

Justice Unfunded, Justice Undone? Assuring Sustainable Funding for Courts

Luncheon Speech by Chief Justice Castille

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Dickinson College, Stern Center

Thank you and good afternoon to attendees here at Dickinson College and to those viewing these proceedings on the Pennsylvania Cable Network. It is great to welcome back home to Pennsylvania former Governor Dick Thornburgh, who will be moderating a panel discussion later today. We welcome those who are participating as panelists, and especially ABA President Bill Robinson, our keynote speaker.

We have a spectrum of guests at today's luncheon, including Dickinson College students, some of whom more than likely will become tomorrow's policy makers. To those who fit that description let me say this: If future times are similar to present times, your task, as is ours now, will be the challenge to continue to allocate scarce resources in difficult economic times.

If you are confronted with that challenge, I hope you will recognize that governance is not just about resources, important as their careful use may be. Governance is also about principles – and in the Pennsylvania court system, our principles reach back 327 years to 1684 when William Penn established the Provincial Court, the direct ancestor of our Supreme Court and the modern Pennsylvania court system.

The meaning of a just society and the means of attaining justice through established constitutional principles are essential to the continued success of our democracy. And so, at the state level here in Pennsylvania, I want to spend a few minutes talking about the intersection of the issues of resources and principles.

Since 1790, our state Constitution has guaranteed Pennsylvanians the right to prompt and efficient administration of their cause through our courts so that important rights of a citizen or litigant can be protected and enforced.

Article I, Section 11 of Pennsylvania's Constitution (1790) states:

“All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay ...”

To ensure many of the rights that we hold important in our society, the road to justice often relies on America's courts. A fully-functioning, efficient court system is essential to providing justice for Pennsylvanians and to do that, the courts must be provided with the resources that are reasonable and necessary to carry out their constitutionally mandated functions... “without sale, denial or delay.”

The issues being discussed here today, in a moment by ABA President Bill Robinson on a national scale and a bit later by Governor Thornburgh and our panelists on a local scale,

are tied to these two questions: What is the value of our justice system? And how is the proper balance struck in ensuring appropriate resources to sustain the justice system?

While the issue of adequate funding for the courts of Pennsylvania is an important concern for our state, I think you will hear from Bill Robinson that these issues are topics of grave concern in many other states in our nation.

But first let me describe for you how at this moment we are a bit more secure in ensuring that our principles of justice for all can be upheld in Pennsylvania, because our resources are at least somewhat more secure.

Over the last six years, our state judicial system was consistently under-funded by about \$94 million and a long-term financial deficit was dug out of which the Judiciary could never alone save itself. In some of those years the Judiciary had to ‘rob Peter to pay Paul,’ by using funds statutorily set aside for court computerization purposes just to keep courthouse doors open. Open they have remained though, even as we have also continued to implement programs that are both innovative and cost-saving -- if often cost-saving to the other branches of government outside of the judiciary.

In some recognition of those cost-saving efforts – but decidedly in a renewed and strong spirit of collaboration between the three branches of state government for which we in the judiciary are most appreciative – the state judiciary’s budget was moderately increased in this difficult economic year.

It was critical that the Legislature and the Governor realized and addressed the need for sufficient funding for the court system. However, we hope in the court system that this is also a beginning to placing the state judiciary on a stronger, long-term financial platform and to improving the budgetary decision-making process, a process that often leaves the courts as the last funding decision to be made in the state budget process.

Of course, adequate funding goes hand in hand with the responsibility of the courts to use our appropriated funds effectively and efficiently and to do more with less in recognition of economic reality.

Over the past few years, the courts have had to make some hard choices when it came to cutting spending.

For example, we’ve started “right-sizing” the complement of 546 magisterial district judges in Pennsylvania based on caseload. We’ve already trimmed 10 district judgeships, and the Supreme Court’s goal is to eliminate another 40 magisterial districts through attrition. The result would be 50 fewer MDJs thereby saving about \$5.0 million annually in salary and benefits along with reduced court supported expenses at the county level.

We have also periodically suspended merit and cost-of-living salary increases, banned most out-of-state travel, instituted a targeted hiring freeze and renegotiated lower costs for contracts and leases.

Also, with the agreement of the Governor and Legislature, temporary judicial vacancies have remained unfilled over the last two years. However, with this week's election, 50 of those vacant judgeships will once again be filled in January. But if our budget challenges remain, we again will urge that judicial vacancies remain unfilled over the next two years until the next election cycle and perhaps even to further eliminate additional judicial positions.

The Judiciary hasn't shied away from hard choices, knowing that the General Assembly and its leaders and the Governor must make hard choices also.

People often ask me what a Chief Justice does.

In addition to my judicial duties – hearing cases and writing opinions – I oversee with my colleagues the entire state judicial system of 1,200 judges and associated personnel and its 65,000 licensed attorneys. In that role, perhaps the most important responsibility of a Chief Justice is to prod the judicial system to continually balance fiscal efficiency with the constitutional task of dispensing justice to our citizens. It is the duty of the Chief Justice to be the judiciary's advocate to ensure that through the court system our society remains a just society and that the principles of justice are not eroded.

My intensity is guided by the principles that I alluded to earlier – principles that have been established with sound reason by generations past and shaped over time by experience in the jurisprudential process. These principles cannot be subject to mere expediency, if they are to be held as principles at all.

These principles are the bedrock in assuring that Pennsylvanians' rights are protected and enforced through the guarantee of prompt and efficient judicial administration of the causes that are brought before the courts.

So, part of a Chief Justice's responsibility is also to occasionally and respectfully remind our co-equal branches of government about those principles, recognizing as I do the difficulties the other branches face in meeting a myriad of other obligations.

We have all heard the maxim, 'Justice delayed, is Justice denied.' But, I ask, what if that maxim, by intent or by misfeasance, is reduced to simply "Justice is denied?" If the courthouse doors are closed, what justice will there be for a prisoner awaiting trial? For persons awaiting a divorce? For an adoption waiting final resolution? For those awaiting resolution of a legal dispute of any kind? Where will our society be if this happens? You will hear faint echoes of these challenges today, and you will hear of actual situations where these events are occurring in other states as we speak.

Today's discussions will, against a national backdrop, focus on the adequacy of funding for Pennsylvania's courts and the interbranch cooperative process by which it must be accomplished. I believe that with creative solutions, with continued cooperation and collaboration between the three branches of our government, and with political courage,

we in Pennsylvania can meet the goal of an efficient judicial system and an adequately funded judicial branch.