

State of the Judiciary
Chief Justice John B. Doolin, Oklahoma Supreme Court
Message to the Oklahoma Legislature
March 4, 1987

I want to express my appreciation to each of you forgiving me this opportunity to speak to you about the State of the Judiciary in Oklahoma. I find this opportunity to speak to you today very fitting in that 200 years ago in 1787 the Constitutional Convention worked to develop a new form of government. Our Oklahoma government was based upon this document created 200 years ago called the United States Constitution. Extraordinary people from various walks of life wrote this document--some were lawyers, some were farmers, and some were businessmen.

Those who drafted the United States and the Oklahoma Constitutions have reflected the character of the people and in doing so established a form of government in which the power is divided among the Legislative, Executive, and Judicial Branches of government.

To this end, I stand before you today as a representative of the Judicial Branch of government. While each branch has a Constitutional responsibility to retain its independence, we collectively have a responsibility to each other. We in the Judiciary have a responsibility to manage and administer the courts efficiently. We must accomplish this task without fear or favor whether the case be between the citizen and the state, or between citizen and citizen.

SUPREME COURT

The Supreme Court caseload has continued to grow at an ever increasing rate. The number of cases and special matters filed in the Supreme Court average over nine to 10 per day. My colleagues on the Court, and I have attempted to maintain a regimented effort to combat this workload with basically the same number of law clerks the Supreme Court Justices had 50 years ago, when they were faced with one-tenth the workload. Ladies and gentlemen of the Legislature, additional judicial staff is no longer a desire, but a need. IT IS CRITICAL.

The Supreme Court wants to provide efficient and expeditious service to the litigants. In the case of commercial litigation, economic development and expansion of Oklahoma is held captive until such time as a case is finally resolved. The citizens of Oklahoma want a stable economy and we the judiciary want to do our part in our state's recovery.

DISTRICT COURTS

Five years ago the Legislature provided 70 percent of the District Court's appropriation--during the fiscal year 1985-86 the District Courts were funded by 21.5 percent general revenue funds and 78.5 percent court funds. This change in funding has meant a \$35,000,000 savings in general revenue monies. I bring this matter before you today because we probably will not have the funds to support ourselves to the extent as before--we estimate we will have approximately \$4.5 million dollars less this fiscal year in comparison to last year.

There were 514,000 cases filed in the District Courts this past year. We have trial judges who have to delay trials because they do not have a court reporter. Finally, we have many county officials who want to tap or participate in the fines and fees collected by the courts and retain them in their counties. These are the very same fees that are used to help fund the trial courts and are eventually turned over to the state's judicial fund.

Now let me briefly review with you several legislative proposals which I believe deserve your urgent attention.

- (1) in order to help alleviate the backlog of cases pending before the Supreme Court and Court of Appeals, we are requesting \$50,000 for a special project in which we will use retired judges to manage settlement conferences to resolve appellate cases; more on this later.
- (2) we are requesting an additional law clerk for each Justice of the Supreme Court and, for each of the Judges of the Courts of Appeal. Together with part-time legal interns for Judges of the Courts of Appeal.

THE COURT SYSTEM

The judiciary is made up of nine Supreme Court Justices, 12 Court of Appeals Judges, 71 District Judges (in 26 Judicial Districts), 58 Special Judges located in the more populous counties and 77 Associate District Judges in each of the counties. In addition we have three Court of Criminal Appeals Judges, nine Workers' Compensation Judges and three Corporation Commissioners who operate in judicial, legislative and executive areas. Most, if not all, of the administrative agencies provide for a quasi-judicial board and all of the agencies orders are appealable to the Supreme Court. By Constitution we are granted the superintending control over all inferior courts, all agencies, commissions and boards created by law.

In the calendar year of 1986, 514,000 cases were filed in the District Courts of Oklahoma, 24,000 in Workers' Compensation Court, and 18,000 applications for relief were filed with the Corporation Commission. In the numerous agencies, many thousands of cases are filed. Each of the actions mentioned is appealable to the Supreme Court as a matter of right.

The appropriation which you have generously provided is expended primarily for salaries paid to Judges and administrative personnel. There are 225 administrative personnel in the court system: 38 in the Supreme Court, 10 Supreme Court interns, 18 Court of Appeals Legal Assistants and secretaries, 25 persons in the Court Administrator's Office where 80 percent of the work of the Administrator is directed to management of the District Courts and 164 persons serving in the District Courts.

Therefore, 90+ percent is so spent. The Court maintains no vehicles, no inventories except on a current basis. We do expend modest amounts for rentals and maintenance in those counties where the Court is authorized to sit in other locations than in the county seat. We likewise have a rental obligation for the Court of Appeals in Tulsa County.

The recent budget requests for cuts originating with the Chief Executive of 3 percent general revenue funds can be met for the remaining fiscal year of 1986-87 without furloughs, holidays or

dismissal or personnel. More drastic reductions in our appropriation of 5-10 percent can only be met by the reduction of judicial or administrative personnel.

THE JUDICIAL LOAD

At statehood the Supreme Court was made up, of five Justices. Four additional Justices were authorized. Early in the history of the state the Court of Criminal Appeals was created. Later a Workers' Compensation Commission, since elevated to court status, was created.

At the time of court reform in 1968-69 Associate and Special Judges were created replacing abolished court judges. To meet the demands of the caseload, the Supreme Court on its own created special lawyer commissioners in the 1930s for the purpose of disposing of cases. In the 1970s special temporary Courts of Appeal were created and operated for two years.

All of the changes and advances made by the judiciary have resulted from the joint efforts of the Executive, Legislative and Judicial Branches of Government.

Within the Court we have reformed our rules and methods of procedure to advance and speed the judicial process. We have instituted an accelerated procedure, the so-called fast track method, for this Court and in the Court of Appeals. We have established a screening process which allows us to place on a special docket cases that raise repeated and routine issues. We call this our "B Docket."

During early 1986, we further screened the cases, conducted a blitz and disposed of them by memorandum and unpublished opinions. All of the practices and procedures of the Court have reduced the backlog of cases-some more dramatically than others.

It is our intent to continue with innovative practices and procedures to meet the demands of the people of Oklahoma today, we specifically ask for an appropriation of \$50,000 for the purpose of establishing settlement conferences. The Legislature and the Chief Executive have wisely given us authority to call back into temporary service, at a rate of \$100 a day, retired Judges. Many of these retired Judges are dedicated men who have retained their vigor and health and welcome assignments. The appropriation would make available to us 500 additional days or 4,000 man hours to attack the caseload. Oklahoma's petition in error presently requires litigants to indicate on a volunteer basis whether or not settlement is desired. Our considered estimate is that 30-40 percent of the cases filed might be settled if we reach or can act on the case at an early date, before briefing and argument have begun.

BACKLOG

If you will pardon the personal reference, in 1973 when I came on the Court there were approximately 800-900 cases in the backlog. In 1976, 10 years ago, there were 1,296 cases so situated. At the end of the fiscal year 1986 there are 2,585 cases in this category. This figure reflects a decline of 185 cases from the year before; but we must do better.

If we continue our screening, blitzing, accelerated dockets and proceedings and are authorized to

expend the modest sum of \$50,000 for settlement conferences, we can further reduce the existing backlog. Not all of the 2,585 cases are ready for assignment to a particular Court or Justice, but 1,400 are ready for a decision.

In summation the burdens and delays facing the Court are attributable to the litigious nature of the public and may be alleviated by:

- (1) adequate funding and planning for today and the future.
- (2) efficient and adequate action by the Courts themselves to increase their efficiency.
- (3) development of settlement conference and increase arbitration.
- (4) immediate increase in staff for our Courts at all levels. We are barely making do with a 1930 staff in the waning years of the 20th century.

At a later date it may develop that Legislative and Executive Branches of Government will need and rightfully demand, more area and space. Perhaps this Capitol Building should ultimately be dedicated to those branches of government. When such a time arrives the state will be faced with necessity of constructing a courts building. Of the 50 states probably 40 have such a separate building.

Salaries will have to be considered in the immediate future. Kansas, Texas, and Arkansas have recently increased judicial salaries at all levels. New Mexico, Colorado, and Missouri are not far behind. Current salaries of the Federal Trial Judiciary exceed \$90,000 per annum. Likewise many minor administrators and referees within the federal system earn more than Oklahoma's Trial and Appellate Judges.

The Oklahoma Judicial System has worked well in the past. It is healthy. It has dedicated to hard work its Judges, Administrator, Referees, Staff Attorneys and secretarial workers.

We are not unmindful of the tremendous problems of this session in providing sound and continuing good government. We know the tasks are formidable. We realize the dedication evidenced by members of the Legislature and by the Chief Executive.

Let us approach the future of our state and nation united in an effort to deliver to Oklahoma and the nation a bright and lasting program of greatness.