

State of the Judiciary
Chief Justice Jean A. Turnage, Montana Supreme Court
Message to the Legislature
February 1, 1989

Thank you Speaker Vincent, President Galt, Leaders of the Democratic and Republican Parties of the House and Senate, Members and staff of the 51st Legislature, distinguished guests, ladies and gentleman.

Woodrow Wilson observed at the beginning of this Century that "So far as the individual is concerned, a constitutional government is as good as its courts. No better, no worse."

As we turn our attention this year to a Montana Centennial Celebration, it is appropriate that we reflect on the health of our Montana Judicial System. I think we can say with pride that the last hundred years have seen much progress in the development of our court system. Montana's constitutional government is healthy today because of our court system.

The opening of this 51st Legislative Session provides us all with an opportunity for celebration and introspection about where we have been and the challenges of the future. We take pride in our accomplishments this past biennium and look forward to continued achievements in the two years ahead for which you will set the course and direction during your present deliberations.

This year's State of the Judiciary Address will probably be shorter than that given any time since the beginning of such Addresses. This is possible because for the first time the State of the Judiciary is accompanied by an Annual Report on the Judiciary that outlines our judicial system and highlights important statistical information.

The 1988 Annual Report on the Judiciary is the first of an annual series aimed at telling the story of the Montana Judiciary, reporting activities and needs to the Legislature, and informing Montanans about their court system. The 1988 Annual Report is a modest beginning – I commend it to you for your review.

This year I would like to concentrate in the few minutes available on some of the Judiciary's accomplishments and concerns.

In the last two years the Supreme Court has witnessed a continuing high level of appeals. While there was a slight drop in filings in calendar year 1987 (571 filings) the calendar year 1988 filings are the second highest in the Court's history – 628 filings. This long-term upward trend in filings is consistent with projections that were made two years ago by the National Center for State Courts when the Court presented its case for retaining the seven member Court.

Preliminary information on 1988 District Court filings indicates that the caseload in 1988 is about even with the filings for 1987. Total criminal case filings were up significantly, however, over 1987.

An important accomplishment this year in Courts of Limited Jurisdiction was the training program. In 1988, nearly 6000 hours of individual training was provided to Limited Jurisdiction Court Judges. This training is a vital aspect of keeping our Judges up-to-date on judicial issues.

The various Boards and Commissions which assist the Supreme Court in accomplishing its administrative duties have experienced an increasing caseload and workload over the past few years. For example, applications to the Sentence Review Division have increased 57% since 1985 and cases filed with the commission on Practice have increased by 31 percent in the same time period. The Boards and Commission have generally been able to handle these increased workloads without undue delay – but not without some stress, The dedication of board and commission members – the great majority of whom are private individuals serving without compensation – to accomplish their difficult tasks should not go unrecognized by either the Court or the Legislature. They deserve our gratitude and thanks.

I want to specifically acknowledge the invaluable help and assistance of the State Bar of Montana. Its officers and members have unselfishly provided to the Court and the people of this State many services that were rendered without charge. Without this assistance, the effective administration of justice would be made much more difficult.

I would now like to turn briefly to specific concerns that you have been asked to address during this Legislative Session.

First, the issue of judicial salary increases. Editorial writers across the State in recent months have been nearly unanimous in urging higher salaries for Montana Judges. The Kalispell Daily Inter Lake summarized the urgent need to raise judicial salaries by first noting that Montana judicial salaries were "dead last" when compared to all the other states and U.S. territories. The editorial went on to say:

Some one has to be last, of course, and if only our pride were at stake, we could stand it.

Unfortunately, there is more at stake.

Montana Judges are guardians of our state Constitution, our whole fabric of law. A hundred and fifty legislators pass laws for the governor to sign, but it is the judges who interpret those laws, who must decide how they apply to individual citizens. It is the judges who have the power to rule on disputes, to decide the custody of a couple's children, to confiscate property, to deny a man freedom or take his life.

Montana has the distinction of having the nation's lowest paid judges. What most of us would want sitting in judgment in a critical situation is not the cheapest, but the best.

The judicial salary issue is one that is critical to the judicial system. In that system, the judge is the key ingredient to the fair and impartial administration of justice. Judges are entrusted with enormous discretion and an equal amount of responsibility. For the system to work and work without unnecessary delay, we must recruit and retain the best and brightest lawyers to the bench.

I would like to join the Governor in his recent call. to the Legislature to "demonstrate progress in this important area." I would also like to commend the Senate Judiciary Committee for its efforts to recommend a committee bill on judicial salaries, The concept of a committee bill reminds us all that this important issue should not be partisan or the problem of a single sponsor – but rather that it is a significant problem that threatens to erode the strength of a vitally important branch of government.

In a related issue, you will be asked to give approval to a bill this session dealing with judicial retirement. The bill provides a modest incentive to encourage experienced judges to remain on the bench after 15 years of service. It is a small investment in retaining the talent of veteran judges.

I urge the Legislature to seriously address the issues of increased judicial compensation and retirement as quickly as possible.

Finally, I would like to mention the important work that has been done this past year by the Supreme Court's Commission on Technology. The Commission has spent the last year studying the ways in which computers might help the judiciary meet the goals of modernizing judicial administration and improving the judiciary's ability to manage its administrative affairs.

The Commission found that the judiciary is woefully behind other governmental agencies in the acquisition and use of modern tools. Some courts still use carbon paper and many have to fight just to have the copy machine that most governmental offices take for granted.

Someone recently remarked in a national publication that the only reason the judiciary isn't still using quill pens is that there aren't enough people still raising geese! While there may be an element of truth to this quote in other states, I would quickly add that I know of no one in the Montana judiciary who is using antiquated equipment and methods because they think it is a good idea. Judicial officers throughout the state, when shown the potential of modern tools, have been eager to use them.

The Commission on Technology has recommended, and I believe we should all support, developing a long-range plan for enhanced use of computers in our court system. We should plan now for setting standards and developing a uniform system to assure that as we begin the next 100 years of Statehood, the judiciary is not left behind with inadequate and out-dated tools for administering our judicial system.

You have a bill before you sponsored as a committee bill by the House Judiciary Committee that will allow the judiciary to take some modest steps toward the goal of court automation. I urge you to give the bill serious attention.

Finally, on behalf of the judiciary, I would like to thank the legislative leadership on both sides of the aisle and the members of the Legislature for their support and willingness to listen to our accomplishments and concerns.

As each of you understand, there has been a developing trend in recent years in our Society that focuses an ever brighter light on the responsibility of our courts. Nearly without exception, ever significant social, economic, and political issue finds its way into our courtrooms for redress and

resolution. Your continued commitment to maintaining a healthy court system is both necessary and greatly appreciated by the citizens of this great State.

You have a tough Legislative Session ahead of you. We wish you well in setting the State's course for the next two years!

Thank you for inviting the Court.