

JOURNAL OF THE HOUSE

Fifty-fourth Legislative Assembly

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Bismarck, January 4, 1995

The House convened at 1:30 p.m., with Speaker Martin presiding.

The prayer was offered by the Rev. Dave Baker, Church of the Nazarene, Mandan.

The roll was called and all members were present except Representatives DeKrey, Holm, and Monson.

A quorum was declared by the Speaker.

MOTION

REP. FREIER MOVED that the absent members be excused, which motion prevailed.

MOTION

REP. FREIER MOVED that the House be on the Fifth and Ninth orders of business and at the conclusion of those orders, the House stand in recess until 1:45 p.m., to receive the Senate in Joint Session, and at the conclusion of the Joint Session the House stand adjourned until 12:30 p.m., Thursday, January 5, 1995, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1023: Judiciary Committee (Rep. Kretschmar, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1023 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1024: Judiciary Committee (Rep. Kretschmar, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1024 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1030: Human Services Committee (Rep. Svedjan, Chairman) recommends DO PASS (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1030 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1056: Human Services Committee (Rep. Svedjan, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1056 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1117: Judiciary Committee (Rep. Kretschmar, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1117 was placed on the Eleventh order on the calendar.

FIRST READING OF HOUSE BILLS

Reps. Aarsvold, Belter and Sens. Lindaas, Naaden introduced:

HB 1177: A BILL for an Act to amend and reenact sections 4-10.5-07 and 4-10.5-08 of the North Dakota Century Code, relating to assessments for soybean promotion.

Was read the first time and referred to the Agriculture Committee.

Reps. Carlisle, Skarphol, Austin and Sens. Kinnoin, O'Connell introduced:

HB 1178: A BILL for an Act to provide for the expulsion of a student for bringing a firearm onto school property; and to amend and reenact

subsection 13 of section 15-29-08 of the North Dakota Century Code, relating to suspension or expulsion from school.
Was read the first time and referred to the **Education Committee**.

Reps. Carlisle, Austin, Skarphol and Sens. Kinnoin, O'Connell, B. Stenehjem introduced:

HB 1179: A BILL for an Act to amend and reenact section 39-20-01 of the North Dakota Century Code, relating to the notification of a parent or guardian when a child under sixteen is taken into custody for driving under the influence.

Was read the first time and referred to the **Human Services Committee**.

Reps. Belter, Clark introduced:

HB 1180: A BILL for an Act to amend and reenact subdivision c of subsection 1 of section 53-06.1-03 of the North Dakota Century Code, relating to the issuance of local permits by a governing body to conduct raffles, sports pools, or bingo.

Was read the first time and referred to the **Judiciary Committee**.

Reps. Hanson, Brown, Kroeber, Wardner and Sen. Urlacher introduced:

HB 1181: A BILL for an Act to amend and reenact section 20.1-01-31 of the North Dakota Century Code, relating to interference with rights of trappers.

Was read the first time and referred to the **Natural Resources Committee**.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker Martin presiding.

JOINT SESSION

REP. DOBRINSKI MOVED that a committee of two be appointed to escort Lt. Governor Myrdal to the rostrum, which motion prevailed. Speaker Martin appointed Reps. Brown and Huether to such committee and Lt. Governor Myrdal was escorted to the rostrum.

SPEAKER MARTIN INTRODUCED Lt. Governor Myrdal to the Assembly and turned the gavel over to her.

MOTIONS

REP. MARTINSON MOVED that a committee of two be appointed to escort the Honorable Edward T. Schafer, Governor, to the rostrum, which motion prevailed. The Chair appointed Sen. Goetz and Rep. Freier to such committee and the Honorable Edward T. Schafer, Governor, was escorted to the rostrum.

LT. GOVERNOR MYRDAL INTRODUCED Governor Schafer to the Assembly.

SEN. NALEWAJA MOVED that a committee of two be appointed to escort Chief Justice Vandewalle to the rostrum, which motion prevailed. The Chair appointed Sen. Traynor and Rep. Kretschmar to such committee and Chief Justice Vandewalle was escorted to the rostrum.

SEN. KREBSBACH MOVED that a committee of two be appointed to escort the Justices of the North Dakota Supreme Court to the rostrum, which motion prevailed. The Chair appointed Sen. Mathern and Rep. Hagle to such committee and the Justices were escorted to rostrum.

REP. FREIER MOVED that a committee of two be appointed to escort the other elected state officials to their seats in the front of the Chamber, which motion prevailed. The Chair appointed Sen. Redlin and Rep. Drovdal to such committee and the other elected state officials were escorted to their seats in the front of the Chamber.

LT. GOVERNOR MYRDAL INTRODUCED Chief Justice Vandewalle to the Assembly.

STATE OF THE JUDICIARY MESSAGE
Message by Chief Justice Gerald W. VandeWalle

Thank you Lieutenant Governor Myrdal, Speaker of the House Clarence Martin, Governor Ed Schafer, members of the North Dakota Senate and House of Representatives, state officials, my judicial colleagues, and others here assembled.

Before I begin my report to you I ask that you recognize the members of the one-level trial court component of the judicial branch and I ask all our district judges to please stand.

Other members of the judiciary and the legal profession are also present, and I ask Howard Swanson, president of the State Bar Association, executive director Sandy Tabor, members of the board of governors of the bar, and the chairs of the judicial conference and Supreme Court committees to stand and be recognized.

These people have been most helpful providing encouragement, suggestions, and constructive criticism. I appreciate their support and believe we have established a trusting relationship wherein, with mutual respect for the differing viewpoints, we have freely and openly discussed issues which affect the legal profession, the judiciary, and our state. I am pleased and honored by the presence of federal district judges Rodney Webb, Pat Conmy, and Bruce VanSickle and I ask them to stand and be recognized.

Finally, I acknowledge the presence in the chamber of Shirley Meschke, Gail Haggerty, spouses, and my mother, Blanche VandeWalle, whose words to me as always when I'm going to talk were, "talk loud, talk slow, and don't talk too long."

I prepared a written address with addendum and I ask you read it at your leisure and use it as a reference. My remarks today will follow that outline but will be condensed.

Two years ago I shared with you some of my views for the place of the Judicial Branch of government in our state, both immediate and in the future. Dominating that view was the creation of one level trial court, court unification as it is commonly called. At that time, we had two years to prepare for the consolidation. That is now history. Monday, January 2, 1995, was the effective day and our new system is operative, although less than 100-hours old.

For those of you who were not at the Summit Conference in Grand Forks, in March, I want you to know how different we are in approaching court unification. The idea of reducing the number of judges in a state was so unique, it prompted the National Center for State Courts to send one of their experienced staff persons to examine us. I assume it was in part curiosity by the national center, but may have been prompted also by situations such as that in California where, despite the rising caseload, the state's financial situation is causing them to look at reorganizing government, including their judicial system. In any event, I thought you might be interested in the introduction to the report filed by the national center. First, the report after noting the one-level trial court legislation observed:

This legislation, which was driven in large part by economic considerations, is unique, not only in the scope of the proposed reduction, but in the manner of implementation. The Legislature has set some goals ... but has left it up to the North Dakota Supreme Court to administer the changes with very few limits on the authority of the courts to shape administrative and election districts, to assign judges, and to determine which judgeships are to be eliminated. The project staff thought it important to document this phenomenon and made a site visit to North Dakota. ...

After reviewing the demographics, the report observed that "[t]his great sociological and political change is at the root of the changes and tensions in the court system. The rural areas are struggling to preserve the traditional county structure of government which has always included some form of court presence."

In looking at the state, from a statistical, but from a human element, the report observes:

It is also important to note that North Dakota has a very strong populist, sometimes radically populist, tradition and that its people are not given to undue reverence for institutions. The State is still heavily dependent on agriculture and reflects the longstanding attitudes of farming communities about neglect and exploitation by various forces outside their control. In short, North Dakota is a likely place for discontent with institutions to result in strong reform measures. People outside the State might see such reforms as a quaint rural throwback to the days of the non-partisan league, but it is more likely that North Dakota is signaling the future not the past.

As a footnote to the statement that North Dakotans are "not given to undue reverence for institutions" the report uses as an example that "a litigant is given the right to reject the judge assigned to hear the case. The ramifications of this right are enormous. If there is only one judge in a sparsely settled area, a judge will have to be brought in from elsewhere. Similarly, pro se litigation is not seen as a grudgingly permitted right but as a natural emanation of the North Dakota ethos, even if the pro se litigant is appearing before the North Dakota Supreme Court."

There is no doubt that both of these matters, that is the statutory demand for a change of judge and pro se litigants, who often clog the courts, some intentionally, others because of lack of awareness of legal procedure and principles, are forces with which we must reckon in determining the adequate number of judges.

These past two years have been busy as we prepared for consolidation. I will outline briefly the highlights of what we have done, what we are doing, and what needs to be done. Since I appeared before you two years ago, we have eliminated two additional judgeships. Judge James O'Keefe, chambered in Grafton, chose to retire. Under the authority you provided to us in 1991's HB 1517, we ordered that position abolished effective January 1, 1995. Grafton retains a chambered-judge position held by Judge Richard Geiger. Judge O'Keefe served honorably and, when retired, held the position of Presiding Judge of the Northeast District. Judge Lowell Tjon who also served honorably in the multicounty district of Ransom and Sargent Counties, handling both county and district court cases, chose not to stand for election. We ordered that position abolished effective January 1, 1995. The issue of the judgeship in Bottineau held by now Justice Neumann was pending when I spoke to you two years ago. We abolished that position effective on April 5, 1993. Bottineau retains a chambered-judge position held by Judge Lester Ketterling. Including the two judgeships that were eliminated prior to January 1, 1993, we have reduced the number of judges from 53 to 48 since 1991.

We also had hearings concerning the judgeships held by Judge Gerald Glaser in Bismarck when he retired in early 1994, the judgeship in Hillsboro held by Judge Jona Uglem who resigned, the judgeship held by Judge Orville Schulz in Washburn who determined not to stand for election, and the judgeship in Rugby when Judge John McClintock determined not to stand for election and again upon Judge McClintock's death. We determined these judgeships were necessary for effective judicial administration.

The stated goal in the 1991 legislation is 42 judges by the year 2001. In less than four years, we have reduced our numbers by five. Many of you were at the summit conference in Grand Forks when I quoted from the report of the

National Center for State Courts which observed that "[t]he most interesting aspect of the legislation was the choice of the number 42 as a target goal for the number of trial judges. There appears to be no empirical justification for the particular number, and yet it was used repeatedly and finally passed into law." We have accomplished nearly one-half of the reduction before the one level trial court became operative and without knowing how it will work. I have suggested to my colleagues that with the exception of two or three judgeships which are fairly identifiable, we should not take advantage of any more reductions until we know how we will be operating. I have not changed that position.

We have proposed no bills to change the number of judges, nor do we propose any bills to change the requirement that 30% of the judges be chambered in cities of a population of 10,000 or less, although we recognize that the caseload is the heaviest where population is concentrated. Whether these matters need to be revisited in the future must await our actual experience with our new system.

Our preparation and reorganization to implement the one level trial court has been extensive and intensive. Many of the required statutory changes were made in 1991 when the legislation was enacted and became effective Monday. There were some we missed and bills have, or will be, introduced to deal with them. I expect there are still some we missed and you will see an occasional bill to correct those oversights for some time to come. Our Joint Procedure Committee, chaired by Justice Beryl Levine, which studies, reviews, and recommends changes in procedural rules for the courts, has been hard at work and recommended a substantial number of changes to the Supreme Court. They were adopted and became effective January 1, 1995. They include how the courts will deal with preliminary hearings in criminal matters and the issuance of search warrants. The activities of the committee have not been limited to court unification. Substantial changes have been made in rules governing discovery as well. The Court Services Administration Committee, chaired by William Strutz, a Bismarck attorney, has dealt with a myriad of issues, most of which were concerned with unification. Several of their recommendations were introduced as bills and will be before you this session. They are not substantial changes but are necessary to adjust and tune the system to the one level trial court and we ask your favorable consideration. Jim Ganje from the Court Administrator's office has been our right hand and, along with the judges, will be available to explain and respond to your questions concerning the following matters:

1. Locations of Hearings in Mental Health Commitment Proceedings. This legislation would require that preliminary hearings be held in Stutsman County if the respondent is at the State Hospital. The legislation also provides that an involuntary treatment hearing must be held in the county where the treatment facility is located unless the respondent requests a hearing in the respondent's county of residence.
2. Expenses in Transferred Municipal Court Cases. This legislation amends NDCC section 14-18-15.1, which governs the transfer of municipal court cases when the defendant has not waived the right to a jury trial. This statute authorizes the city, county, and state to agree to a division of all revenues collected from transferred cases, but does not address the issue of expenses. The legislation provides that the parties could also agree to a division of expenses. The legislation also provides that in the absence of an agreement, all revenue collected from transferred cases must be deposited in the state general fund.
3. Request for Hearing in Noncriminal Traffic Cases. This legislation would require a person cited for a noncriminal traffic violation under state law to indicate when posting bond by mail whether a hearing on the violation is requested. If the person requests a

hearing, the court for the county in which the citation is given will issue a summons notifying the person of the hearing date.

4. Clerk of Court Duties. This legislation gives clerks of court the authority to issue marriage licenses, sign papers in informal probate matters if certain conditions are satisfied, and authorize access to safety deposit boxes in probate matters.
5. Hearings in Small Claims Actions. This legislation would require a defendant in a small claims action to indicate within a certain time whether a hearing is requested and whether the defendant intends to remove the matter to district court.
6. Consecutive Jury Terms Prohibited - Repeal. This legislation would repeal NDCC section 27-05-18, which prohibits judges from holding consecutive jury terms without permission of the Supreme Court.
7. Prosecution of Crimes by Information or Indictment - Exceptions. This legislation adds misdemeanor offenses to those offenses excepted from the general requirement that every public offense must be prosecuted by information or indictment. This legislation also carries an emergency clause.

Because all judges will now have the same jurisdiction, that is, general jurisdiction over all cases filed, it was necessary for each district to revise its case assignment procedures to assure all matters from small claims court, probate, noncriminal traffic violations, civil and criminal actions, and appeals from administrative agency decisions were covered under our single system. To aid the districts, we secured a grant from the State Justice Institute to bring in facilitators from the Rural Justice Institute to discuss case assignment. I am pleased our judges took the issue from there and each district now has its case assignment process in place. It will undoubtedly change as experience with the process grows but I am confident the district judges will provide the prompt and fair handling of cases to which our citizens are entitled. So, too, it was necessary to combine the offices of Clerk of County Court with the Clerk of District Court. To help with that process the National Center for State Courts provided a consultant who spoke with the people involved in all our counties. They were supportive and cooperative and that combination has been essentially accomplished. In many instances it was the physical constraints of the courthouse which was and is the greatest problem. The people involved were cooperative and innovative in reaching solutions and I thank them for again showing that "can do" North Dakota spirit. The facilities in some of our courthouses are not adequate and it will be necessary in the future to decide whether you want to urge counties to improve those facilities, whether the state should directly contribute to these improvements and whether we should develop trial centers located strategically throughout the state.

There are other significant changes which have occurred, some as a result of court unification and others simply because it was time. One of the foremost has been with the Council of Presiding Judges. When the state assumed the cost of operating the district courts in 1979, the presiding judges convened as a group to recommend district court budgets, allocation appropriations, and other district court matters to the Chief Justice. The group was formalized by Administrative Rule 22 of the Supreme Court, Council of Presiding Judges, in 1983. At that time, the presiding judges were appointed by the Chief Justice and the Chair of Council of Presiding Judges was also chosen by the Chief Justice. The primary function of the council was to provide advice and recommendations on trial court issues to the Chief Justice and to provide a forum for the interpretation of policy in the trial courts. Since that time, the statutes and rules have been amended to provide for the election of the presiding judge by the judges of the district.

At the recommendation of the Council of Presiding Judges, the rule creating the council was amended effective January 1, 1995. The council will have

policymaking responsibility concerning trial court matters. In recognition that our state constitution makes the Chief Justice the administrative head of the unified judicial system, the Chief Justice will be a member of and chair the council and the council's policies are subject to the approval of the Chief Justice.

This change will permit the trial courts, through their presiding judges, a greater role in the establishment of policies affecting the operation of the trial courts while recognizing the administrative authority and responsibility under the North Dakota Constitution. I believe the council is now positioned to provide the vision for our trial courts on a statewide rather than a district basis.

The reduction in the number of judges requires that the judges we do have be involved in adjudicative rather than administrative matters. When the election districts for judges were established as administrative districts with a presiding judge, it was contemplated that, and our State Court Administrator, Keith Nelson, was hired with that contemplation, each district would have a credentialed trial court administrator. That has not happened and, in retrospect, there is no need for it to happen. There is, however, a need to have trained trial court administrators on staff to advise, assist, recommend, and plan for a smaller number of judges to handle a larger caseload. In this regard, we are creating as part of our staff the Director of Trial Court Administration who, under the direction and control of the Chief Justice and the State Court Administrator, will supervise and direct trial court and juvenile court administrative support staff and perform such other duties and responsibilities as directed by the Council of Presiding Judges. We believe this staff person on a statewide basis will prove invaluable in saving judicial time and money through innovations and procedures which we, as judges, have little time to contemplate and may be unable to conceptualize, and will assist the presiding judges to develop a statewide vision for the unified trial courts.

Our personnel boards have been dealing with issues involving the classification of employees who came into the system from the county courts as a result of unification. We planned that for each county judge one employee, most probably a court reporter or court recorder, would be brought into the system. Because people were displaced as a result of the elimination of judges, we attempted to retain them in the system for the newly created district judges. Although there was some difficulty, it was worked out, thanks to the efforts of Keith Nelson, Court Administrator; Greg Wallace, Director of Personnel; the judges, and most significantly, the willingness of the people to adapt to the situation including, for at least one, a move to another city. I am grateful for their eager cooperation.

An issue which does not arise out of court unification, and is not resolved, involves a United States Department of Labor directive that we must pay for any overtime for court reporters preparing transcripts for individuals who compensate the reporter directly for the transcripts. The issue of how payment for preparation of transcripts is made has long been a subject of discussion. The Department of Labor ruling has brought the entire issue to the fore. The District Court Personnel Board is recommending that by July 1, 1997, the state charge for and receive payments for appeal transcripts and that the salaries of the court reporters be reviewed as a result of lost income. The court has not acted on that recommendation but will hold a hearing in January to consider recommendations.

There are positive efforts on fronts other than court unification. A State/Tribal Court forum recommended to us the establishment of a Standing Committee on Tribal and State Court Affairs. Our court adopted Administrative Rule 37 creating a standing committee composed of the Chief Tribal Judges of the four tribal judicial systems in North Dakota, four state court judges, two representatives of tribal courts and two representatives of state court administrative support services, three public members, the Chief Judge or designee of the United States District Court for North Dakota, and

the director of the Northern Plains Tribal Judicial Training Institute. Former Chief Justice Ralph Erickstad, who is nationally recognized as the person most responsible for beginning the forums throughout the country, has agreed to serve as chair. I am thankful Judge Erickstad, who has the respect of all participants, is willing to serve. This committee will look at areas of mutually agreeable cooperation between tribal and state courts, serve as a forum for discussion of areas of common concern, and serve as a vehicle for establishing and maintaining a long-term continuing relationship between tribal and state judicial systems.

Jurisdiction between state and tribal courts has long been clouded and sometimes contentious. I do not expect speedy results nor do I expect the committee to resolve all those problems. I do expect the committee to provide the basis for exchange of perspectives and ideas which will ultimately foster mutual respect and cooperation for and between our judicial systems.

Our court has also approved a rule, effective January 1, 1995, which provides for recognition of judicial orders and judgments of tribal courts within North Dakota under conditions as set forth in that rule. We did so without conditioning recognition on reciprocal recognition by the tribal court of state court judgments.

Our budget again contains proposed increases for judicial salaries. Two years ago the judges received no salary increases. The legislature determined that judges were elected officials and further determined that elected state officials would receive no increases. I ask that you reconsider that syllogism. Judges, because of the conflict of interest and appearance of fairness, are bound by a Code of Conduct that requires them to cut all ties to their former business relationships, severely limit financial investments, and restricts their ability to raise funds for election. The trial judges have accepted with little grumbling the increased workload resulting from a reduction in their numbers. I believe the morale, particularly of the senior district judges, is low. They have accepted the increased workload, received no increase in salary, and, at best, feel unappreciated.

You will hear that we rank 47th in salaries in trial courts and 49th in appellate courts among the 50 states. Those rankings are not particularly significant to me. North Dakota, because of our sparse population and lack of diversified economy, often ranks low in these ratings. I am much more concerned about the increasing dollar spread between North Dakota's 49th place and for example 40th. That ever increasing gap is much more significant and detrimental. The judges have a goal of reaching a median salary in scaled steps in the next four years, but that amount will still leave North Dakota in the lower half of the states. I ask that you examine the unique position of judges, the limitations placed on their activities, both financially and otherwise, and give favorable consideration to the requests for salary increases.

Our budget request provides for more than doubling the number of state trial judges with a budget increase of only 34%. This increase also funds the salary equity issue for judges I previously mentioned. I am especially pleased that the unification dollars we are requesting are within one percent of what we projected the costs would be three and one-half years ago after unification was enacted and two years ago when we reaffirmed the cost to the 53rd Legislative Assembly.

This past summer, the Supreme Court, in cooperation with the Council of Presiding Judges, contracted with the National Center for State Courts to produce a Clerk of Court Collections Manual and to provide instruction for all clerks of court. This effort was developed to expand on the success of the Grand Forks county court in collecting delinquent fines and costs owed to the county. The resulting manual contains sample payment ability analysis forms, demand letters, court orders, and bench warrants. Four regional

workshops for clerks and deputy clerks of court were held in September with emphasis on "how to do it." Practical advice such as how to encourage payment through suspension of driving privileges was also included. It is too early to assess the results, but it is our hope that through this undertaking defendants will recognize that fines are meant to be paid and, concurrently, that revenues will increase.

Last session you appropriated money for a study of gender fairness in our court system. That study is underway under the able leadership of Justice Levine and Sarah Andrews Herman. It will not be completed this biennium but we are looking forward to a report which will help teach all of us, men and women, to avoid hurtful behavior and provide each individual with the same opportunities regardless of gender.

At the recommendation of a Joint Committee on Lawyer Discipline, we have made some changes in the disciplinary rules which will improve the procedure for complaints against members of our profession and for safeguarding the interests of the public.

With the help and advice of consultant, former Federal Deputy Marshall Carl Wigglesworth, we have made great strides in courtroom security for the litigants, witnesses, jurors, spectators, court employees, and judges. Much of what needs to be done involves common sense precautions. We have financially assisted the counties where it is necessary to install various security devices. We will guard against complacency. I can assure you the threats and hate material against litigants and judges has increased not decreased.

Although I am optimistic about events affecting the judiciary, I have some concerns to briefly share with you.

The Federal Crime Bill could have a significant impact on the caseload, particularly with the few judges we have in North Dakota. It may not; we simply don't know, but it bears watching.

Because of our reduced numbers, I have a greater concern about the effect of legislative enactments and our ability to properly manage them. Foremost is the proposed death-penalty bill. Such a bill will require additional funds, in our budget or be readily accessible, in the event a death sentence is imposed. Indigent defense costs are substantial. Such expenses cannot be limited by state legislation restricting appeals. State action does not bind the federal courts. The Conference of Chief Justices has taken a strong stand in favor of federal habeas corpus reform which would limit the authority of the federal courts to review these matters. To date that legislation has not been successful in Congress.

I do not presume to suggest that you should enact or reject legislation solely on how it affects the judiciary. I do ask that in your deliberations you consider, among other matters, the effect of the legislation on the courts. If you have a concern, ask us. We will attempt to appear on bills affecting the courts whether or not you ask us. Please do not program the courts for failure.

I am delighted that North Dakota ranks at the top as the safest state in the nation. That ranking reflects on and is a tribute to the honest, caring, hard working people of this state. I am appalled, however, that so much of our violent crime arises from domestic violence. Any domestic abuse is wrong. The level in North Dakota is unacceptable. It is contrary to everything we as a state stand for. I know the legislature has taken certain steps to counteract the violence, but we must eliminate its root causes. Together let us attack this problem with our minds, our resources, and, most of all, our resolve to rid North Dakota of this scourge.

The legislature has been supportive of the judicial branch in the past and I anticipate that continued support from this assembly. You have provided us

the resources financially and through legislation to accomplish needed reforms in the delivery of judicial services. You have been sensitive to the fact that our trial courts are personalized, resolving problems of individuals on an individual basis - whether the problems be a probate matter, a criminal action or a domestic relations case involving deep human feelings of pain.

The Supreme Court does the same, whether it be an appeal from a decision involving a relatively minor civil dispute between two private individuals, or a matter of greater significance to the state such as school financing, the constitutionality of the workers' compensation law, or sovereign immunity.

Although the branches of government are separate, we both look to the same goal, justice for our citizens. Our functions are separate. Thus, we cannot expect you to appropriate money for our needs without explanation and justification. So, too, when we construe statutes and determine their constitutionality, we are not seeking to legislate, but rather to adjudicate. Although you may at times have chafed at our decisions, you have respected the separateness of our functions. I thank you for that. When we disagree with you about the financial needs of the judiciary, I hope we do it with recognition of our separate roles. I encourage all of us to respect the separate functions which are the strength of our form of government and really make us one.

Finally, I comment on the resurgence of our state after a period of economic hardship. We all have a responsibility to our citizens. Governor Schafer stated it well in his budget message when he said "we must restate our commitment to move North Dakota into the twenty-first century with pride and prosperity." The judiciary must be a part of the partnership in the commitment to move into the twenty-first century with pride and prosperity. Only with your help can we be assured that the judicial branch is a part of that commitment. Fair and equitable laws in the area of taxes, workers' compensation, regulatory, and environmental matters are necessary to encourage prosperity and growth. So, too, a well-qualified and adequately funded court system is necessary to prosperity and growth. We will not encourage others to come to our state if we have a judicial system that is not fair, impartial, and free of "hometown" bias. So, too, our citizens will not, and should not, tolerate a judiciary that fails to adequately protect our state from exploitation and unjust business practices.

Our system of government is designed so that one branch of government cannot exist without the other. We are not only coequal branches, we are codependent branches of the government. I pledge our cooperation to the end that when we have performed our separate roles the result will be a singleness, a unity of purpose, that nurtures and protects the liberties of our citizens. I believe the state of the courts and the state of the State of North Dakota are the best in the country. On behalf of my colleagues, as the representative of the Judicial Branch, I thank you for the opportunity to appear here today and I wish you success and good fortune as you deliberate on behalf of us all. Thank you.

MOTIONS

REP. FREIER MOVED that the address of Chief Justice Gerald W. Vandewalle be printed in the Journal, which motion prevailed.

REP. FREIER MOVED that the Joint Session be dissolved, which motion prevailed.

LT. GOVERNOR MYRDAL declared the Joint Session dissolved.

The House stood adjourned pursuant to Representative Freier's motion.

ROY GILBREATH, Chief Clerk