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Speech to the Vermont Bar Association  
March 20, 1992 - Woodstock, Vermont

Clearly, this is a difficult time for those of us who care about the justice system in Vermont. It has been so for a while now, and the reality is that things will probably get somewhat worse before they get a whole lot better.

Each year in his State of the Judiciary report, the Chief Justice has been required to note the greatly increasing demand for judicial services coupled with a diminishing allocation of resources to meet that demand.

Adversity, however, as Francis Bacon noted, "is not without comforts and hopes."

We should find comfort in the fact that we have, as a profession, responded to our recent challenges with significant and positive results. Those difficult times have seen the creation and implementation of a Family Court whose birth pains should not obscure its future life of service to Vermont families.

During this period, all of us on the trial bench — thanks in large measure to the efforts of Judge Martin — have become better managers.

The Vermont Supreme Court has made tremendous progress in putting its own house in order — a task not only essential to the quality of appellate justice but, more importantly, to the establishment of that court's institutional leadership.

Meetings such as this have witnessed a growing commitment on the part of the Bench and the Bar to work cooperatively as a profession toward providing effective and meaningful justice to the people of Vermont.

Despite these significant accomplishments, however, we continue to work in an atmosphere of great challenge, if not crisis:

- delay of dispute resolution remains beyond acceptable standards
- litigants still experience inconvenience and unnecessary expense
- their attorneys all too often are not afforded the courtesy and consideration to which they are entitled
- judges are provided insufficient time to consistently produce thoughtful and timely decisions
- public and legislative misconceptions of the nature of the judicial process are widespread.

The problems are many and they are real. But might I suggest that our focus should not be on the problems but on our goals.

The poet, Tennyson, noted that there are two classes of people: some who see things as they are and ask, "Why?", others who see things as they could be and ask, "Why not?" It is not for us merely to define our present difficulties and wonder why. Rather it is for us to envision the future as it should be and then to demand, "Why not?" The difference is important. Many of our problems can be alleviated by greater efficiency and better management. In this regard, we have made progress and we must continue to make progress, for example, by fully implementing the thoughtful recommendations of the May Report.

But there is a danger in such an approach if we fail to keep our eye on the horizon. In the process of achieving greater efficiency and management, we must not lose our soul. The Judiciary is an independent and unique branch of government. We are not, nor may we become, a mere administrative agency.

The pursuit of justice is not always neat, nor is it always consistent with mere efficiency. For example, a jury trial can never be justified on grounds of efficiency. However, it has fairly been described as the unique and transcendental right of the English-speaking peoples.

We must not, in the name of reform or management, become a system in which the motion reaction form becomes the norm and the reasoned opinion the exception.

We must not, in the name of reform or efficiency, become a system in which the right to be heard before a decision is made becomes a privilege.

We must not, in the name of reform or efficiency, deny to any person who enters any courtroom that person's essential human dignity.

Most important, our principal mission must not be subjugated. We can not lose our very reason for being.

We must continue our role as the branch of government specifically designed to thwart the tyranny of the majority and to uphold the rights of all. We must find the time to promote and advance the legitimate aspirations of women, of racial and ethnic minorities, of the poor, the homeless and the oppressed. In short, we must continue to play our role as moral leaders of our community.

At this time, we can not turn back, we can not return to a nostalgic past in which we were all — perhaps too complacently — comfortable just a few short years ago. Nor can we stay where we are.

However, if all of us, Bench and Bar together, approach the challenge of the next century with a new resolve to manage better, but with a renewed commitment to our traditional role in society, I am entirely sanguine that we here in Vermont will successfully meet the challenge. We should do so in the spirit of Tennyson's Ulysses:

"Come, my friends, 'tis not too late to seek a newer world.  
Push off, and sitting well in order, smite the sounding furrows.  
For my purpose holds to sail beyond the sunset  
and the baths of all the western stars  
until I die.  
It may be that the gulfs will wash us down.  
It may be we shall touch the Happy Isles,  
and see the great Achilles  
whom we knew."  
Tho' much is taken, much abides: and tho'  
We are not now that strength which in old days  
Moved earth and heaven; that which we are, we are.  
One equal temper of heroic hearts,  
Made weak by time and fate, but strong in will  
To strive, to seek, to find, and not to yield.