

State of the Judiciary
Chief Justice William A. Berry, Oklahoma Supreme Court
Message to the Oklahoma Legislature
January 11, 1972

Governor Nigh, President Smith, Speaker Privett, Members of the Legislature:

This is a memorable occasion for the Oklahoma Judiciary and an honor for me to serve as its representative. From your invitation to address this assembly I infer your recognition that the court system is now a fully emancipated organ of the state. Often times in the past our function was viewed as one of a mere agency rather than that of a co-equal branch of the government. All too often the judiciary of this state was but a plank in the platform advanced for us by another branch of the government. All this hopefully is now in the past. I trust that this occasion is but the beginning of a tradition that will be continued and serve to give you a first-hand report on the operations of the court system as well as inform you of our needs. At the very inception permit me to pay a tribute to this body for its excellent work on the new judicial article of the constitution adopted in 1967. This article gave birth to the Oklahoma court structure and placed on us in the Supreme Court the responsibility for a system-wide administration. Without that work the courts of this state would have continued as uncoordinated and scattered branch offices without a home office-as a headless body. The judicial service would have been left at the mercy of at times inadequate local resources. Many feared that after the reform the state-funded judiciary would become a monster with deficiencies that the legislature would be powerless to correct. I report to you that never in the history of this state has there been a more cordial relationship between our branch of the government and yours, and never before has the judiciary of this state been afforded a more open and candid dialogue with the legislature than since court reform. As a matter of fact, little of what I am about to say is new to the members of your judiciary committees. This is so because since the reform our contact with you through the judiciary committees has been maintained on a daily basis during the session and on an almost weekly basis during the interim. Our contact with you has been greatly facilitated by the creation of the office of the administrative director of the courts. That office acts as liaison between the three branches of the government. Its efficiency is well known to everyone in the capitol. Your judiciary committees know almost from day to day what the judicial branch of the government is doing and the problems that arise in the operation of the system; and we know, through this frequent contact, your policy and directives to us. I report to you that the skeptics were mistaken. This branch of the government - as it now stands - centrally administered and state-funded - has maintained its operation in a closer collaboration with your branch of the government than any court system known to me in the United States. You have given us a voice in our own destiny - an opportunity to participate in shaping it-and you have not lost any of your policy-making powers over us. It will please you to know that we are the envy of many states in which our modern, streamlined system-wide operation is still but a dream. Your skill in drafting an administrative system that allows a large modicum of local control in the courthouses of the state is also the envy of others. It serves as a model to a great many of those states which have recently reorganized their judiciary into a modern system similar to ours.

It is true that we are jealous of our independence and wish to guard against encroachments upon

it. But our independence is not to be misunderstood. It stems from our desire to do our judging unfettered by the other two branches of the government and from our insistence on direct access to this body, without any intermediary between us, in matters lying exclusively within your province, i.e. (that is) in legislation affecting the courts and in budgetary matters. In our insistence that this brand of constitutional independence be honored by the other two branches, we merely ask that you give us the tools to function efficiently and economically and that we perform our function with competent personnel to administer legal process, civil and criminal, in an even-handed way, to the rich and poor, young and old, black and white, Democrats and Republicans, Christians and Jews. This independence is essential to the maintenance of a sound judiciary to which all people of this state may rightly lay claim.

While much has been done by you since the reform to implement the excellent framework which the constitution sets up, much more needs to be done. Among the most vexing problems is that of proper geographical distribution of judgeships over the state. It is no secret to you that there are areas in which the trial bench is drastically overstaffed and others in which shortage of judicial manpower has arisen. We sincerely invite you to correct this deficiency that I am sure our forthcoming report to you will show. We trust that you will consider it in the best interest of economy and efficient administration of legal process to the people of this state. A similar problem has been solved in Illinois by a constitutional amendment which eliminated that class of officers which is the counterpart of our associate district judges. Illinois now has only two classes of judicial personnel-the district judges and the magistrates or what we call special judges. You would profit from studying the new Illinois system and from giving serious consideration to the structure that state has adopted.

Another recurring problem is that of adequate judicial compensation. We are grateful for your work in the last session that resulted in an upward readjustment of several compensation levels for judges. A long-range solution to the problem is urged. It would require that you give proper attention to a permanent statutory formula tied to the cost-of-living index. If Oklahoma gets judges cheap, Oklahoma will have cheap judges. Chairman Runkle of the Judicial Nominating Commission has pointed out recently that vacant Oklahoma judgeships attracts only a very minimum of applicants of the caliber desired for judicial service. He attributed this situation to existing compensation levels that are totally out of balance with the income of lawyers who possess adequate qualifications and experience. I know that many of you feel the judges are getting paid too much as it is and that there are those among you who feel that judges should be reduced to a non-professional salary level. Without attempting to criticize this view, I feel that the caliber of judges should measure up to the caliber of lawyers practicing before them.

Proper judicial compensation is worthy of your serious attention and of a long range solution.

The Supreme Court's constitutional responsibility for administration of the judicial system extends to the state courts as well as to municipal courts. With the use of federal funds, and without any expense to the state, we have completed last September a survey of the municipal courts. Our object was to determine which cities had a court in existence, the identity and qualifications of the judges and the quality of legal process administered. The results of this survey are most disturbing and disappointing. Copies of the survey are available for your study.

Municipal courts are an important part of the judiciary. It is in these courts that the bulk of our

citizens receive their first, or perhaps only, impression of legal process. A drastic legislative re-examination of the municipal court structure is urged. I recommend that you take the first step in this session by placing municipal courts under the administrative supervision of our presiding and chief judges in like manner with the state courts.

With the aid of the Court of Appeals the Supreme Court is making an appreciable inroad into its existing backlog. The decisional process has been significantly accelerated though the latest per-annum case load figures reflect an increase of 46 percent over the pre-reform filings. We wish to commend the Court of Appeals for the fine job it has done.

The Court of Criminal Appeals has also been plagued by an ever increasing filing load. With the aid of the temporary division created by you in the last session and staffed by trial bench personnel, we will be able to reduce the backlog significantly. Retired judicial personnel have been of great service to us by their willingness to remain in active service. Contrary to the press reports, the only retired judges we have are those who are seriously handicapped. The vast bulk of retired personnel are actively at work serving this state at reduced compensation.

The district court operations since the reform have proceeded in a greatly accelerated manner, and I am pleased to report to you that there is no problem of lagging justice in any region of Oklahoma. That problem, as you know, is presently plaguing all other states and the federal courts. We have escaped it because you have given us ample judicial staffing. Even in understaffed regions, such as Oklahoma and Tulsa Counties, criminal and civil process more than meets the minimum standards of speedy justice. In these two metropolitan counties the time lag between arrest and trial seldom exceeds 90 days. This is a significant accomplishment for which I wish to commend our judicial' administrators in those counties.

The State Industrial Court is doing an admirable job in promptly disposing of its 15,000 filings per year. Staffed by only 5 judges, that court deserves to be complimented for its work.

With the use of federal funds and without any cost to the State of Oklahoma the Supreme Court has been carrying on a program of in-service judicial training both in and out of the state. This year we hope to further expand this project by including in it municipal judges.

Within the State of Oklahoma we have, since the reform, conducted three 4-day summer programs of judicial training, the last one in July of 1971. The topics of these programs ranged all the way from legal process in traffic misdemeanors to sentencing standards and the juvenile process:

I am fearful that the federal government will discontinue extending funds for these worthy in-service training programs. This body should give serious consideration to funding them with state-appropriated money.

The Supreme Courts constitutional responsibility of administering the operations of the judiciary has placed a great strain on our budget. The administrative expenses have been rising steadily. This aspect has not received your due consideration. Our current fiscal year's appropriations for operating expenses have been less than adequate. The Court of Criminal Appeals was badly

underfunded. It is surviving only because of federal aid. The Supreme Court chambers, an architectural jewel in this capitol, is in a state of shameful disrepair. It has not undergone renovation in the last 35 years.

I invite and urge you to give proper attention to the pressing needs of the Supreme Court and the Court of Criminal Appeals when you consider our budget requests.

Thanks to legislation passed in the last session court fund management has been improved. Much more by way of legislation is required. It is my fond hope that you will see fit to give us needed statutory tools for proper supervision of local spending of court- generated funds.

SUMMATION

To many non-lawyer legislators our operations remain pretty much a mystery. I invite you to familiarize yourselves with our problems and needs so that you may intelligently cast your vote on court-related legislation. The members of our court and the court administrator will be delighted to aid you in this task with candid and objective explanations.

Your cooperation is vital to the survival of the judicial branch of the government and your understanding of our problems is essential to the proper performance of our duties.

I accordingly challenge you to:

- (1) examine closely the geographical maldistribution of Oklahoma judgeships with a view to correcting this problem;
- (2) give due attention to proper compensation levels for all classes of judicial personnel with a view to arriving at a long range solution
- (3) give the Supreme Court the tools necessary to supervise the administration of legal process in the municipal courts;
- (4) give the Supreme Court proper tools to impart statewide uniformity to the management of court funds;
- (5) give due consideration to the budgetary needs of the Supreme Court for discharging its constitutional responsibility to administer the entire judicial system in Oklahoma; and
- (6) give due consideration to the budgetary needs of the Court of Criminal Appeals

Again, may I convey to you my deep personal appreciation and that of the entire judiciary for the opportunity to deliver this message.

Let me assure you of our desire to merit your confidence and that of the people of this great State. Make our business your business to the end that we may resolve whatever misunderstandings may exist between us.