

## WHY A FAIR AND INDEPENDENT JUDICIARY MATTERS

*“All the rights secured to the citizens under the Constitution are worth nothing, and a mere bubble, except guaranteed to them by an independent and virtuous Judiciary.”*

*Andrew Jackson, 1822*

A fair and independent judicial branch is a cornerstone of our democratic system of government. An independent judicial branch is not an end in itself, but a means of ensuring the rule of law, since only by being free from outside influences can judges decide cases on the law and facts alone.

The importance of a fair and independent judicial branch was recognized by our founding fathers as crucial to the fledging democracy. One of the grievances against King George III listed in the Declaration of Independence was that he had made judges “dependent on his will alone.” Thus, the framers of the United States Constitution, and also the Delaware Constitution, wanted to ensure that the judiciary would not be prejudiced by the political will or other outside influences. The 1776 Delaware Declaration of Rights provided “that the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people.” (Section 22, *Del.C.* Vol. 1, page 111)

A fair and independent judiciary requires not only the freedom for judges to make case decisions without outside influence, but also the recognition of the judicial branch as a co-equal branch of government, separate from the legislative and executive branches within a system of checks and balances, responsible for governing itself and accountable to the public.

The judiciary is accountable for enforcing the ethical conduct of its members, ensuring the fairness of judicial decisions through the appellate process, and managing court operations as effectively as possible, given available resources. The Delaware Judiciary’s business-like approach in matching its budget requests with its highest needs – those initiatives projected to have the most impact on the ability of the courts to serve the public – demonstrates that the Judiciary fully appreciates its responsibilities as a separate branch of government.

This separation of powers among the branches of government, within our system of checks and balances, along with accountability to the public, serves as the keystone of democracy. For, “there is no liberty, if the power of judging be not separated from the legislative and executive powers.” Alexander Hamilton (*Federalist No. 78*). The concept of a fair and independent judiciary remains as important today in the 21<sup>st</sup> century as it was in the 1700s.

*“If the three powers maintain their mutual independence on each other our Government may last long, but not so if either can assume the authorities of the other.”*

*Thomas Jefferson to William Charles Jarvis, 1820*