

WELCOME REMARKS  
— AND —  
COMMISSION CHARGE

BY  
NORTH CAROLINA CHIEF JUSTICE MARK MARTIN

30 SEPTEMBER 2015, 10:30 A.M.  
NORTH CAROLINA JUDICIAL CENTER  
901 CORPORATE CENTER DRIVE  
RALEIGH, NORTH CAROLINA



Good morning and welcome to the inaugural meeting of the North Carolina Commission on the Administration of Law and Justice.

We are honored to have so many distinguished guests joining us today. I thank each and every commission member for your presence at this inaugural meeting. I would also like to recognize a few of those who have helped make today possible. The funding to support the work of this commission was generously provided by the State Justice Institute, the North Carolina Governor's Crime Commission, and the Z. Smith Reynolds Foundation. Joining us today on behalf of these organizations is Jonathan Mattiello, Executive Director of the State Justice Institute, and David Huffman, retired Sheriff of Catawba County and now Executive Director of the Governor's Crime Commission. Leslie Winner, Executive Director of the Z. Smith Reynolds Foundation could not be with us today, but I have communicated our gratitude to the Foundation. Finally, I want to say thank you to interim AOC Director, Judge Marion Warren, and the Administrative Office of the Courts for providing the meeting space and accommodations for today's meeting.

Today is a special moment for the legal profession, for the Judicial Branch of North Carolina, and for the people of this great state. We assemble here on the shoulders of a proud tradition of inquiry and innovation that has directly shaped the courts we know today. Twice before in our state's history, multi-disciplinary commissions of leaders from throughout this state have convened to conduct objective, comprehensive evaluations of the administration of justice in our courts.

"The administration of law and justice." As we begin this inaugural meeting and launch this commission, I can think of no more fitting thing to do than to take a moment to reflect on the meaning of these words. The North Carolina constitution vests the judicial branch of government with the solemn duty of administering justice on behalf of the citizens of the state. What does that really mean? Well, the courts of our state resolve complex commercial disputes. They decide domestic disputes involving some of the most intimate and personal aspects of our lives. Our courts administer the punishment of crimes ranging from speeding tickets to first degree murder. And they guard the civil rights enshrined in our constitution. The power to administer justice is a sacred public trust that must be guarded carefully by each generation.

Ensuring public confidence in the administration of justice is no small task. In his now famous 1906 speech to the American Bar Association, Dean Roscoe Pound quipped, "Dissatisfaction with the administration of justice is as old as law." Fifty-two years later, Dean Pound had the opportunity to reflect further on refining the administration of justice. He gave remarks discussing the challenges that the administration of justice faced in a "crowded, mechanically operated, economically unified world" and argued that "practical means of attaining ideal ends are as much to be sought and studied as those ends." He emphasized the importance of unification, flexibility, and efficiency, stating that "there should be unification in order to concentrate the machinery of justice upon its tasks. There should be flexibility in order to enable it to meet speedily and efficiently the continually varying demands made upon it. And there should be conservation of judicial power in order to assure that the expensive machinery of the courts is applied to the true purposes of the law and not wasted on matters of inconsequence."

Believe it or not, these reflections were made to none other than the North Carolina Bar Association on Thursday evening, June 12, 1958. In that address, Dean Pound noted

that “North Carolina is not alone in finding its organization of administering justice inadequate” to then-prevailing societal conditions. A mere seven months later, the “Committee on Improving and Expediting the Administration of Justice in North Carolina,” or “the Bell Commission” as it is now known, issued its final report. Responding to a challenge from Governor Luther Hodges, the North Carolina Bar Association had conducted an exhaustive, three-year study of the state courts, with a focus on improving the administration of justice. What it accomplished was quite remarkable. Ultimately, the Bell Commission’s recommendations led to the unification of the North Carolina court system and the establishment of the district courts and the Court of Appeals. It also laid the groundwork for what we now know as the Administrative Office of the Courts.

In the 1990’s, it became clear that another review of our courts was needed. Chief Justice Jim Exum, whose portrait is scheduled to be presented to the Supreme Court in a few weeks, created the Commission for the Future of Justice and the Courts, or as we now know it, the “Medlin Commission.” Consistent with its predecessor, the commission’s report began with the candid acknowledgement that “Our notions of justice have not changed much over the years. What does change, however, is how justice is delivered—and how satisfied the public is with the result.” The recommendations made by the Medlin Commission reflected diligence, thoughtfulness, and proactive thinking about the systemic issues facing the judiciary. The influence of that report can be seen today in our family courts and in the increased use of technology in our courts.

True to the goal of guarding public confidence in the administration of justice, the opening pages of the Medlin report acknowledge that “The courts are supposed to serve the people. If the people are not happy with them, then something needs to change, because in the final analysis, one of the cornerstones of democracy and civil society is support for and confidence in the court system.” As noted by the new book, Reimagining Courts, “The past sixty years have witnessed the transformation of courts from adversarial forums into broad general markets for legal decision.” The broader the market, the more acute the issues of confidence become. Recent polling data confirm this. A 2014 nationwide survey conducted by the National Center for State Courts shows increased confidence across several important metrics, including whether state courts are perceived as fair and impartial and whether state courts provide equal justice to all. However, other findings from the study are less positive: increased percentages of respondents stated concern and dissatisfaction regarding the role of politics in the courts, the use of technology by courts, and the levels of customer service provided by courts. In sum, the importance of guarding confidence in the courts’ ability to fairly and impartially administer justice is as important as ever.

We live in a time of great societal change, driven by an increasingly globalized economy, rapidly advancing technology, and changes in the way we live. These developments are presenting new and unprecedented questions to courts and the legal profession more generally. Studies by the American Bar Association reveal that a great many civil legal needs are going unmet. But at the same time, we know that almost half of all law school graduates are working in jobs that do not require a law degree. The 2014 survey by the National Center for State Courts shows that about 85% of respondents under the age of 40 are willing to conduct court business online. Perhaps even more remarkable is that this number drops only to about 76% when the category is broadened to age 65. Despite these strong numbers, we know that court resources and services are often not available electronically. We know that the cost associated with obtaining legal help is resulting in historically high numbers of pro se litigants. Just last week, I spoke at the

North Carolina Bar Association's Convocation on Aging about the dramatically increasing number of lawyers working well into retirement age and the factors driving that change. Did you know, for example, that over half of the Baby Boomer generation is providing financial support to their adult children? We are in uncharted waters in many respects.

Amidst this change around us, we know that fair and impartial courts are a foundational pillar of our constitutional democracy. The nearly six thousand independently elected officials and employees comprising the Judicial Branch demonstrate a keen awareness of that fact. Indeed, they work very hard and do many things well. However, in a society marked by such dramatic change, we must be candid about the fact that much of what has worked well in the past, does not work as well now. Where we can become better, we must be ready to innovate.

On behalf of our court system and those we serve, I charge you to undertake a comprehensive evaluation of our state judicial system and make actionable, real-world recommendations for strengthening our courts. This is no small task — our court system is diverse. It stretches across 100 counties, both rural and urban, from the mountains in the west to the coastline in the east. Our courts serve the people of the ninth most populous state in the nation and handle approximately three million cases a year. While the size and diversity of our state's population demands a court system that is both innovative and flexible, the rule of law requires a uniformity that ensures that every person receives equal treatment under the law. At the same time, modern realities and budgetary concerns demand that our courts function in a manner that demonstrates effective and efficient stewardship of the resources entrusted to us.

In order to facilitate the success of this important work, the commission has been organized into five committees, each of which will focus on one of the following specific areas of inquiry: Civil Justice, chaired by Duke Law Dean David Levi; Criminal Investigation and Adjudication, chaired by retired federal Judge Bill Webb; Legal Professionalism, chaired by immediate past President of the NCBA Catharine Arrowood; Public Trust and Confidence, chaired by Blue Cross Blue Shield CEO Brad Wilson; and Technology, chaired by North Carolina Supreme Court Associate Justice Barbara Jackson.

Each committee has thirteen members to ensure a sufficient depth of experience, diversity of viewpoint, variety of perspective, and capacity to complete the task. Each of these committees will work independently to identify relevant issues, conduct objective and exhaustive research, craft recommendations for improvement, and draft final reports that will be made available to the General Assembly, the Governor, the courts, and the public.

The success of your committees will depend to a large extent on the ability of each commissioner to work collaboratively. By pursuing open and honest dialogue with regard to the various components of our courts, you will find within the membership of your committee an incredible reservoir of experience and wisdom. Anecdotal evidence of issues and solutions can be powerful and informative, but the recommendations made by each committee may result in wide-ranging impacts and must be founded upon thoughtful research, supporting data, and careful analysis. In other words, data-driven.

You will have ample resources at your disposal. I have already mentioned the generous financial support of the State Justice Institute, Z. Smith Reynolds, and the Governor's Crime Commission. In addition, you will have access to the resources of the National Center for State Courts. The National Center has decades of experience working

with state court systems across the country, including ours. It has agreed to provide its very best experts and consultants for your use, including its vice president, Dan Hall, who will be speaking to us later today. You will also have access to our very own Administrative Office of the Courts' Research and Planning Division, which has committed its staff to support the commission as well. Dean Michael Smith and the School of Government have offered their assistance. The School's Tom Thornburg and Jessica Smith are serving on the commission, and you will be hearing from their colleagues Jim Drennan and Michael Crowell during the meeting today. And, finally, our commission's executive director Will Robinson and his staff are working day in and day out to serve the commission's needs. Use all of the resources at hand throughout this process. Seek out speakers, request data, and bring in experts. Leave no rock unturned in this important endeavor.

I am really excited that this day has finally come. Once again, I want to express my deep gratitude for your commitment to serve. It is my hope that this commission's work will lead to innovations that strengthen the administration of justice in our state. I am confident that the work you do will be of great benefit to those who work in and with the Judicial Branch each day and to all North Carolinians. Each one of us is a stakeholder in our court system. I look forward to the preliminary recommendations you will be making in the coming months and to your final reports in early 2017.

In closing, I want to note that what we do here will not be the final word on the administration of law and justice in North Carolina. In concluding his remarks to the ABA in 1906, Dean Pound espoused a hope that sounds quite similar to the one we hold for this commission, "[may we] look forward to a near future when our courts will be swift and certain agents of justice, whose decisions will be acquiesced in and respected by all." That we still seek the same goal over 100 years later does not mean that we have failed. Future change will require further collaboration and adaptations by our courts. Guarding the fair and impartial administration of justice is a generational task. But let it not be said of this generation, and of this commission, that we failed to put forth our best efforts toward carrying the torch in our time.

Thank you.

