

ADDRESS BY CHIEF JUSTICE LINDA STEWART DALIANIS  
NEW HAMPSHIRE BAR MID-WINTER MEETING  
February 4, 2011

I am honored to speak to an audience of men and women who have devoted their professional lives to the law and to the pursuit of fairness, equity and justice. I have come to know so many of you as professionals and friends over the many years since I became a lawyer. For those who don't know me—and I know there are many-- I hope today will serve as an introduction. Just a few years ago my son Ben was called for jury duty in Nashua and when the judge asked if the prosecutor was concerned "about Ben's mother," the answer was no. And when the judge asked the public defender the same, the answer was "Who's his mother?" And you know, there are many days when I am just happy to be known as Ben's mother.

At the Supreme Court, I have been asked occasionally to say a few words to new lawyers after they have taken the oath to become members of the New Hampshire Bar. It is always a very moving ceremony—witnessed by family and friends. I tell these new practitioners that in the New Hampshire Bar, they will be surrounded by lawyers who take enormous pride in their professionalism, their civility and their respect for one another and for our legal institutions. I have seen these qualities in the lawyers who have appeared before me as a judge and in those with whom I have worked on so many committees that I get exhausted just looking at the short list: 20 years on the Bar's Committee on Cooperation with

the Courts; 17 years on the Superior Court Alternative Dispute Resolution Committee; 10 years as Chair of the Supreme Court Rules Committee; 14 years on the Judicial Education Services Committee; 10 years on the Northern New England Task Force on Bar Admissions Practices; and 8 years as chair of the UNH School of Law Daniel Webster Scholars program advisory committee. As Chief Justice, I want to thank all of you for the high standards you have set for the practice of law in our state and for all that you have done to benefit the administration of justice.

I would like to take a moment to thank one particular lawyer, a former president of the New Hampshire Bar, the former Chief Justice and now the new dean of the University of New Hampshire School of Law, John Broderick. All of us are grateful for the leadership and energy he devoted to our court system, and which he will no doubt now apply to his new role. John—once again—thank you from all of us.

We are about to embark upon what I hope will be a period of great change in the New Hampshire Courts, brought on by a perfect storm. The days when the court system could look to our state government for increased resources each biennium are over. At the same time, we recognize we must find ways to work more efficiently and economically to serve 21<sup>st</sup> century court users. Last March, the Judicial Branch Innovation Commission was established to propose changes that would increase productivity and create efficiencies. Just two weeks ago, the Commission released a persuasive and detailed report. It is our guide to the future.

Most significantly, the Commission recommended that the District and Probate Courts and the Family Division merge into a unified Circuit Court. Conservative projections are that over the next 10 years, mid-level management staff in those divisions would be reduced by 50 percent, through attrition and retirements, resulting, in the long term, in millions of dollars in savings and better service to the public. The Commission also proposed a \$5 million appropriation in the upcoming capital budget to launch a five-year plan to create a paperless e-Court system. These proposals have been enthusiastically received by Governor Lynch and members of the legislature. Their continued support is critical to the plan's success. I am confident that we can work together, as co-equal branches of government, on behalf of the people of New Hampshire, whom we all serve.

Today I want to share with you some reflections—and a bit of my own perspective-- on the enormous challenges the state court system has faced, and the changes made, during the decades that I have been involved. Most have garnered some attention over time, but other important accomplishments have gone largely unrecognized. In November, for example, Hillsborough Superior Court South went “live” on our new case management system known as “Odyssey,” finally completing the enormously complex task of converting the entire state trial court system--78 Superior, District, Probate and Family court sites--onto a state-of-the-art system that will allow us to meet 21<sup>st</sup> century demands for technology—including the foundation for the e-Court system that you are all waiting for. It was a daunting task. All of the 4.2 million cases in the now ancient (and no longer supported) information storage system were converted to Odyssey, including millions of pieces of data within those cases—

everything from hearing dates to financial records on fines and fees collected by the courts. Our few software programmers worked with court staff to design a system that would meet our needs. Members of the Odyssey support team crawled around and under every single desk at every single court site, from Colebrook to Salem, installing new up-to-date Windows operating systems at more than 800 workstations to support the new CMS. Virtually every employee in the court system had to be trained in the new system. And while all this was underway, the court system continued to operate as usual, and our IT department continued to meet our everyday demands. This was an extraordinary effort and all of us owe those dedicated employees a debt of gratitude.

My life as a lawyer has been devoted to the institution of the state courts. I had been a member of the Bar for just six years when I was appointed to the Superior Court in 1980. I had practiced at Hamblett & Kerrigan in Nashua for five years and then served for a year as a marital master. When I went on the bench, I was seven-months pregnant, I had a four-year-old at home, and I was the only woman on the court. At that point, I was not focused upon anything going on in the court system. I was just trying to be a good judge, and I was only vaguely aware that the administration of the courts had recently experienced great change.

Just two years earlier, in 1978, the state constitution had been amended to give the Chief Justice, with the concurrence of the associate justices, broad authority to administer the court system. Little did I know—or ever imagine—that would someday be my role. So much of what was done then, we take for granted now, of course: the legislature agreed to provide state funding for the courts, the

Supreme Court was authorized to set fees for all the courts and an escrow account was set up to be a steady fund for upkeep of court facilities.

Ten years later, in July 1990, I was part of a Supreme Court “Long-Range Planning Task Force.” I remember how forward thinking we felt then—the report was titled “As New Hampshire Approaches the 21<sup>st</sup> Century.” Among other recommendations, including more staff, improved facilities and increased technology, the report called for appointment of an administrative judge for each court division to meet and advise the Supreme Court on decision-making. Today, that Administrative Council plays an even more critical role as we head toward a dramatic overhaul of the trial court system. In fact, Administrative Judges Edwin Kelly and David King led the way in developing the proposal for a new Circuit Court.

I looked at a copy of the 1990 report the other day. What stands out for me now are the familiar themes about the role of the courts in a free and democratic society. Listen to this one paragraph:

*“The Judicial Branch, whose mission and responsibilities are nothing less than the protection and preservation of the rights of individuals, is not simply another state agency. The Legislative and Executive Branch must understand and accept the principle that maintaining the Judicial Branch is a governmental commitment of the highest order, made by the people themselves through adoption of the state’s constitution.”*

Those are the words that motivate us to continue to work to improve the system, even now under very demanding conditions. The report is signed for the Task

Force by two lawyers whose professionalism and dedication to principle are renowned in the New Hampshire Bar, Charles Leahy and the late Donald Dufresne.

It wasn't long afterwards that one of the most important shifts in court operations came in 1996 when the Family Division pilot project was launched in Grafton and Rockingham Counties. Some pilot—it lasted for eight years—until 2004 when legislation was finally passed to expand statewide. The Family Division Implementation Committee, on which I served as chair, developed a detailed plan to consolidate all family-related matters into a single statewide system so that cases could move forward more efficiently and in an atmosphere that fostered the least amount of conflict. I know first hand that working with families in trouble is the most challenging job in the court system. Today, the Family Division is giving thousands of men, women and children in our state the best opportunity to settle their differences fairly and move on.

I believe the period of time around the expansion of the Family Division in 2004 was important because it signaled an important shift in our thinking. All of us who are interested in improving the courts –judges, lawyers and court administrators - --started to focus more directly on providing better service for our constituents, the people of New Hampshire, who come to us everyday looking for help, whether in civil or criminal cases, a small claims case, a divorce, an eviction, or a traffic violation. These are the people for whom we work, after all, so the question was—and is--how could we make justice more accessible for them?

At around that time, the court also appointed two influential groups—a Task Force on Court System Needs and Priorities and a Citizens Commission—both of which ultimately endorsed many customer-service improvements—to borrow a very business oriented term. They included greater use of case managers to improve efficiency in processing and scheduling, especially for self-represented litigants, and a centralized office for court-sponsored mediation and arbitration services, so that more disputes could be resolved outside of a courtroom, saving time and money. We also changed court rules to allow for unbundled legal services, in an effort to make lawyers more affordable. From better technology to “help-desks,” it was clear that our constituents—the people—wanted better, more efficient services.

So how do we do that? How do we respond to the demand for more services when resources are shrinking? That is the perfect storm, and a mandate for change. A severe national recession and an antiquated court “business model” gave the Innovation Commission its momentum when it was established. I expect its work will be a catalyst for unprecedented change that, if given the needed support from the governor and legislature, will in the long run better utilize our workforce, reduce costs and provide more efficient service to the public.

I fully support the Commission when its members say the courts need to change the way we do business.

I am convinced that we need the \$5 million capital appropriation to kick start our plan to move into an e-Court system.

I also know that the pace of change is critical. Cutting costs, for quick short-term gain, will not produce long-term savings.

When I took the oath as Chief Justice, I promised the citizens of New Hampshire that I would work as hard as I can, with all my colleagues in the Branch, to fulfill our constitutional obligation to provide fair and equal access to justice for all. We believe that the Innovation Commission has set us on the right path and we intend to follow it. As we do, our commitment to justice, and to the rule of law will never change.

Thank you for listening.

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