

Warren Raps Congress on Court Funds

3/16/69

By Carl Bernstein

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Chief Justice Earl Warren yesterday assailed Congress for failing to meet the needs of the Nation's Federal courts.

Breaking his traditional reticence about criticizing the legislative branch on a non-judicial matter, the Chief Justice said, "It is next to impossible for the courts to get something from Congress."

He told a meeting here that part of the increasing crime problem is attributable "to the fact that we do not move along to get cases tried."

To "keep cases current," the Chief Justice said, "we must get a response from Congress to do our job in a proper way."

Addressing the Bar Association of the District of Columbia, Warren asked: "Do you think we can get any help from Congress? The answer has clearly been no."

See WARREN, A4, Col. 5

WARREN, From A1

To illustrate his point, the Chief Justice recalled several instances in which Congress ignored requests to increase personnel at the Supreme Court.

"One time I asked for a messenger for the library," Warren said. "This was at a time when the Congress was building the great Rayburn Building. But the request for the messenger was stricken from the appropriation."

"In the last three years, because the number of cases has increased so much, we wanted to add one law clerk for each justice," Warren continued. "You would think (from the Congressional reaction) that we were just dipping our hands into the Treasury."

The full request for clerks has not yet been met by Congress.

Noting that the caseload of the Supreme Court has increased by 2½ times since he became Chief Justice, Warren said the court "hasn't added more than five or 10 employes" in those 16 years.

The Chief Justice described Congressional expenditures for the judiciary as "just a drop in the bucket," adding that "the FBI budget is infinitely higher than the whole Federal court system."

In fiscal 1969, Congress authorized a \$220 million appropriation for the FBI and \$102.4 million for the whole Federal judiciary, according to Budget Bureau figures.

"Other branches of government proliferate without end," Warren observed. "But not the courts . . . We can't go over and

lobby and we can't trade anything with the committees.

"If we ever start that," he said jokingly, "then we're gone."

Asserting that "Congress just hasn't kept up with the needs of the court system," the Chief Justice said the principal effect of insufficient funding has been to produce huge criminal trial backlogs.

"It's going on all over the country," the Chief Justice said, noting that the average time between indictment and jury trials in the Eastern District court for New York (Brooklyn) is more than 20 months. (The delay in District Court here is 12 months.)

Referring to long waits for trial, Warren said: "Just think what that means to a criminal defendant who is innocent. He is either under a cloud and must suffer the shame of his neighbors, or he is in jail. And a guilty man on bail can go out and commit other crimes."

The Chief Justice asserted that long waits for trial "make people distrustful of the law."

Such administration of justice "does not add up to an appreciation of the rights of those involved," he added.

Warren, whose address yesterday was his first to a local bar association since he became Chief Justice, explained that when he accepted the invitation he thought he would be retired by now.

Congress, however, refused to confirm the appointment of Justice Abe Fortas as Warren's successor, and the Chief Justice is expected to remain on the High Court until June.

In his address, Warren urged lawyers to stop seeking

advantages in trials by asking for delays—a theme also discussed yesterday by Ernest Friesen, director of the Administrative Office of the U.S. Courts.

Friesen called the practice "an attitudinal problem critical to the bar."

"If the bar doesn't recognize it has a professional difficulty, we may never solve" the backlog problem, he said.

Friesen, a former assistant Attorney General, praised the judges of U.S. District Court here as the "most active" on any Federal court in the Nation.

Although some Congressmen have said the District Court backlog here could be reduced if judges spent more time on the bench, Friesen said the average judge on the court spends 137 days in trial a year.

The figure represents 30 days more bench time than in the next highest federal district, Friesen said.

District Court Judge Gerhard A. Gessell, another speaker at yesterday's bar meeting, said criminal justice in Washington "is in dire need of help."