, this endeavor must be given the highest priority. The procedure followed was designed to avoid any unnecessary expenditures. The committee chaired by Justice Zappala has the expertise to assure that all budgetary requests are kept to the bare minimum. I would hope that its requests would receive prompt and favorable consideration.

JUDICIAL EDUCATION PROGRAMS

Of equal importance to the growth and development of any system is the establishment of a level of competence and the maintenance of that level. I have previously mentioned the creation of a statewide education committee consisting of the deans of the Pennsylvania law schools and outstanding judges and lawyers within our system. The President-elect of your group is an ex-officio member. The thesis upon which we have operated is that a comprehensive resident program of continuing mandatory education for both bench and bar will assure the level of excellence to which the people of this commonwealth are entitled.

This committee has cooperated with the Pennsylvania conference of state trial judges in producing four judicial education programs for our trial judges since May of 1984. This committee also sponsored an appellate judge seminar which was held at the Villanova University School of Law this fall. This event, the first of its kind in Pennsylvania, had in attendance all of the members of the commonwealth and superior courts in addition to at least four members of the supreme court, who attended as guests. I trust that the members of the bar will recognize the impact of Cardoza's categories and Roscoe Pound's trichotomy in reviewing the more recent appellate opinions that are being handed down.

PENDING CLE REPORT

In furtherance of its role to assist in the implementation of existing programs and the development of new programs, that group has been asked to serve as our "think tank" in the area of continuing education. I requested the committee to advise the court on, such complex programs as: the coordination of all present programs, the feasibility of mandatory continuing legal education, the viability of regulating lawyer specialization the possibility of providing constable education, the upgrading of our program for district justices, and the qualitative expansion of all of our educational services. I await a report on that phase of its work. It is anticipated that pilot projects in many areas of legal discipline will be produced as a model for the Supreme Court's future promulgation in the area of judicial education and continuing legal education.

In addition to enhancing the efficiency and upgrading the quality, we have also taken substantial steps in ensuring the integrity and accountability of the system. Both through interviews with members of the media and through extensive speaking appearances at bar association meetings throughout the state, I have endeavored to be accessible and accountable.

PRESS-PUBLIC-BAR RELATIONS

This court can claim an extraordinarily open relationship with the press and public. We have attempted to be tolerant and appreciative of the efforts of the press to inform the citizenry of events affecting their judicial system. Not only is my door usually open to opinions of and questions from the press, but members of bar association groups have also found me to be accessible for discussions on issues pertinent to the system.

In addition to joining in positive dialogue, I have also included members of the bar and the public in the membership of committees relating to the system's activities. The membership of the Philadelphia Traffic Court Committee is an outstanding example of an aggregate of caring and concerned lay people and lawyers. In my judgment it is essential to have lay participation as well as the participation of our bar in the development of our system. I have followed this principle and will continue to do so because we must be ever mindful of our responsibility to provide a system for all of the people of this commonwealth.

FISCAL REFORMS

Earlier, I mentioned fiscal reforms that are being made. During the annual audit of the entire judicial system, I requested an in-depth analysis of our fiscal operations over the past five years. The purpose was to identify any weaknesses in our present procedures. Additionally, it was to obtain insight and recommendations for change which could be provided by our auditors. As a result of that report, we have directed the state court administrator to: (a) Prepare a comprehensive manual for judicial accounting; (b) Require prior approval to exceed minor budget code categories; (c) Install an encumbrance accounting system; (d) Upgrade our payroll section and its procedures; (e) Develop a written travel policy; (f) Establish uniform reporting requirements for appellate court costs; (g) Develop advisory standards for appellate court procurement and personnel; and (h) Maintain a fixed asset ledger. These programs are presently being developed and should be available in the near future for consideration by the full court. As

previously stated, the implementation of some of these innovations will only be fully realized with the development of our automation system.

Let me briefly mention some of the other accomplishments of the court as well as some of the programs under consideration:

Financial Disclosure Rule

Financial disclosure by all judicial officers. The rule was promulgated last spring and the judicial officers of the commonwealth willingly complied.

Legislative Liaison Committee

Our court has established a three-justice legislative liaison committee for the purpose of discussing problems of mutual concern consistent with our constitutional mandate. Justice Stephen Zappala, Justice James McDermott and myself confer with the leadership of the state House and Senate at regular intervals.

State Capitol Sessions

In an effort to establish the presence of the Supreme Court in the state capitol, we scheduled five of our eleven 1984 sessions in Harrisburg. We will hold the same number of sessions there this year.

BICENTENNIAL COMMEMORATION OF THE U.S. CONSTITUTION

Working closely with Chief Justice Warren E. Burger of the United States Supreme Court, we are developing a Bicentennial Commemoration of the United States Constitution. There is no question that Pennsylvania is the keystone in any celebration of our constitution and our discussions have centered upon having the entire United States Supreme Court sit en banc for a rare ceremonial appearance here in Philadelphia. I trust the Pennsylvania bar will join with our court in developing a major celebration on that occasion.

The foregoing should persuade even the most confirmed skeptic of our commitment to our goal—a fair, effective, efficient system dedicated to dispensing equal justice to all. The course has been set and our efforts to date have been blessed with extraordinary success. As I said to you last year, our goal can only reach fruition if the court has the full support of its organized bar. It is critical that bench and bar work hand in hand in this endeavor. Al Massey's administration has been most helpful and cooperative, for which I am deeply appreciative. I have been assured by Jerry Bogutz that the new administration will continue to supply the same enthusiastic support. With this joint commitment to the excellence of the Pennsylvania legal system, I am confident that our success is assured.

Thank you.