

Report to the Bar

Chief Justice Robert N.C. Nix Jr., Pennsylvania Supreme Court

Message to the Pennsylvania Bar Association

May 8, 1986, in Hershey, Pennsylvania

One of the most pleasant duties that I am required to discharge as your Chief Justice is to annually address this distinguished assemblage. I think that this is a most important responsibility because the future of our system heavily relies upon the joint efforts of the bench and the bar. It is a partnership mutually dependent upon our cooperative endeavors to maintain and to improve the quality of the administration of justice and the level of service to which the citizens of this Commonwealth are entitled. We both must continue to work diligently toward our desired ends. At the outset I want to say we have identified as priorities excellence, accountability, openness and efficiency. I feel we have made significant strides in those areas, none of which could have been achieved without mutual cooperation.

COURT AUTOMATION

As I indicated in my previous messages to you, a top priority was court automation. I am pleased to announce that a contract has been awarded to establish a plan for a comprehensive system of automation in Pennsylvania. We anticipate close coordination between the organization conducting the study, the firm of Maximus, and the various county and appellate courts so that our final design will represent the best thinking of all the participants and, further, will be most compatible with existing hardware and software. Every effort will be made to seek the opinion of the bar as well as the bench to ensure that the ultimate product will be one that will serve the optimum needs of the entire legal community in Pennsylvania.

It is expected that the study will run some twelve months and that our plan of action will be detailed and cover a time frame of approximately five to ten years. That is a recognition of the fact that we cannot change the world or even our small part of it overnight. We intend to grow gradually and appropriately, bringing those particular operations and pieces of information online as quickly as we can without threatening the stability of existing segments. We have requested the members of the Committee, and particularly its Chairman, Justice Stephen A. Zappala, to continue their efforts while the study is underway. We feel it is vital that continuity be maintained and that the expertise that has already been available to us be enhanced so that the submitted plan will reflect the greatest possible input from all segments of our system.

SEMINAR FOR NEWLY ELECTED JUDGES

Another high point of this year was the seminar for newly elected judges developed and held under the auspices of our Committee on Judicial and Legal Education. This program consisted of a two-week intensified period of training held at the Law School of Villanova University. The judges were housed in nearby Sunbrook, the spacious retreat center owned by Sun Company. I am deeply grateful to Sun Company for its cooperation and fine efforts which contributed so much to the overall success of the program. The course of study focused on the conduct of a criminal trial, with classes starting each morning at 9:00 a.m. and ending at 4:30 p.m.

During the dinners which were provided as part of the program, guest speakers and lecturers of national prominence were featured. In addition, particular emphasis was placed on judicial ethics. The spirit of comradery was apparent at all times and, from the glowing reports received at the conclusion of the program, it was clear that the participants had gained invaluable knowledge and awareness to guide them as they assumed their judicial duties. We owe our special thanks to the William Penn Foundation for providing the funds for this program. It is hoped that such seminars can be offered in the future on a regular basis.

RESIDENT PROGRAM OF JUDICIAL EDUCATION

I am convinced that the degree of excellence we seek can only be obtained through a comprehensive and continuing program of judicial education. We cannot merely utilize existing national programs to fulfill our educational mandate. Our state's complement of judges is too vast. We must train hundreds of judges, and we have a statutory obligation to train district justices, and pending legislation suggests we must be responsible for the education of the constables as well. It is clear that a resident program of judicial and related education must be established here in Pennsylvania. It is my hope that a Judicial Educational Center can be constructed, preferably in the Harrisburg area, which would be a role model for other jurisdictions throughout this nation.

Not only would it serve the members of our judiciary, it would also serve our court administrators as well as provide a base for continuing legal education. It is this vision that the Committee is charged with bringing to fruition. I am pleased to note that Dean John E. Murray, Jr., of Villanova University Law School, has agreed to accept the Chairmanship of this Committee. Dean Murray will be leaving his post at Villanova and returning to Pittsburgh to assume a chair that has been established in his honor. He has assured me that this commitment has his highest priority and that he will devote all of the time necessary to pursue its fulfillment.

FISCAL POLICY

I am certain that during the course of last year you have seen charges that the judicial branch of government has not been open as to its finances. While this may have been the case in the past, I can assure you that it is not so at this time. One of the first promises that I made to the people of Pennsylvania was that the Judicial Branch would establish and maintain a sound and open fiscal policy. I say to you - that promise was sincerely made - that it has been kept - and that it will continue to be kept as long as I am Chief Justice of this Commonwealth.

Too frequently, in the midst of controversy the facts are ignored. We as lawyers know that such an exchange cannot provide a satisfactory resolution of a dispute. Philosophical and personal differences cannot be allowed to overshadow uncontroverted facts. The true facts are capable of unmasking even hidden agendas. Let me supply you with those facts, which I challenge anyone to refute.

JUDICIAL AUDITING AGENCY

The Judicial Auditing Agency, created in 1976 and implemented in 1978, was established to review the results of the audits of all judicial funds appropriated. The Judicial Auditing Agency hires one of the "Big Eight" accounting firms, exactly as does the legislature, to produce a thorough and complete audit of all appropriated funds. The public accounting firm carries out the same sort of procedure as does the public accounting firm that audits the legislative branch and as does the Auditor General, who audits the executive branch of government. In addition, on a regular basis we provide to the House and Senate Appropriations Committees both computer printouts and computer tapes of expenditures by categories for every appropriation. We likewise provide, on a monthly basis, a list of personnel on the state payroll for all state courts.

Every penny we receive is accounted for and is subject to public scrutiny. Unlike at least one of our sister branches of government, we do not carry unencumbered funds beyond the fiscal year. We have no reserves. When I became Chief Justice of this Commonwealth, we directed all courts to disgorge all proprietary funds. These funds were derived from the fees and costs assessed throughout the system, which per year total approximately \$95,000,000, of which \$45,000,000 is allocated to the state and the balance retained for local government use. It was our belief that these monies should not be hoarded for future needs of our system but, rather, immediately infused into the general treasury to be shared for the benefit of all. At the same time it was expected that this system would receive that which it needs to perform its constitutional responsibilities in the most effective and efficient manner.

It has been argued that we have refused to submit to the legislature all relevant financial data. The undisputable facts indicate that this is not so. All pertinent information has been supplied and is available to that body. Any legitimate criticism will be immediately addressed and any unfounded charge vociferously refuted. Let it be known from this day hence that the court system is no longer a football that can be kicked by any political aspirant who has no other platform upon which to stand. We welcome constructive criticism but we will not permit the cheap shot. I offer the challenge today to those in the legislature who decry the state of our finances to submit themselves to the same scrutiny to which they desire to subject us. We have never had an objection to supplying information. Our complaint has been where the request intrudes upon the independence of the judiciary. I today invite the legislature to establish a committee to be composed of members from the leading financial institutions of this Commonwealth to review the fiscal operations of our respective branches. Those members would be selected in equal number by the judiciary and the legislature. I am confident that we would fare well in such a comparison, and I suggest to you that the citizens of Pennsylvania would be the beneficiary of such an examination.

I thank you for being most kind in affording me this opportunity and I am grateful for your continuing support in the programs which will foster the excellence, accountability, openness and efficiency that we hope to achieve. It is only through your complete cooperation and encouragement that our goals can become reality.