

State of the Judiciary
Chief Justice Lawrence W. P'Anson, Virginia Supreme Court of Appeals
Message to the Judicial Conference of Virginia
1979

On August 30, 1979 the Supreme Court of Virginia commemorated its 200th anniversary by holding a special session giving recognition to the proud history of the court. The occasion was marked by many reflections on the distinguished justices who have served on the court, but equally as important was the recognition of the establishment of the court, which insured the separation of powers and the independence of the judiciary. In order for our government to operate effectively, the judiciary must be independent. With this independence, however, comes responsibility and accountability. This fifth annual State of the Judiciary Report is presented to review and to analyze the efforts of the judicial branch of government in discharging the responsibilities conferred upon it by the people.

During the past year, the caseloads at every level of our court system continued to increase. In 1979, 1,863 petitions were filed in the Supreme Court, as compared to 1,185 filed just ten years ago. On the circuit court level, 130,461 cases were commenced in 1979 as compared to 73,614 in 1969. Whereas in 1969 the average number of cases commenced per circuit judge was 767, in 1979 that figure had risen to 1,214. During this period, filings increased by 77.2 percent while judicial resources increased by only 12.4 percent.

In 1979, 1,699,919 general district court cases and 186,614 juvenile and domestic relations district court cases were filed. These figures represent an annual increase of 6.5 percent and 6.0 percent, respectively. The future will likely present even higher caseloads. Projections indicate that the number of circuit court cases will rise at a rate of 5.1 percent per year while the number of district court cases will increase by 5.8 percent annually.

BUDGET

The court system must receive sufficient financial support to permit it to perform effectively as a coordinate branch of government. The capacity of the court system to perform its functions is determined by the financial resources available. The judicial branch budget for the 1980-82 biennium is \$102,671,950. The availability of these funds should insure that judicial branch personnel are compensated in an equitable manner and that the judicial branch can institute new programs and projects concerning the rapid changes in business technology and judicial administration. It should be noted that this new budget represents the first budget cycle in which the state will completely finance the courts. All grandfathering provisions of the 1973 court reorganization will end on July 1, 1980, and, with the exception of the circuit court clerks' offices and all court facilities and equipment, the court system will be a unified, state-financed system.

It is of interest to note that at the present time Virginia ranks seventh among the states in salaries of its circuit court judges and fifteenth in salaries for supreme court justices. I want to assure you that the court is doing all it can, within reason, to increase judicial salaries.

AREAS FOR CONCENTRATION

As I reported last year, the Judicial Council commissioned the National Center for State Courts to conduct a major study of our court system. The staff work on this study was presented to an ad hoc advisory committee of council members in mid 1979. Since that time, the ad hoc committee has reviewed the section dealing with the creation of an intermediate appellate court one of the five major sections of the report, and has reported to the Council on that section. Based upon the study and an extensive review of the study findings, the Judicial Council presented a draft proposal for an intermediate appellate court to the bench and bar for review and comment and will make a recommendation concerning the intermediate appellate court after receiving comments from members of the bench and bar. I again reiterate my support for the creation of an intermediate appellate court. Since the workload of the Supreme Court continues to grow, the time necessary to complete the appellate process and to examine the complex issues of modern day appeals has lengthened greatly. If our appellate capacity is going to keep pace with the trial structure established in 1973, and if the length of the appellate process is to be shortened, an intermediate appellate court must be created. The facts support it, and justice to litigants demands it. Thirty-four states now have, or have provided for, an intermediate appellate court.

In conjunction with the creation of an intermediate appellate court, the staff of the Executive Secretary's Office will proceed with plans to conduct an appellate rules study. The purpose of this study will be to develop the specific practices and procedures to be utilized by such a court, should it be established. Furthermore, the study will review the existing rules for appellate practice in the Supreme Court in order to update these rules and to coordinate them with the rules of an intermediate court, if the court of appeals is established. Several judges and lawyers will serve as an advisory committee to the staff in conducting the appellate rules study.

While the ad hoc committee of the Judicial Council during 1979 confined its work to the study of the need for an intermediate appellate court, the National Center for State Courts has addressed many other areas of court reform. I shall list some of the National Center's recommendations, many of which are controversial and will be under discussion during the years ahead.

1. Circuit court clerks should be appointed rather than elected officials.
2. A statewide personnel system should be established for all circuit court personnel.
3. Circuit court clerks office personnel should be salaried state employees, and the fee system of compensation should be eliminated. All fees and commissions of circuit court clerks should be paid into the state treasury.
4. Circuit administrators should be established, where necessary, to assist each chief judge in discharging his duties and in coordinating the activities of the courts in each circuit.
5. All circuit court judges should have access to secretaries and law clerks funded by the state.
6. Each judge should have a law library allowance funded by the state.

7. A study regarding the use of court reporters and court recording technology should be conducted.
8. The Judicial Council should be reconstituted with a broader membership and should be the sole policy-making body for the judicial system. The functions of the Committee on District Courts should be merged into the Judicial Council.
9. The Judicial Council should work through a committee structure which parallels that of the judicial conference, and the chairmen of various conference committees should be members of the respective judicial council committees.
10. A judicial nominations commission should be created.
11. Each circuit should have a circuit judicial council, to be composed of the chief judges of the circuit, general district, and juvenile and domestic relations district courts. Each supreme court justice should be an ex-officio member of an equal number of circuit judicial councils throughout the state.
12. A study should be conducted to determine whether trial de novo remains a valid concept in Virginia.
13. District court substitute judges should not be allowed to practice law before the courts where they sit as judges,
14. Substitute judges should receive special training and should sit on only one side of the district court.
15. Magistrates should be organized as a division of the general district court.
16. The chief general district court judge should appoint and supervise magistrates.
17. Magistrates should perform their functions at a centralized office at each county seat.
18. Magistrates should receive required training and pass a certification examination in order to continue service as a magistrate.
19. The use of automation in the courts should be expanded to provide for better services and more accurate and reliable information.

The sensitive nature of these recommendations should not delay their consideration. Conference committees should attack the problems discovered by the evaluation study of the National Center for State Courts and find solutions which are viable, acceptable, and enduring. I encourage open debate of these issues in the years ahead in order that those recommendations determined to be sound can be adopted.

In conclusion, the court system of Virginia is sound; however, continued improvement is necessary. Within a dynamic and rapidly changing society, to remain constant is to regress. As society alters, the courts must be responsive and adapt to these changes. Such modification is a part of life and is intrinsic to any judicial system. It is our responsibility to guide these alterations in view of our experience so that change and continuity can go hand in hand. With this thought in mind, we look to the future as a challenge, and we rededicate ourselves to providing a court system worthy of the Virginia tradition.