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Constitutional Law - Judicial Power - Court Funding - Reasonable Necessity

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CONSTITUTIONAL LAW—JUDICIAL POWER—COURT FUNDING—REASONABLE NECESSITY—The Supreme Court of Pennsylvania held that a survey of salaries offered by competing employers was insufficient evidence of the necessity to increase the salaries of court employees.

Snyder v. Snyder, 620 A.2d 1133 (Pa. 1993).

The Honorable Judge Edwin L. Snyder, President Judge of the Court of Common Pleas of Jefferson County ("Plaintiff"), requested that the fiscal year 1989 budget for his county's court contain enough money so that court employees could be given five percent pay raises.[1] When the Jefferson County Salary Board[2] decided to maintain all wages at the previous year's level, Plaintiff filed a complaint in mandamus seeking to compel payment and to award attorneys fees and costs.[3]

The Plaintiff claimed that failure to provide the court staff with requested salary increases could affect employee morale, possibly prompting some employees to leave their jobs.[4] The raises sought were derived from a salary schedule adopted by the Jefferson County Commissioners ("Commissioners") in 1986.[5] That schedule was based upon surveys conducted by the Pennsylvania Economy League ("Economy League") at the request of the Commissioners.[6] The Economy League surveyed various public and private sector employers in and around Jefferson County to determine average salaries and pay increases in jobs similar to those held by county workers.[7] Because the survey showed that the county was paying its workers below that average, the Economy League developed, and the Commissioners adopted, a new seven-step wage scale which placed all county employees at the level appropriate to their

1. Snyder v. Snyder, 620 A.2d 1133 (Pa. 1993).

2. *Snyder*, 620 A.2d at 1135. The Jefferson County Salary Board was comprised of the three County Commissioners, including Keith D. Snyder, the first named defendant, the President Judge and the County Treasurer. *Id.* at 1133.

3. *Id.* at 1134.

4. *Id.* at 1136.

5. *Id.* at 1135.

6. *Snyder*, 620 A.2d at 1135. The study was first conducted in 1986 and was then updated in 1988. *Id.*

7. *Id.*

training and experience.[8] The Plaintiff's budget request for 1989 recommended that each court worker move to the next step on the scale, as they had in each of the previous two years.[9]

The Plaintiff petitioned the Supreme Court of Pennsylvania to exercise plenary jurisdiction.[10] The supreme court granted the petition and then appointed Judge Silvestri Silvestri of the Court of Common Pleas of Allegheny County as master.[11] The master found that appropriations for five positions within the 1989 court budget were funded at levels lower than requested.[12] However, the master's report also found that the Plaintiff failed to provide other "critical" evidence, including the court's past and current case load and future projected case loads.[13] Without this information, the master concluded that the Plaintiff had not met his burden of proof and the master's report recommended that the complaint be dismissed and the request for award of counsel fees be deferred until the matter was concluded.[14] Judge Snyder filed exceptions to that report.[15]

While there were three issues raised in the appeal of the master's report, the supreme court dealt only with what it considered the pivotal issue: whether the Plaintiff met his burden of proving that his budget requests were reasonably necessary to the effective administration of justice.[16] In order to meet this burden, the court said a plaintiff must show that the proposed salary increases were

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8. *Id.* at 1135. A total of 30 Jefferson County workers were placed on the new scale. *Id.*

9. *Id.*

10. *Snyder*, 620 A.2d at 1134. Plenary jurisdiction is "full and complete jurisdiction or power of a court over the subject matter as well as the parties to a controversy." BLACK'S LAW DICTIONARY 1154 (6th ed. 1990).

11. *Snyder*, 620 A.2d at 1134. Judge Silvestri has since become a Senior Judge on the Pennsylvania Commonwealth Court. *Id.* at n.1.

12. *Snyder*, 620 A.2d at 1135. In its opinion, the supreme court provided the following table outlining the master's findings in this area:

Office	Requested	Appropriated	Difference
Court Administrator	$21,770	$20,743	$1,027
Judge's Secretary	16,867	16,071	796
Domestic Relations Dir.	21,034	20,042	992
Chief Adult Probation Dept.	26,190	23,696	2,494
Chief Juvenile Justice Dept.	24,350	23,201	1,149

13. *Id.* at 1136.

14. *Id.* at 1134-36.

15. *Id.* at 1134.

16. *Id.* at 1136. Plaintiff's other arguments, not addressed by the supreme court, were that the master improperly required a showing that the requested funds were absolutely necessary and not just reasonably necessary, and that the master required a higher standard of proof than required by case law. *Id.*

reasonably necessary to attract and retain qualified people.[17] Chief Justice Nix, who authored the opinion, stated that such a determination could not be made without comparing court wages with those paid by competing employers.[18] Concerned with preserving the separation of legislative and judicial powers, the court reasoned that evidence of this type must be critically analyzed.[19]

The court concluded that the proof offered in this case, specifically the surveys conducted by the Economy League, did not prove reasonable necessity, since the surveys did not indicate the actual salaries of public and private sector employees working at jobs similar to those of the Jefferson County court staff.[20] While it found the Economy League report persuasive, the court noted that the report was not dispositive since the survey included data collected from employers who were not in competition with the Jefferson County court system.[21] The supreme court therefore held that the Plaintiff failed to meet the burden of proving that staff salary increases were reasonably necessary for the effective administration of justice.[22]

The supreme court also denied the Plaintiff's request for attorneys fees and costs in pursuing this case.[23] The court cited the gen-

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17. *Snyder*, 620 A.2d at 1136 (citing Lavelle v. Koch, 617 A.2d 319 (Pa. 1992)). In *Lavelle*, the president judge of the Common Pleas Court in Carbon County filed an action in mandamus, seeking to compel the county's salary board to supply $22,716 in additional employee wages for the 1989 fiscal year, and also demanded payment of attorneys fees and costs for the mandamus action. *Lavelle*, 617 A.2d at 320. See notes 73-76 and accompanying text for a discussion of *Lavelle*.

18. *Snyder*, 620 A.2d at 1136.

19. *Id.* at 1136-37. The court noted that the power to spend money is exclusively a legislative function, and that the only time the judiciary may compel funding occurs when it cannot properly function because it has not been given enough money by the legislative branch. *Id.* at 1137 (citing Beckert v. Warren, 439 A.2d 638 (Pa. 1981); Commonwealth *ex rel.* Carroll v. Tate, 274 A.2d 193 (Pa.), *cert. denied sub nom*, Tate v. Pennsylvania *ex rel.* Jamieson, 402 U.S. 974 (1971); Leahey v. Farrell, 66 A.2d 577 (Pa. 1949); Commonwealth *ex rel.* Hepburn v. Mann, 5 Watts & Serg. 403 (1843); In re Surcharge of County Commissioners, 12 Pa. D. & C. 471 (C.D. Lackawanna 1928)). See notes 55-60 and accompanying text for a discussion of *Beckert*. See notes 49-54 and accompanying text for a discussion of *Carroll*. See notes 42-48 and accompanying text for a discussion of *Leahey*. See notes 27-31 and accompanying text for a discussion of *Hepburn*. See notes 32-41 and accompanying text for a discussion of *In re Surcharge*.

20. *Snyder*, 620 A.2d at 1137.

21. *Id.* The court pointed out that four of nine employers surveyed in 1986 and five of eleven surveyed in 1988 were located outside Jefferson County and adjacent counties. *Id.* In both surveys, two of the respondents were located more than 150 miles away. *Id.* at 1138. These facts led the court to doubt that the Jefferson County court system was actually competing in the same labor market as some of these survey respondents. *Id.* at 1137-38.

22. *Id.* at 1138.

23. *Id.*

eral rule that a litigant cannot recover such fees from the opposing party unless there is a statute authorizing such an award.[24] In a footnote, the supreme court also dismissed the Plaintiff's argument that the costs of this suit were reasonably necessary for the court's proper functioning.[25] The court said any judge in the commonwealth can use the Administrative Office of the Pennsylvania Courts for legal services.[26]

Disputes between Pennsylvania's judicial and legislative branches over court funding and court employee salaries have been occurring for more than a century. In 1843, the Supreme Court of Pennsylvania dealt with the constitutionality of an attempt by the General Assembly to repeal salary increases previously given to common pleas court judges in the case of *Commonwealth ex rel. Hepburn v. Mann*.[27] The issue before the court was whether article V, section 2 of the Pennsylvania Constitution prevented the legislature from reducing the salary of a common pleas court judge after the judge takes office.[28] The supreme court determined that article V, section 2 of the Pennsylvania Constitution was based on a similar section of the United States Constitution[29] and that both were enacted in an effort to ensure an independent judiciary by providing that judges could not have their salaries reduced by a legislature which might seek to coerce or punish the judiciary or an individual judge.[30] In granting the mandamus request, the court held that if the repeal of a statute was contrary to the constitution, the repealing act must be void and therefore the original statute, in

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24. Snyder, 620 A.2d at 1138 (citing Chatham Communications, Inc. v. General Press Corp., 344 A.2d 837 (Pa. 1975), and Shapiro v. Magaziner, 210 A.2d 890 (Pa. 1965)).

25. *Id.* at n.8.

26. *Id.* (citing *Lavelle*, 617 A.2d at 323 (quoting PA. R.J.A. 505 (15))).

27. 5 Watts & Serg. 403 (Pa. 1843). In *Hepburn*, President Judge Samuel Hepburn of the Court of Common Pleas of the Ninth Judicial District filed a mandamus action against the State Treasurer, seeking to compel payment of $400 in salary the judge claimed he was owed. *Hepburn*, 5 Watts & Serg. at 404. The Treasurer claimed he could not authorize payment from the state treasury of the money since state lawmakers voted to repeal the $400 annual salary increase they had approved for judges nearly four years earlier. *Id.* at 404-05.

28. *Id.* at 405. Article V, section 2 of the constitution provides that, "[t]he President Judges of the several Courts of Common Pleas shall, at stated times, receive for their services adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office." PA. CONST. art. V, § 2.

29. *Hepburn*, 5 Watts & Serg. at 407. The comparable section of the U.S. Constitution reads, in part: "The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behaviour, and shall, at stated Times, receive for their Service a Compensation which shall not be diminished during their continuance in office." U. S. CONST. art. III, § 1.

30. *Hepburn*, 5 Watts & Serg. at 407-09.

this case the one establishing the pay raise, remained in force.[31]

While *Hepburn* established that judges' salaries are protected from legislative reduction by the state constitution, a series of cases in the early 1900s established that the courts have power to compel a legislature to pay the salaries of other court employees. This development was traced in the case of *In re Surcharge of County Commissioners*.[32] At issue in *In re Surcharge* was whether a common pleas judge had the power to appoint a clerk at a salary to be paid for by the county.[33] The court concluded that courts have inherent powers to do whatever is reasonably necessary to properly perform their judicial functions.[34] To support its conclusion, the court cited cases from the early 1900s: *Rosenthal v. Luzerne County,* in which a neighboring county court ordered that payment be made to a stenographer after the county commissioners initially refused to approve her bill of $88;[35] *Lancaster County v. Brinthall,* an action by a constable seeking and receiving payment for his services;[36] and *McCalmont v. Allegheny County,* which held that the clerk of the supreme court could recover money he paid for storage of court records.[37] The court in *In re Surcharge* also relied upon the Wisconsin Supreme Court's ruling in *In re Janitor of Supreme Court,* which it termed a "leading case," where the court determined that it alone possessed the power to appoint staff members to assist the court, including, in this case, the appointment of the court's janitor.[38]

The court in *In re Surcharge* also provided examples of situa-

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31. *Id.* at 422. The court also ruled that the same constitutional provision prevented the enforcement of an income tax withholding provision insofar as that provision affected the salary of Judge Hepburn. *Id.*

32. 12 Pa. D. & C. 471, 475 (Lackawanna County 1928). The case of *In re Surcharge of County Commissioners* was filed by a group of taxpayers in Lackawanna County who sought to have the courts impose a surcharge against the commissioners for the salary paid to a clerk hired by one of the county's judges. *In re Surcharge,* 12 Pa. D. & C. at 473-75.

33. *Id.* at 475.

34. *Id.*

35. *In re Surcharge* at 475 (citing Rosenthal v. Luzerne County, 12 Pa. D. 738, 740 (1903)).

36. *In re Surcharge* at 476 (citing Lancaster County v. Brinthall, 29 Pa. 38, 38-39 (1857)).

37. *Id.* (citing McCalmont v. Allegheny County, 29 Pa. 417, 418-20 (1857)).

38. *In re Surcharge* at 478 (citing In re Janitor of Supreme Court, 35 Wis. 410, 419 (1874)). The court in *In re Surcharge* also recounted a virtually identical 1902 case in Lackawanna County in which the common pleas court insisted upon its right to name janitors and issued a writ of mandamus compelling the county commissioners to pay these janitors. *In re Surcharge,* 12 Pa. D. &. C. at 478. The court could not provide an official cite because the case was not reported and could not be located in the county prothonotary's office. *Id.*

tions in which a court could exercise its inherent powers to order the payment of public money for court purposes.[39] However, the opinion also stressed that a court's inherent power to compel payment for court appointed staff members was limited by the requirement that such appointments be "reasonably necessary."[40] The court concluded that the appointment of the clerk in the case of *In re Surcharge of County Commissioners* was a proper use of the court's inherent power because the appointment was reasonably necessary.[41]

The opinion in *In re Surcharge* was authored by Judge Maxey, who played a role in the next major Pennsylvania case in this area of law, *Leahey v. Farrell*,[42] decided in 1949 by the Pennsylvania Supreme Court, with the former common pleas court judge sitting as Chief Justice.[43] Beginning with *Leahey*, the courts began to focus on the limits of inherent judicial power. The *Leahey* court decided whether the legislature had the power to regulate the wages of court workers or whether that power was held exclusively by the judges of the court.[44] The supreme court held that, while courts possess inherent powers to compel payment for necessities, judges must comply with a statute which imposes reasonable fiscal regulations.[45] The statute at issue in *Leahey* was the statute that established county salary boards and made the salary boards responsible for determining wages for all county employees, including those working in the court system.[46] The supreme court said courts may only exercise their inherent powers when the legislature or county salary board acts in an arbitrary or capricious manner and does not allow for an adequate number of court employees or fails to pay them adequately, and in the process impairs or destroys the administration of justice.[47] In *Leahey*, the court found no legislative

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39. *Id.* at 478-79. The list included the feeding and lodging of jurors, the payment of doctors who treat ill jurors, the transportation of jurors, the appointment of ballot-box custodians, and the appointment of bodyguards to protect judges. *Id.*

40. *Id.* at 483.

41. *Id.* at 484.

42. 66 A.2d 577 (Pa. 1949). In *Leahey*, the judges of the Common Pleas Court of Cambria County increased compensation for court reporters (stenographers) without approval of the county's salary board, and when the County Commissioners and Comptroller refused to process the pay raises, the judges issued an order directing the payments be made. *Leahey*, 66 A.2d at 578.

43. *Id.*

44. *Id.* at 578.

45. *Id.* at 580.

46. *Id.* at 578.

47. *Leahey*, 66 A.2d at 580.

infringement upon the court's inherent powers, that the court was therefore under a duty to comply with the statutory procedure, and that the court had failed in that duty.[48]

In 1971, the supreme court focused its attention on the judicial requirement of showing reasonable necessity in the exercise of inherent power to compel funding. The case before the court was *Commonwealth ex rel Carroll v. Tate*,[49] in which the court determined what level of funding was reasonably necessary and which party bears the burden of proving reasonable necessity.[50] The court held that the burden was on the plaintiff-court to establish that the money it sought was reasonably necessary.[51] The defendants had argued that, in determining what level of funding was reasonably necessary for the courts, the overall financial difficulties facing a city should be considered.[52] However, the majority concluded that a city's financial problems are not more important than the constitutional mandate that there be a free and independent judiciary.[53] The supreme court agreed with the findings of the master it had appointed to hear the case, and affirmed the master's order for additional funding.[54]

Ten years after *Carroll*, Pennsylvania's highest court again reaffirmed the existence of the judiciary's inherent power to compel

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48. *Id.* The *Leahey* court was also concerned with the separation of powers issue presented by the case. *Id.* at 578. In interpreting article III, section 16 and article IX, section 1 of the Pennsylvania Constitution, the court stated that, while the legislature controls state finances, the constitution presumes that the legislative and judicial branches will cooperate with each other when their functions overlap. *Id.* at 579.

49. 274 A.2d 193 (Pa.), *cert. denied sub nom.*, Tate v. Pennsylvania *ex rel.* Jamieson, 402 U. S. 974. (1971). In *Carroll*, President Judge Vincent Carroll of the Common Pleas Court of Philadelphia filed a mandamus action to compel Mayor James Tate and the members of City Council to provide more than $5.2 million in additional funding for the court's fiscal year 1970-71 budget. *Carroll*, 274 A.2d at 194-95.

50. *Id.* at 197-99.

51. *Id.* at 199 (citing *Leahey*, 66 A.2d at 193). The court in *Carroll* actually credited the *Leahey* court with establishing this holding by "necessary implication," although the *Leahey* opinion never actually used this precise terminology. *Carroll*, 274 A.2d at 199.

52. *Id.*

53. *Id.* While concurring in the result, Justice Jones, joined by Justice Eagen, wrote separately to voice disagreement with the sweeping nature of this holding. *Id.* at 203-04 (Jones, J., concurring). Justice Jones said he believed that a determination of a reasonably necessary amount must take into account the financial resources the city has available. *Id.* at 204. In this case, he concluded that appropriate resources were available at the time the case was decided. *Id.*

54. *Carroll*, 274 A.2d at 199. Judge Harry M. Montgomery of the Superior Court of Pennsylvania had been appointed master by the supreme court. *Id.* at 195. In the hearing before Judge Montgomery, the plaintiff-court reduced its request for additional funds from $5.2 million to $3.9 million. *Id.* at 194-95. Judge Montgomery found that the plaintiff-court had shown $2.4 million of the amended request was reasonably necessary. *Id.* at 196.

reasonably necessary expenditures, but also sought to define "reasonable necessity."[55] In *Beckert v. Warren*, the court said there must be a clear delineation of the circumstances in which the court's inherent power is used.[56] The court stated that the use of such power is to be seen as exceptional and should be exercised only in times of crisis, when there is a real threat to the judicial system caused by the actions of the legislature.[57] In order to define a reasonably necessary expenditure, the court set forth a new test.[58] If the judiciary would be unable to carry out its responsibilities to administer justice without the expenditure, then such money can be deemed reasonably necessary,[59] but this is not a determination that a court can make on its own, unilaterally.[60]

More recently, in *County of Allegheny v. Commonwealth*,[61] constant disputes over court budgets between common pleas court judges and commissioners in Allegheny County led the county to file an action against the Commonwealth, seeking to have the state take over funding of the court system. In that case, the supreme court agreed with the county's argument that the state constitutional mandate of a unified judicial system in the Commonwealth was at odds with a system of funding of common pleas courts by the counties in which those courts sit.[62] However, because the court's order required the General Assembly to enact funding legislation, the court stayed the order to allow the legislature to resolve the funding dilemma.[63] Until that stay is lifted, the current system

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55. *Beckert v. Warren*, 439 A.2d 638 (Pa. 1981).

56. *Beckert*, 439 A.2d at 642. In *Beckert*, the Court of Common Pleas of Bucks County sought to enjoin the County Commissioners from adopting the county's 1981 budget because it did not provide for the full amount of funding requested by the court. *Id.* at 640.

57. *Id.* at 643.

58. *Id.* at 647.

59. *Id.* The court also said the test could be applied in the alternative; that is, if an expenditure is one that allows a court to carry out its responsibilities, then it is reasonably necessary. *Id.*

60. *Beckert*, 439 A.2d at 648.

61. 534 A.2d 760, 761 (Pa. 1987).

62. *County of Allegheny*, 534 A.2d at 765. The relevant portion of the Pennsylvania Constitution on which the court based its holding is article V, section 1, which states:

> The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal and traffic courts in the City of Philadelphia, such other courts as may be provided by law and justices of the peace. All courts and justices of the peace and their jurisdiction shall be in this unified judicial system.

PA. CONST. art. V, § 1.

63. *County of Allegheny*, 534 A.2d at 765.

of county funding of its common pleas courts would remain in effect.[64]

The supreme court has, however, refused any attempt at enforcing the sweeping mandate it outlined in its order in *County of Allegheny*. First, in 1988, the court affirmed an order of the commonwealth court, directing the City of Philadelphia to fund its court system, stating that the mandate of *County of Allegheny* did not relieve Philadelphia of its obligation to provide money for the city's court system.[65] Then, in May of 1993, Allegheny County, joined by five other counties in Pennsylvania and the Pennsylvania Association of County Commissioners, filed a motion seeking to have the supreme court enforce its judgment in *County of Allegheny*.[66] The plaintiffs claimed that because the 1992 state budget eliminated all funding for common pleas courts and district justices, the legislature had violated the original order in *County of Allegheny*.[67] The court denied the motion.[68] Writing for the majority, Justice Flaherty said the 1987 order, which the plaintiffs sought to have enforced, was only concerned with the method of court funding, not the level of that funding.[69] Justice Flaherty reasoned that, since the petition before the court had to do with levels of funding, rather than methods, the issue of whether the legislature had violated the 1987 order was not before the court.[70]

While the majority opinion avoided a confrontation with the legislature over the court's 1987 order, the dissent filed by Chief Justice Nix called that order "unenforceable."[71] Justices Larsen and Papadakos also dissented, saying the court's failure to take a stand

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64. *Id.* Chief Justice Nix, joined by Justice McDermott, filed a dissent in *County of Allegheny*, stating that the majority relied upon a non-existent constitutional mandate in arriving at its decision, and that its ruling amounted to judicial interference with matters clearly delegated to the legislative branch of government. *Id.* at 765. (Nix, C.J., dissenting). The Chief Justice also used the term "ludicrous" to describe the majority's asserted belief that court funding, which comes directly from the state, would resolve the political bickering which has existed in the current funding scheme. *Id.* at 767.

65. *Bradley v. Casey*, Nos. 119 and 122 E.D. Appeal Dkt (Pa. Dec. 1, 1988). In *Bradley*, Philadelphia city officials filed a mandamus action against the governor and other state officials, seeking to force them to comply with the supreme court's order in *County of Allegheny*. Bradley v. Casey, 547 A.2d 455, 457 (Pa. Commw. Ct. 1988).

66. County of Allegheny v. Commonwealth, 626 A.2d 492 (Pa. 1993). The other counties joining in the action were Beaver, Clarion, Forest, Tioga and Washington. *Id.*

67. *Id.*

68. *Id.* at 493.

69. *Id.*

70. *Id.*

71. *County of Allegheny*, 626 A.2d at 493 (Nix, C.J., dissenting).

leaves the 1987 order "perpetually unenforceable."[72]

With the county funding scheme remaining in place, the conflicts between common pleas courts and county government officials continued. In 1992, the court's holding in *Lavelle v. Koch*[73] further refined the requirements of a court seeking to meet its burden of proving the reasonable necessity of the funding it seeks for staff salary increases.[74] The supreme court said that burden would be met by a showing that the pay raises were reasonably necessary to attract and retain qualified people.[75] The court further indicated that, to establish this burden, evidence of salary levels paid by competing employers would be needed.[76]

For nearly a century, beginning in 1843 with *Hepburn* and through *In re Surcharge* in 1928, the case law had clearly established that courts in Pennsylvania have an inherent power to compel the legislature to pay for necessary expenses incurred by the courts. However, in the last half century, starting in 1949 with *Leahey,* the supreme court, while continually reaffirming the existence of this inherent power, has limited the ways in which it may be exercised.

First, in *Leahey,* the supreme court ruled that judges must comply with reasonable statutes governing employee salaries.[77] Next, in *Carroll,* it held that the court bears the burden of proving that its monetary requests are reasonably necessary.[78] The *Beckert* court then defined a reasonably necessary expenditure as one which the court needs in order to administer justice.[79] When the expenditures involve employee pay, *Lavelle* established that, to meet its burden, a court must show the money is needed to attract and retain qualified people.[80] The court's recent ruling in *Snyder* adds a further refinement by requiring that this burden be proved by comparing court employee wages with salaries paid by compet-

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72. *Id.* (Larsen, J., dissenting).

73. 617 A.2d 319 (Pa. 1992).

74. *Lavelle,* 617 A.2d at 322. In *Lavelle,* the president judge of the Common Pleas Court of Carbon County sought an additional $22,716 for staff salary increases for the 1988 fiscal year. *Id.* at 321.

75. *Id.* at 322.

76. *Id.* The court said a salary scale developed by the plaintiff, based on consultation of various labor market studies, was not sufficient evidence of what competing employers were paying, and the court consequently dismissed his complaint in mandamus. *Id.* at 322-23.

77. See notes 42-48 and accompanying text.

78. See notes 49-54 and accompanying text.

79. See notes 55-60 and accompanying text.

80. See notes 18, 74-76 and accompanying text.

ing employers.[81] The *Snyder* holding means that, in order to prevail in future mandamus actions of this type, courts will have to develop a much stronger pattern of evidence than Plaintiff in *Snyder* provided.

Plaintiff in *Snyder* did not act outside the structure of the county salary board, as had the court in *Leahey*.[82] In fact, the Jefferson County Commissioners, who made up three of the five members of the Salary Board, approved the very salary schedule the Plaintiff was attempting to follow as he sought the pay raises for court employees.[83] Plaintiff also presented evidence to support his contention that the increases were necessary to attract and retain qualified people, as required by the supreme court's holding in *Lavelle*.[84] Unlike the plaintiff in *Lavelle*, who informally consulted some labor market studies to determine appropriate salary levels,[85] Plaintiff in *Snyder* had a formal, independent survey, commissioned and adopted by the defendant county commissioners.[86] However, the supreme court disagreed with the study's methodology, stating that it did not include a sufficient number of competing employers within Jefferson County.[87] It is difficult to imagine which employers within the county, other than the county government, might be interested in hiring court administrators and probation officers. Nevertheless, the study cited by Plaintiff included comparisons with other counties; however, the supreme court held that those counties not directly adjacent to Jefferson County could not be considered to be in the same labor market.[88]

The end result was a decision which established a burden of proof that a common pleas court (especially one in a small, rural county) may find difficult to meet. It certainly takes a considerable amount of time to develop a comprehensive study comparing court wages with salaries paid to other employees in the public and private sector. That amount of time may not be available as a normal county government attempts to meet its yearly budget deadlines. Moreover, the cost of conducting such a study may be prohibitive to local governments. Even if it were to have both the time and the

81. *Snyder*, 620 A.2d at 1137-38.
82. *Leahey*, 66 A.2d at 578.
83. *Snyder*, 620 A.2d at 1135.
84. *Lavelle*, 617 A.2d at 322.
85. *Id.* at 322-23.
86. *Snyder*, 620 A.2d at 1135-36.
87. *Id.* at 1137-38.
88. *Id.* at 1137 nn.5-6.

money for such a study, a common pleas court in a small, rural area, such as Jefferson County, may find it difficult to locate, within its labor market, suitable employers in sufficient numbers for comparison, as the *Snyder* decision seems to require.

One possible resolution to the problem might be the one the supreme court ordered in *County of Allegheny v. Commonwealth*,[89] where the court held that the state's unified judicial system required funding of all common pleas courts by the Commonwealth, not the individual counties. So far, the state legislature has not come up with the money to implement that order, and the supreme court appears unwilling to enforce it. If a state-wide funding system were ever implemented, it is quite possible that it would only change the location of the political battles over court funding from the county courthouse to the state capitol building. Because any change seems unlikely, common pleas court judges in Pennsylvania may have to sharpen their political negotiating skills at budget time, because winning their budget battles in court seems to get more difficult with each case.

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89. See notes 62-72 and accompanying text for a discussion of *County of Allegheny*.