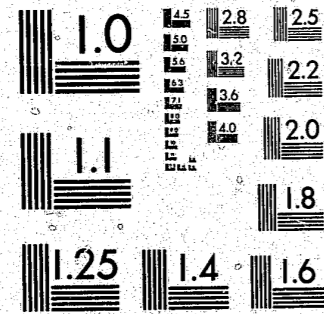


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United States Department of Justice
Washington, D. C. 20531

3/8/82

Case #
3-15-82

NORTH DAKOTA JUDICIAL COUNCIL

Annual Report 1980



80413

WILLIAM G. BOHN
Executive Secretary

NCJRS

AUG 12 1981

ACQUISITION

NORTH DAKOTA JUDICIAL COUNCIL

Annual Report

U.S. Department of Justice
National Institute of Justice 80413

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CALENDAR YEAR 1980

WILLIAM G. BOHN
Executive Secretary

State of North Dakota
JUDICIAL COUNCIL

WILLIAM G. BOHN
EXEC. SECY. AND TREAS.

STATE CAPITOL
BISMARCK, NORTH DAKOTA 58505
(701) 224-2221

On A Foundation of Justice Are Reared Stones of Trust

TO THE HONORABLE CHIEF JUSTICE
AND JUSTICES OF THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA:

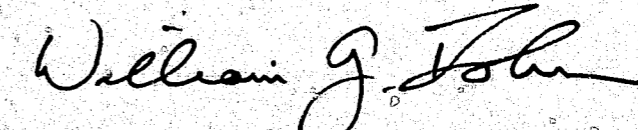
TO THE HONORABLE MEMBERS OF THE
NORTH DAKOTA JUDICIAL COUNCIL:

Once again, I am pleased to submit to you the Annual
Report of the North Dakota Judicial Council for the period of
January 1 through December 31, 1980.

This report is intended to serve as a reference source
for statistical information on the operation of the North Dakota
judicial system.

I take this opportunity to publicly acknowledge the
valuable assistance and cooperation extended to me by the judges
and court personnel whose reports provided the information
contained in the Annual Report. Particular thanks go to the
staff of the State Court Administrator's Office for their dili-
gent work in compiling the statistics and designing the format
for this work.

Respectfully submitted,



WILLIAM G. BOHN
State Court Administrator and
Judicial Council Executive Secretary

INSCRIPTION APPEARS ON EAST
ENTRANCE OF WARD COUNTY COURTHOUSE,
MINOT, N.D.

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THE LAW SCHOOL AND THE JUDICIARY

KARL WARDEN

Dean of the Law School of the University of North Dakota



Any law school dean asked to comment on the relationship between his school and the judiciary is irresistibly tempted to start counting the number of graduates who have occupied judicial positions. This Dean is no different from all the others of his breed. When I was asked to contribute an essay to this annual report of the Judicial Council, and when I was told that the essay should concern itself with the relationship between the University of North Dakota School of Law and the North Dakota judiciary, I immediately went to our alumni records to count how many judges, now and in the past, were our graduates. It was not long before I realized that while a substantial majority of persons who are or have served in judicial roles in North Dakota are graduates of this school, nevertheless many distinguished North Dakota jurists are graduates of other schools. It finally dawned on me that in any state where there is but one law school — assuming that school is accredited and reasonably competent — then most of the judges in that state will be graduates of that school. The bare statement that most of our judges are products of this School of Law, is not only self-evident, it is not even sufficiently remarkable to be considered self-serving. I quickly retreated from my judge count.

I next decided that the best approach to this essay would be to explore the various ways in which occupants of the bench contribute directly to the curriculum of the Law School by judging moot court arguments, by teaching courses and by conducting demonstrations for the law students. Here the role of the University of North Dakota was easily distinguishable from most other law schools. The North Dakota Supreme Court has, each year for several years, held a full day of hearings in the School of Law. These hearings have been conducted so that all the law students might see an actual Supreme Court argument and not spend their entire three years of

law school training exposed only to moot arguments. Not only has the Supreme Court been willing to work with the law students, other courts as well have been generous with their time. The United States District Court has held trials in the Law School each year, and this year the United States Referee in Bankruptcy held a hearing in our court room. Prospects are bright for State District Court cases to be heard here. All of these actual cases, together with the various moot court functions in which members of the Bench take part, contribute greatly to our students' understanding of the role of the judiciary. Although the University of North Dakota School of Law stands somewhat ahead of other law schools in its substantial use of the judiciary for training law students, nevertheless that is not the most important measure of the relationship between this law school and the judiciary.

To fully understand the role the judiciary plays in the Law School, it is necessary to examine the way in which legal education has evolved during the past twenty-five to thirty years. After World War II, when crowds of veterans returned to temporarily over-populate our law schools, the case system of law teaching clearly dominated the instruction at every law school in the country. For those of us old enough to remember those days, the case system meant that for each class each day the student would prepare and be expected to be able to recite five to six "cases." These "cases" — no matter what the subject matter of the course — were always edited and abridged versions of appellate decisions (usually from Massachusetts or California) arranged in some indecipherable order by the textbook editor. For the average three to four hour course this meant there would be recitations in class on 400 to 500 cases. Out of that hodgepodge, presumably, the student would weave a tapestry which would ultimately depict the "law" of contracts or torts or crimes or some other complex topic. Needless to say, the reading of a transcript of a district court or trial court case was unheard of. It was equally forbidden to deal with pure legislation. The only statutes ever mentioned were ones being interpreted by a court. Even then only small segments of the statute were cited. The only exception to this occurred in courses in taxation where the Internal Revenue Code was occasionally cited by the instructor.

By the mid to late 1950's the inadequacy of this form of instruction became apparent. Graduates who entered the practice of law quickly realized there was more to the law than reading appellate decisions — even decisions written by Cardozo, Brandeis, Holmes and Hand. The word filtered back into the school and students cried for something "more practical." Too frequently the clamor for something more practical was met with the bland statement that "it is not the job of law schools to teach you where the door to the courthouse is located." But at the same time that the law schools were officially decrying this demand for the teaching of the practical, the law school professors were busily rewriting their traditional case books. Compendiums of cases were no longer called **Cases on the Law of Gribbits**, but were designated as

Cases and Materials on the Law of Gribbits. The "materials" in early texts — only an occasional question at the end of a chapter — became larger and larger parts of the printed text. By the late 1960's books calling themselves "Cases and Materials" contained less than half the number of "cases" and twice as many pages of text as had the same books five years earlier. This of course meant a change in the instruction techniques used to present the book. It was no longer sufficient simply to call for "next case please" because the next case might not appear for 50 pages. Nor was it sufficient to assume that the students had read the 50 intervening pages with understanding. The end result was that law teaching took on a pre-Langdellian flavor and law classes witnessed more lectures by the instructor and less gameplaying with students reciting on the traditional abridged appellate case.

The underlying truth behind this change was that the changing role of the appellate court was being accurately reflected in the changing role of the appellate case in the law school classroom. More law school time and attention began to be paid to behavior of trial courts and to other agencies serving as substitutes for the traditional dispute-settling roles of the judiciary. More law school attention began to be paid to the law makers and the law generators and somewhat less to the law "interpreters."

As always happens, the pendulum swung too far in the direction of "materials." There is now evident in law school curriculums all across the nation a return to the judicial decision as an indispensable part of legal education. We must not, however, expect to see a return to the "next case please" system of the immediate post World War II era.

The significance of this for the judiciary is that as law schools take a more mature look at the product of our judicial branch, so too the judicial branch has begun to take a more thoughtful look at its own roles as dispute-settler and policy-maker. The claims and wants and desires and expectations of men and women in our modern society must be satisfied as nearly as possible by this complex system we call law. There are, of course, as many definitions of law as there are persons practicing law, but whatever definition offered, the bottom line must always be that law is what the law makers will in fact do. When the law makers are exclusively members of the judiciary,

then there is little point in examining the role of the executive or the legislative. But when there is full interplay between the executive, legislative and the judicial, it is foolish to pretend that "law" is the exclusive province of any of these coequal branches of government.

The relationship that exists in 1981 between the judiciary and the law schools across the nation, and in particular the Law School at the University of North Dakota, is one in which the judicial role in attaining the ends of the legal order is carefully examined in light of the particular topic of the course. This inevitable relationship was anticipated by Rosco Pound when he said:

"A legal system attains the ends of the legal order (1) by recognizing certain interests, individual, public, and social; (2) by defining the limits within which those interests shall be recognized and given effect through legal precepts developed and applied by the judicial (and today the administrative) process according to an authoritative technique; and (3) by endeavoring to secure the interests so recognized within the defined limits."

The end result of these sweeping changes in the role of the judiciary and the judicial product in teaching of law is that today's law student has a greater opportunity to recognize and understand that the most difficult job faced by a judge is not to decide between right and wrong, but to attempt to reach a just decision when all the claims presented to the court have significant elements of right and significant elements of wrong. Hopefully today's student recognizes that judges do not create law out of wholecloth but must always work with and be limited by materials supplied to them by the other two branches of government and by parties whose conduct is seldom exemplary.

Addendum

During the course of the writing of this essay, the Dean of the Law School was informed that the American College of Trial Lawyers has singled out the University of North Dakota School of Law for its annual Emil Gumpert Award. This award is granted annually to the one law school in the nation which, in the opinion of the American College of Trial Lawyers, is doing the most outstanding job in the trial advocacy area.

FIGURE 1
THE COURT STRUCTURE OF THE NORTH DAKOTA JUDICIAL SYSTEM

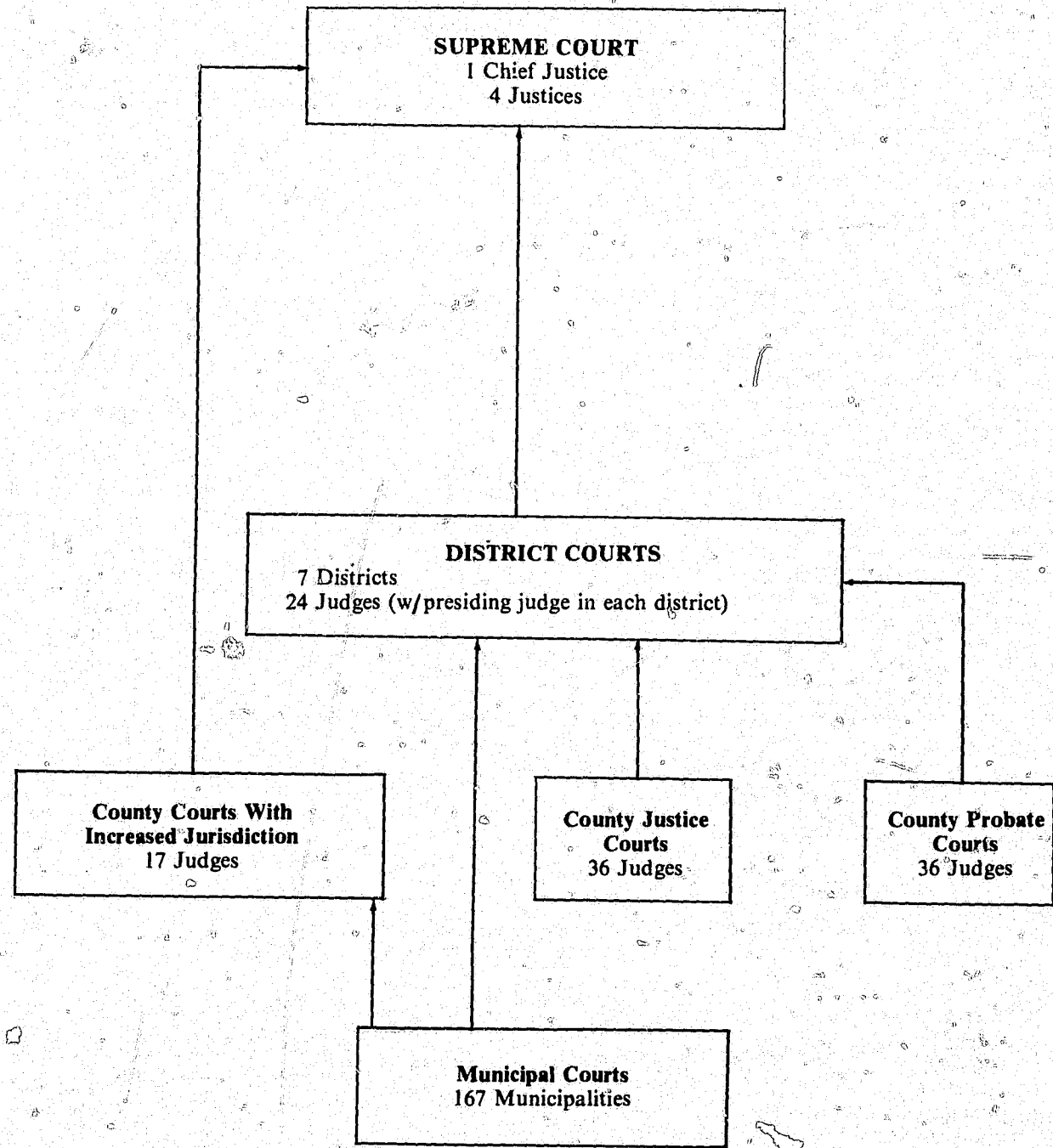
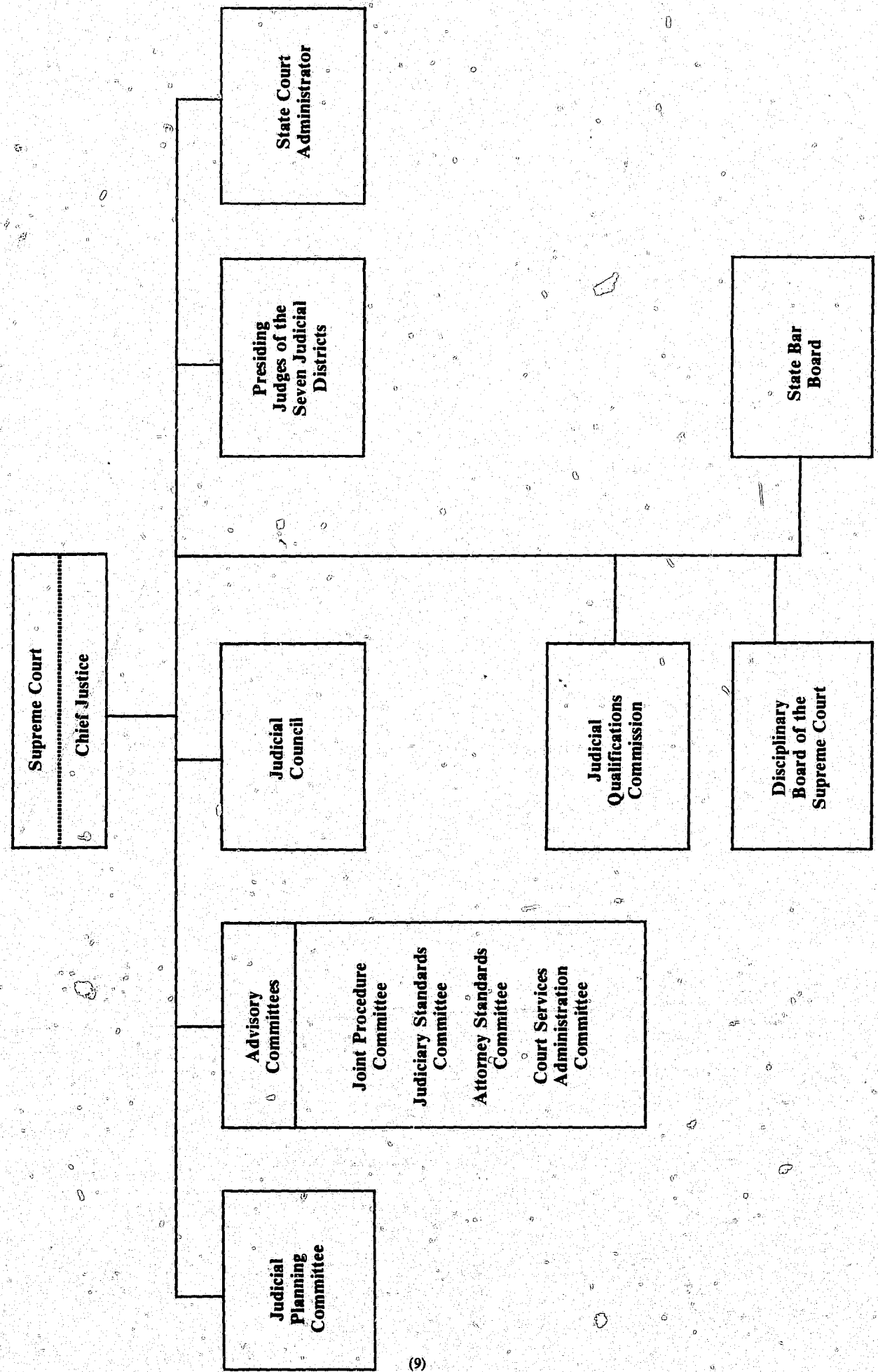


FIGURE 2
ADMINISTRATIVE ORGANIZATION OF THE NORTH DAKOTA JUDICIAL SYSTEM



A PROFILE OF THE NORTH DAKOTA JUDICIAL SYSTEM

Structure of the Court System

Until the adoption of a revamped judicial article in 1976, the organization and structure of the North Dakota judicial system remained essentially the same as that established by the original constitution of 1889. Under the original constitution, the judicial powers of the state were vested in a Supreme Court, District Courts, County Courts, Justice of the Peace Courts, and such Municipal Courts as established by the Legislature. The Judicial Article created by the 1976 amendments to the Constitution abolished the Justice of the Peace Courts and vested the judicial powers of the state in a unified judicial system consisting of a Supreme Court, District Courts, and such other courts as provided for by law. Thus, under the new judicial article, only the Supreme Court and the District Courts have retained their status as constitutional courts. All other courts in the state are statutory courts. Figure 1 provided a diagram of the present court structure of the North Dakota judicial system.

Administrative Authority

In addition to these structural changes, the new judicial article clarified the administrative responsibilities of the Supreme Court by denoting the Chief Justice as the administrative head of the judicial system and by granting the Chief Justice the authority to assign judges for temporary duty in any nonfederal court in the state. It also acknowledged the Supreme Court's rulemaking authority in such areas as court procedure and attorney supervision. Figure 2 on the previous page presents a diagram of the administrative structure of the North Dakota judicial system.

Selection and Removal of Judges

All judges in North Dakota are elected in nonpartisan elections. Justices of the Supreme Court are elected for ten year terms; District Court judges are elected for six

year terms; and all judges of the limited jurisdiction courts are elected for four year terms.

Pursuant to Section 97 of the North Dakota Constitution (now renumbered as Article VI, Section 13), a Judicial Nominating Committee was established to fill vacancies in the Supreme Court and the District Courts. Unless the Governor calls a special election to fill a vacancy, the Judicial Nominating Committee submits a list of names to the Governor from which the Governor makes an appointment. The current Judicial Nominating Committee and the procedures which govern it were established by a 1979 executive order of the Governor.

The North Dakota Constitution provides that judges can be removed from office by impeachment. It also authorizes the Legislature to provide for the retirement, discipline, and removal of judges by methods other than impeachment. Pursuant to this grant of authority, the Judicial Qualifications Commission was created and charged with the responsibility of investigating charges against judges and recommending that disciplinary measures be taken by the Supreme Court in those cases where it feels such action is appropriate.

Caseload Overview

Like most courts across the country, the caseloads of North Dakota courts have been continuously growing. Since 1976 the total number of cases filed in North Dakota courts has increased by 54 percent. Although judicial productivity has increased by 59 percent, it has not kept pace with the increase in case filings. In each year since 1976 the number of case filings has exceeded the number of dispositions. As a consequence, the number of cases pending at the end of the calendar year has been rising with each passing year. Table 1 provides an illustration of this trend for the last two years. A more detailed analysis of the caseloads of the various state courts for the 1979 and 1980 calendar years will be provided throughout this report.

TABLE 1—A CASELOAD COMPARISON OF NORTH DAKOTA COURTS FOR THE 1979 AND 1980 CALENDAR YEARS

| Level of Court | Filings | | Dispositions | | Pending at Year's End | |
|--------------------------------|---------|---------|--------------|---------|-----------------------|--------|
| | 1979 | 1980 | 1979 | 1980 | 1979 | 1980 |
| Supreme Court | 208 | 294 | 241 | 257 | 88 | 125 |
| Courts of General Jurisdiction | 13,099 | 14,367 | 12,039 | 13,925 | 5,316 | 5,758 |
| Courts of Limited Jurisdiction | 155,294 | 173,822 | 152,963 | 172,972 | 14,631 | 15,481 |
| Total | 168,601 | 188,483 | 165,243 | 187,154 | 20,035 | 21,364 |

SUPREME COURT OF NORTH DAKOTA



JUSTICE
Wm. L. Paulson

JUSTICE
Vernon R. Pederson

CHIEF JUSTICE
Ralph J. Erickstad

JUSTICE
Paul M. Sand

JUSTICE
Gerald W. Vandewalle

The North Dakota Supreme Court has five justices. Each justice is elected for a ten year term in a nonpartisan election. Pursuant to the state constitution, Supreme Court elections are arranged so that only one judgeship is scheduled for election every two years. The North Dakota Constitution also requires that Supreme Court justices be citizens of the United States and North Dakota and that they be licensed attorneys. Additional qualifications for the office can be set by the state legislature.

One member of the Supreme Court is selected as chief justice by the justices of the Supreme Court and the district court judges. The chief justice's term is for five years or until his elected term on the court expires. The chief justice's duties include presiding over Supreme Court conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court is the highest court for the State of North Dakota. It has two major types of responsibilities: (1) adjudicative and (2) administrative.

In its adjudicative capacity, it hears cases where it has original jurisdiction and appeals from the decisions of the district courts and the county courts with increased jurisdiction. As the highest state court in North Dakota, it is

the final authority on the state constitution and the final arbiter for all disputes and legal controversies involving purely nonfederal issues begun in state courts.

In its administrative capacity, the Supreme Court has major responsibilities for ensuring the efficient and effective operation of all nonfederal courts in the state, for maintaining high standards of judicial conduct, for supervising the legal profession, and for promulgating procedural rules which allow for the orderly and efficient transaction of judicial business. Within its area of administrative responsibility, the court has general rulemaking authority and thus is not bound by the limitation which apply to it as a judicial body deciding disputes between adversary parties.

In 1978 the Supreme Court established a rulemaking procedure (NDRPR) which provides for an open and easily accessible rulemaking process and which emphasizes the necessity of continuing review and study of all administrative areas within the court's jurisdiction. To assist the court in these objectives, four advisory committees with responsibilities in specific subject areas were established. The activities of these four advisory committees — The Joint Procedure Committee, The Attorney Standards Committee, The Judiciary Standards Committee, and The Court Services Administration Committee — will be discussed in a later section of this report.

REPORT OF THE CLERK OF THE SUPREME COURT

In the last two decades the caseload of the Supreme Court of North Dakota has risen significantly. Docketed cases have climbed from 71 in 1960 to 382 cases in 1980 or an overall increase of 438%. The criminal cases filed in that time grew from 0 cases in 1960 to the 79 cases filed in 1980.

| YEAR | CASELOAD |
|------|----------|
| 1960 | 71 |
| 1965 | 73 |
| 1970 | 79 |
| 1975 | 124 |
| 1980 | 382 |

It is interesting to note that in the first ten-year period, 1960-1970, the increase in docketed cases was a negligible 11% and, in the second decade, 1970-1980, it rose 384%.

Despite this significant increase, when the fall term commenced the members of the Supreme Court had rendered decisions in all cases submitted to the Court. This was the seventh consecutive year the Justices had cleared the docket by September 1st of all cases submitted to it. In that seven-year period the caseload rose by 190%.

**TABLE 2
CASELOAD SYNOPSIS OF THE
SUPREME COURT FOR THE 1979 AND
1980 CALENDAR YEARS**

| | 1979 | 1980 | Percent Difference |
|---|------|------|-----------------------|
| New Filings..... | 208 | 294 | 41.3 |
| Civil..... | 161 | 215 | 33.5 |
| Criminal..... | 47 | 79 | 68.0 |
| Filings Carried over from Previous Calendar Year.... | 121 | 88 | -27.2 |
| Civil..... | 96 | 70 | -27.0 |
| Criminal..... | 25 | 18 | -28.0 |
| Total Cases Docketed..... | 329 | 382 | 16.1 |
| Civil..... | 257 | 285 | 10.0 |
| Criminal..... | 72 | 97 | 37.0 |

**TABLE 3
COMPARISON OF THE TIME PRESCRIBED IN THE RULES FOR PERFECTING
AN APPEAL AND THE ACTUAL TIME USED**

| | Prescribed By Rules | | Average Actual Time 1978 | | Average Actual Time 1979 | | Average Actual Time 1980 | |
|---|---------------------|----------|--------------------------|----------|--------------------------|----------|--------------------------|----------|
| | Civil | Criminal | Civil | Criminal | Civil | Criminal | Civil | Criminal |
| From filing Entry of Judgment to filing Notice of Appeal | 60 | 10 | 41 | 25 | 49 | 10 | 49 | 13 |
| From filing Notice of Appeal to filing of Complete Record | 50 | 50 | 44 | 38 | 48 | 40 | 36 | 53 |
| From filing of Complete Record to filing Appellant's Briefs | 40 | 40 | 43 | 46 | 45 | 35 | 41 | 61 |
| From filing Appellant's Briefs to filing Appellee's Briefs | 30 | 30 | 32 | 30 | 32 | 28 | 32 | 36 |
| From At Issue (case ready for calendaring) to Hearing | N/A | N/A | 38 | 43 | 42 | 30 | 41 | 35 |
| From Hearing to Decision | N/A | N/A | 49 | 54 | 77 | 58 | 77 | 32 |

| | | | |
|---|-----|-----|------|
| Dispositions | 241 | 257 | 6.6 |
| Civil | 187 | 190 | 1.6 |
| Criminal | 54 | 67 | 24.0 |
| Cases Pending as of December 31..... | 88 | 125 | 42.0 |
| Civil | 70 | 95 | 35.7 |
| Criminal | 18 | 30 | 66.7 |

An analysis of the 1980 Supreme Court statistics confirms the fact that the caseload of the Supreme Court is increasing dramatically. The new filings in 1980 reflect an overall increase of 41% over 1979 filings. The largest upswing was 68% which represents criminal cases filed in 1980 as compared with 1979. Civil filings rose 33% in a one-year period.

In the category of cases pending as of December 31, it is important to note that the figures, 95 civil and 30 criminal, include all cases filed and do not reflect the number of pending dispositions before the Court. Many of those cases are not ready for argument and submission to the Court.

Because of the expanding caseload the Supreme Court is considering reducing the time allowed for oral argument. Under the present rules of Court the appellant may utilize 45 minutes for initial argument and rebuttal and the appellee has 30 minutes.

All cases are monitored by the Clerk of the Supreme Court for compliance with the time prescribed by the rules. The full time to perfect an appeal in a civil case is 180 days from the filing of Notice of Entry of Judgment in the trial court to filing the record and briefs in the Supreme Court. In criminal cases the time allowed by the rules is 130 days. In 1980 the average actual time per civil case was 158 days, or 22 days less than the rules allow. In criminal cases the average actual time per case was 163 days, or 33 days more than the rules prescribe. This record represents a maximum effort by court reporters, clerks of court and lawyers. The Supreme Court maintained its previous record of 77 days decision time in civil cases. In criminal cases decision time by the Court was reduced from 58 days to 32 days.

Total dispositions for 1980 numbered 257. This includes cases dismissed by stipulation as well as cases in which opinions were filed. The North Dakota Constitution, Article VI, Sec. 5, provides that the Supreme Court must file decisions in all cases which state in writing the reasons for reversing, modifying or affirming judgments or orders. The table below provide a breakdown of dispositions for 1980.

DISPOSITIONS

| | Civil | Criminal |
|---|-------|----------|
| Affirmed | 127 | 51 |
| Reversed; Reversed and Remanded; Reversed and Modified, etc..... | 47 | 8 |
| Discipline — Imposed | 1 | |
| Discipline — Dismissed | 1 | |
| Original Jurisdiction — Granted | 4 | 2 |
| Original Jurisdiction — Denied | 10 | 6 |
| | 190 | 67 |

Article VI, Section 3 of the North Dakota Constitution authorizes the Supreme Court to promulgate rules of procedure. Administrative Rules and Administrative Orders for the unified judicial system of North Dakota are promulgated and adopted by the Supreme Court. During 1980 the Supreme Court adopted two new Administrative Rules, redesignated four previous orders as Administrative Rules and amended four existing Administrative Rules and three Administrative Orders. In addition the Court amended Canon 2 of the Code of Professional Responsibility and Rule 1, Admission to Practice.

District judges sat with the Supreme Court in 24 cases during 1980 because of the disqualification of Supreme Court Justices.

The present membership of the Supreme Court is Chief Justice Ralph J. Erickstad, Justice Wm. L. Paulson, Justice Vernon R. Pederson, Justice Paul M. Sand and Justice Gerald W. VandeWalle.

Justice Pederson was elected at the general election in 1980 to a ten-year term as a Supreme Court Justice.



OFFICE OF STATE COURT ADMINISTRATOR

Article IV, Section 3 of the North Dakota Constitution authorizes the Chief Justice of the Supreme Court to appoint a court administrator for the unified judicial system. Pursuant to this constitutional authority, the Supreme Court has outlined the powers, duties, qualifications and term of office of the State Court Administrator in an Administrative Rule. The duties delegated to the State Court Administrator include assisting the Supreme Court in the preparation of the judicial budget, providing for judicial education services, coordinating technical assistance to all levels of courts, and planning for statewide judicial needs.

Legislation

Part of the duties of the Court Administrator include working with legislative committees and providing them with information about North Dakota courts. Although there was no legislative session in 1980, the Court Administrator kept the judiciary informed of the interim committees studying legislation affecting the courts and supplied information to these committees when requested.

The most important of these interim committees in regard to its impact on the judiciary was the Judiciary "A" Committee of the Legislative Council. This committee recommended the adoption of legislation which would create a uniform county court system throughout the state, require that all county judges be licensed attorneys and serve in a full-time capacity, and shift the funding of most district court services from the counties to the state. If this bill passes the 1981 Legislature and is signed into law by the Governor, it will be the most significant structural change in the North Dakota court system since the adoption of the 1976 judicial article.

During 1980, judicial retirement legislation was considered by the Interim Retirement Committee of the Legislative Council. One of the judicial retirement proposals considered by the Committee created a separate judicial retirement fund to be administered by a judicial retirement board and another proposal provided for the equalization of retirement benefits for all judges of the same classification. While the Committee reported the bill out of committee which would have equalized retirement benefits for all judges of a similar classification, it did not make any recommendations concerning the passage of the bill by the Legislature.

Other legislation affecting the courts were also prepared for introduction into the 1981 Legislature. These bills include proposals to upgrade the salaries of Supreme Court and District Court judges, to make the office of Municipal Judge optional rather than mandatory, and to resolve conflicts between Supreme Court rules and statutes in such areas as the Supreme Court's rulemaking power, assignment of judges, change of judge procedures, and the terms of court. Given the number and nature of bills pertaining to the judiciary, the 1981 Legislature should be an important one for the state's judiciary.

Judicial Education

During 1980, four hundred and thirty-seven (437) judges, clerks of court, juvenile court personnel, and court reporters attended nine in-state judicial education programs. Sixty judges and court personnel also participated in the Annual Bench/Bar seminar. This program was initiated last year and provides a unique opportunity for judges and attorneys to get together in a seminar setting.

In addition, twenty judges, clerks and juvenile court personnel attended nine out-of-state judicial educational programs. The highest priority for participating in these out-of-state training programs is given to newly-elected or appointed full-time judges. Because of the cutbacks in the availability of federal grant funds for such purposes, the opportunities for out-of-state training was more limited this year than they have been in the past. These opportunities will probably become even more circumscribed in the future. Thus, in the future greater emphasis will have to be placed on in-state educational programs and the funding of these programs with the use of state funds.

Judicial Planning

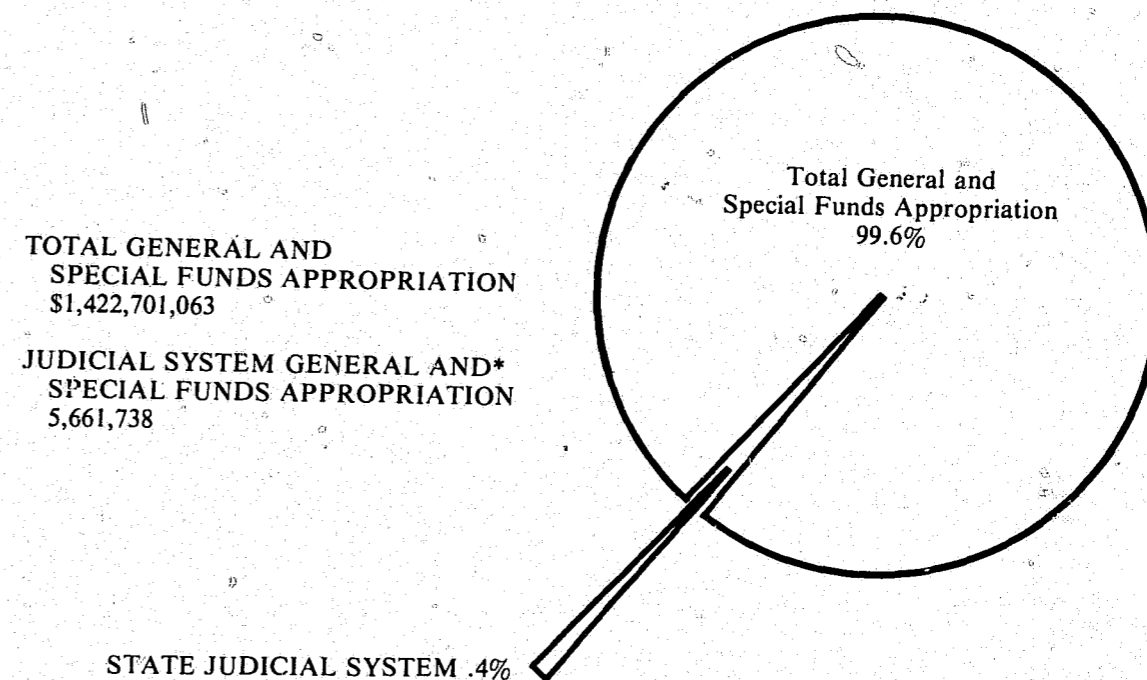
The Supreme Court was assisted in its planning efforts for the judiciary by the Judicial Planning Committee and the four advisory committees of the Supreme Court established by Section 8, NDRPR. Considerable attention was directed toward the development and review of a Judicial Master Program for the 1981-1983 Biennium, and the encouragement of a local planning process at the judicial district level. Other planning efforts focused on the formulation of procedural rules for administrative agencies not included in the Administrative Agencies Practice Act, the consideration of procedural rules for original jurisdiction proceedings in the Supreme Court, and the need for adequate guidelines relating to the preservation and destruction of trial court records.

Court Administration

In addition to its legislative liaison, judicial education, and judicial planning functions, the Court Administrative Office also performs a variety of ongoing administrative functions. These include overseeing special projects, coordinating Judicial Council committees, managing the court information system, coordinating juvenile court services, and managing the judicial budget. During 1980 the Office also devoted much time and effort to planning for the move to the new Supreme Court facility in the summer of 1981 and preparing a judicial budget request for the 1981-1983 biennium.

The figure below provides a pictorial summary of the judicial budget for the 1979-1981 biennium. As Figure 3 illustrates, the judicial budget constitutes only a small segment of the total funds appropriated by the Legislature for the 1979-1981 biennium. Within the judicial appropriation, most of the funds are allocated for salaries and wages of judges and other court personnel. District courts received the greatest portion of state and special funds allocated to the judicial branch.

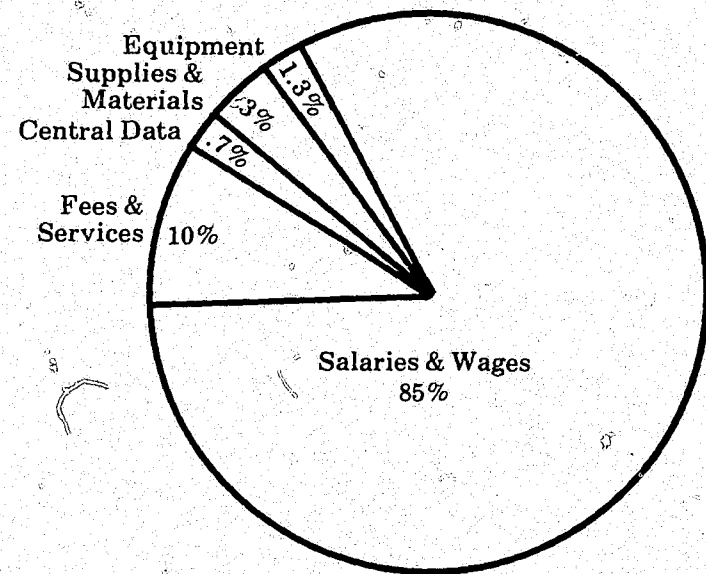
FIGURE 3



*Special funds received include federal grant funds and monies from the State Bar Association for disciplinary procedures.



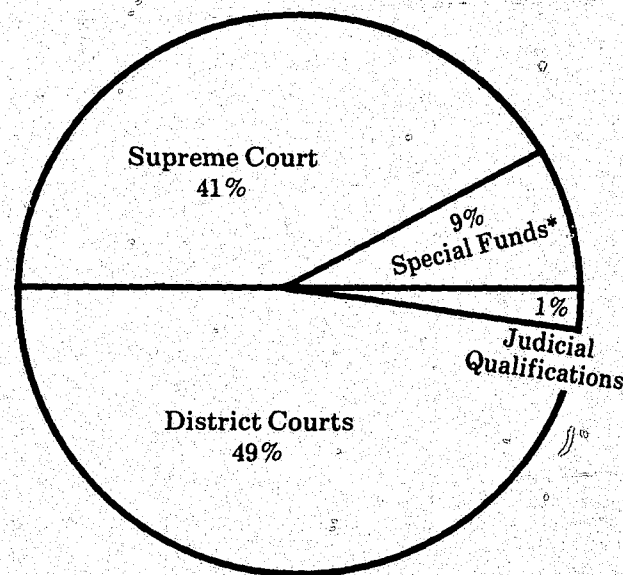
FIGURE 4
STATE JUDICIAL SYSTEM APPROPRIATION
1979-81 BIENNIUM



TOTAL JUDICIAL SYSTEM GENERAL AND SPECIAL FUNDS APPROPRIATION
\$5,661,738

| | |
|-------------------------|--------------|
| Salaries & Wages | \$ 4,812,502 |
| Fees & Services | \$ 584,245 |
| Central Data Processing | \$ 40,000 |
| Supplies & Materials | \$ 154,591 |
| Equipment | \$ 70,400 |

| | |
|---|--------------|
| SUPREME COURT | |
| GENERAL FUND | \$ 2,301,788 |
| SPECIAL FUNDS | \$ 272,854 |
| TOTAL | \$ 2,574,642 |
| DISTRICT COURTS | |
| GENERAL FUND | \$ 2,808,339 |
| SPECIAL FUNDS | \$ 151,000 |
| TOTAL | \$ 2,959,339 |
| JUDICIAL QUALIFICATIONS COMMISSION | |
| GENERAL FUND | \$ 64,757 |
| SPECIAL FUNDS | \$ 63,000 |
| TOTAL | \$ 127,757 |



* Special funds received include federal grant funds and monies from the State Bar Association for disciplinary procedures.

DISTRICT COURTS

The district courts of North Dakota have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal felony cases and have concurrent original jurisdiction with the county courts of increased jurisdiction in all criminal misdemeanor cases.

In addition, the district courts are also the appellate courts of first instance for appeals from county justice courts, county probate courts, and those municipal courts where there is no county court with increased jurisdiction in the county. Appeals from the decisions of many administrative agencies also are heard in the first instance by the district courts. While administrative appeals involve a review of the record of the administrative proceeding by the district court, appeals from the limited jurisdiction courts involve a complete "retrial" (de novo) of the case by the district court. These retrials are necessary because the limited jurisdiction courts are not "courts of record" and thus do not establish a record of the case as it is tried.

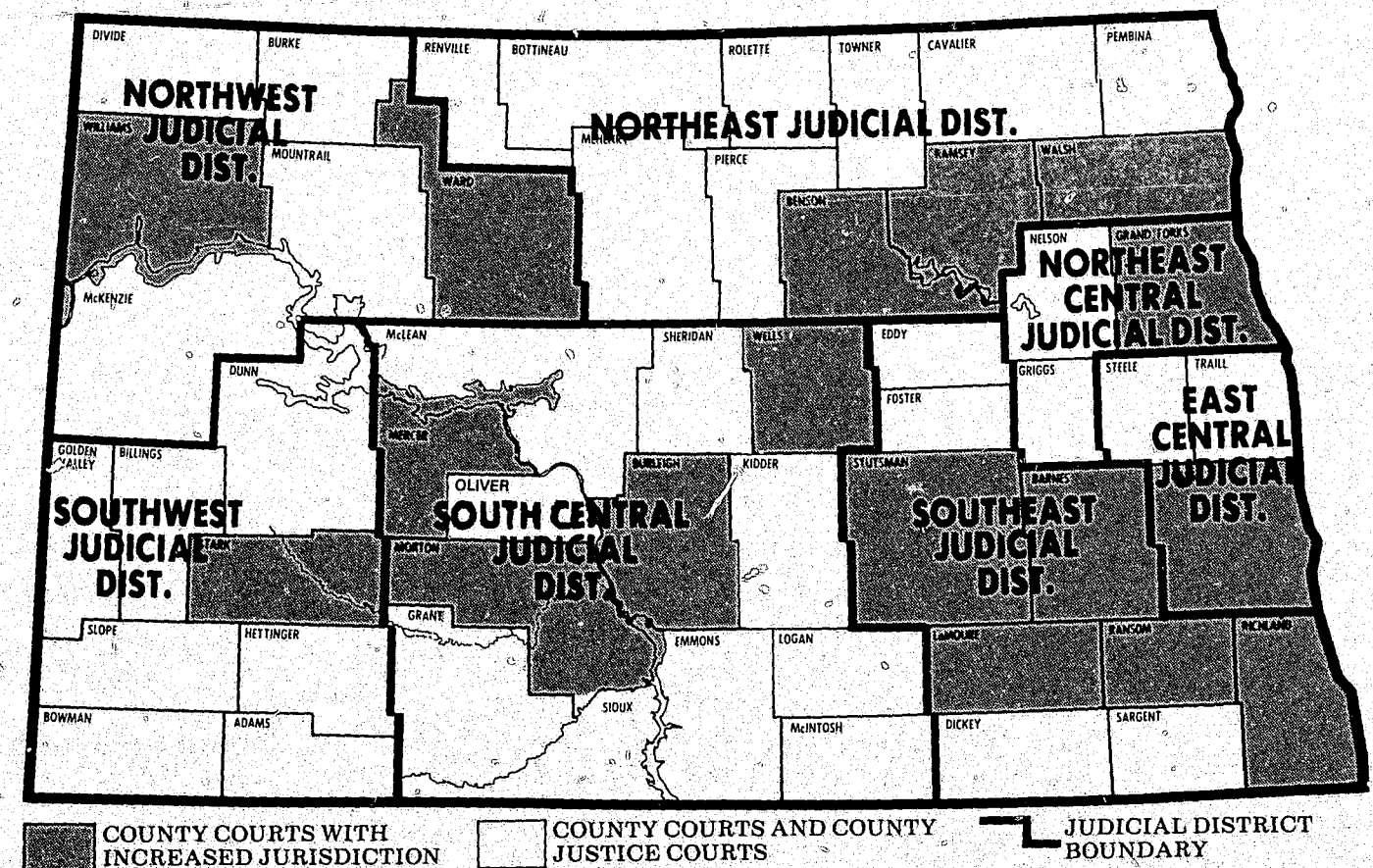
Pursuant to a 1979 Supreme Court Rule (AR6-1979), the state was divided into seven judicial districts. Previously, the state had been divided into six judicial dis-

tricts. A diagram of the boundaries of the seven judicial districts is provided below in Figure 5.

Currently, there are twenty-four district judges in the seven judicial districts of the state. The South Central Judicial District contains the largest number of judges (5), while the Southwest Judicial District has the fewest number (2) of judges. Of the remaining judicial districts, three of them have three judges each and two of them have four judges each. It should also be noted that district judges in North Dakota are elected for six-year terms of office in nonpartisan elections.

In each judicial district there is a presiding judge who acts as the chief judicial administrator for the district. All presiding judges are appointed by the Chief Justice with the approval of the Supreme Court. The duties of the presiding judge have been established by an Administrative Rule (AR 2-1978) of the Supreme Court. They include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases among the judges of the district, assigning terms of court within the district, and assigning judges within the judicial district in cases of demand for change of judge.

FIGURE 5 — NORTH DAKOTA'S JUDICIAL DISTRICTS



DISTRICT COURT CASELOAD

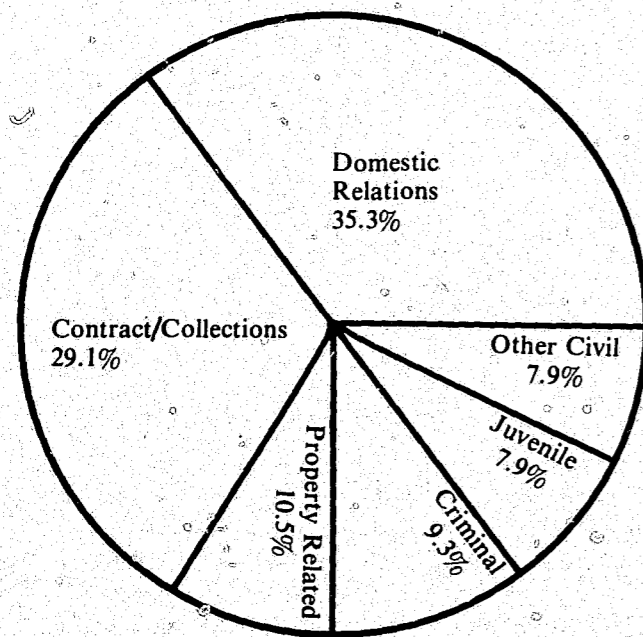
The district court caseload has three major components: 1) civil, 2) criminal, and 3) juvenile. Of these components, the civil component is by far the largest. Nearly 83 percent of all the cases filed in the district courts in 1980 were civil cases. Criminal cases comprised 9 percent of the total 1980 filings while juvenile cases constituted approximately 8 percent of all filings in 1980.

Within the civil component, domestic relation cases were the largest category. Domestic relations cases constituted over 35 percent of all filings and nearly 43 percent of all civil filings. Of the domestic relation cases, divorce cases were the most prominent, followed by support cases and adoption cases.

Contract and collection actions also constituted a large portion of the district courts' caseload. They comprised over 29 percent of all filings and over 35 percent of all civil filings.

Of the criminal cases, 91 percent were felonies and only 9 percent were misdemeanors. A breakdown of the various types of cases is provided in Figure 6.

**FIGURE 6
TYPES OF CASES FILED IN THE
DISTRICT COURTS
DURING THE 1980 CALENDAR YEAR**



In 1980, the number of cases filed in the district courts increased by nearly 10 percent over the number of filings in 1979. While the dispositions in 1980 increased by approximately 16 percent over the dispositions for 1979, they were still exceeded by the 1980 case filings. Thus, increased judicial productivity has not been able to keep pace with the growth in filings. As a result, the number of cases pending at the end of the calendar year continues to increase at a substantial rate. Table 4 illustrates this general pattern for the 1979-1980 time period.

It should be noted here that the pending case figure for 1979 and the carryover case figure for 1979 differ slightly from the figures for pending cases reported in the 1978 and 1979 annual reports. This is due mainly to the modification of the State Judicial Information System in 1980. Following the modification of the system, changes were made in the 1978 and 1979 pending case data to make them comparable to the 1980 pending case data. However, it should be emphasized that the adjustments were only made in pending case data; the filing and dispositional data for previous year have remained unchanged.

**TABLE 4
A COMPARISON OF THE DISTRICT
COURTS' CASELOADS FOR CALENDAR
YEARS 1979 AND 1980**

| | 1979 | 1980 | Percent Difference |
|--|--------|--------|--------------------|
| New Filings | 13,099 | 14,367 | 9.7 |
| Civil | 11,012 | 11,886 | 7.9 |
| Criminal | 1,021 | 1,342 | 31.4 |
| Juvenile | 1,066 | 1,139* | 6.8 |
| Cases Carried Over From the Previous Year | 4,256 | 5,316 | 24.9 |
| Civil | 3,991 | 5,034 | 26.1 |
| Criminal | 265 | 282 | 6.4 |
| Juvenile | — | — | — |
| Total Cases Docketed | 17,355 | 19,683 | 13.4 |
| Civil | 15,003 | 16,920 | 12.8 |
| Criminal | 1,286 | 1,624 | 26.3 |
| Juvenile | 1,066 | 1,139 | 6.8 |
| Dispositions | 12,039 | 13,925 | 15.7 |
| Civil | 9,969 | 11,458 | 14.9 |
| Criminal | 1,004 | 1,328 | 32.3 |
| Juvenile | 1,066 | 1,139 | 6.8 |
| Cases Pending as of December 31 | 5,316 | 5,758 | 8.3 |
| Civil | 5,034 | 5,462 | 8.5 |
| Criminal | 282 | 296 | 5.0 |
| Juvenile | — | — | — |

* For analysis purposes, juvenile filings have been equated with juvenile dispositions. Since juvenile cases are disposed of very rapidly, any discrepancy between filings and dispositions is very small.

Civil Caseload

Both civil filings and dispositions continued to increase significantly during the 1980 calendar year. Civil filings increased by 8 percent while civil dispositions increased by 15 percent.

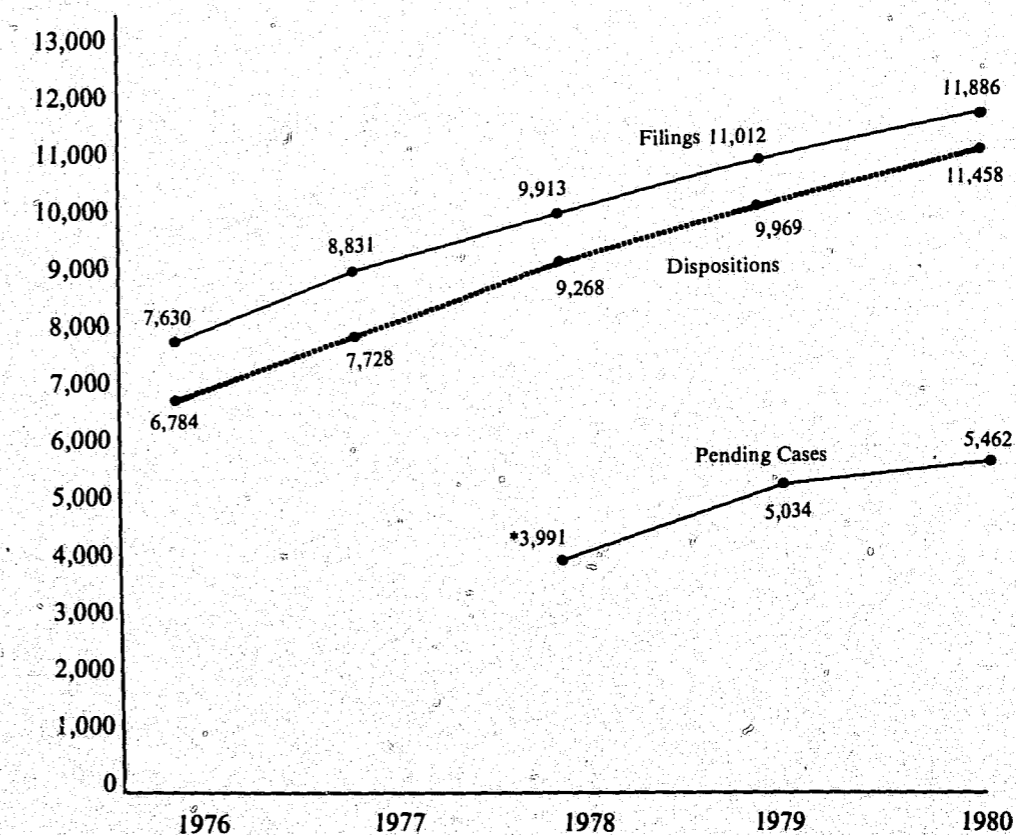
Despite the greater percentage increase in dispositions than in filings, the number of civil filings still exceeded the number of civil dispositions by 428 cases. Indeed, the last year in which civil dispositions exceeded civil filings was in 1975. This means that since 1976 the number of civil cases pending at the end of each calendar year has been constantly increasing. The impact of this constant growth in pending civil cases can be readily demonstrated by examining the number of civil cases that are carried over from one calendar year to another calendar year. In 1980, the number of civil cases carried over from 1979 increased by 26 percent over the number of cases carried over from 1978 to 1979. Thus, district court judges are confronted with substantial increases in the number of

civil cases that are carried over from one calendar year to another as well as significant yearly increases in civil filings.

The age of pending cases is also an indicator of the severity of a caseload crunch. Obviously, many cases which are pending at the end of the calendar year have been only recently filed and thus are not ready for trial or disposition. Some cases, particularly trust cases and support proceedings, require an unusually long time to process. Of the 5,462 civil cases pending at the end of the 1980 calendar year, over 71 percent of them were less than 2 years old and only 5 percent were older than 2 years old. These statistics do not include trust cases or support proceedings, which composed 24 percent of all civil cases pending at the end of the year.

Figure 7 gives a graphical presentation of the relationship among civil filings, dispositions, and pending cases.

**FIGURE 7
CIVIL CASELOAD COMPARISON FOR DISTRICT COURT**



* Pending case data prior to 1978 have been excluded for reasons stated in the narrative on page 18.

Criminal Caseload

In criminal cases, the majority of defendants enter the district courts following the filings of a criminal information with the state's attorney. The preliminary hearing is conducted by a county justice or county judge with increased jurisdiction. All statistics reported for criminal cases are reported on an individual case basis rather than an individual defendant basis. If multiple defendants are charged with a crime, the matter may be handled as one case unless a decision is made to sever the case and try the defendants separately. Grand juries are used in rare instances. The main purpose for a grand jury is as an investigative body and not for the indictment process.

Criminal case filings increased substantially (31%) in

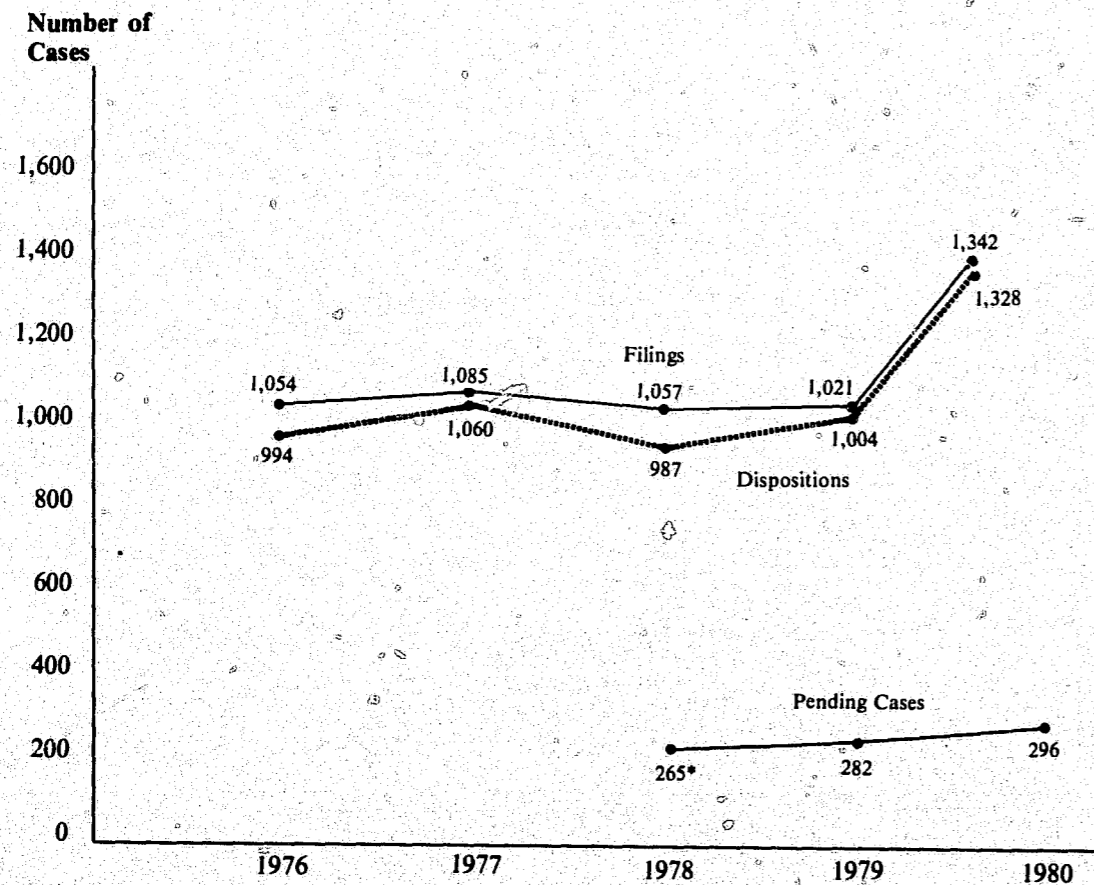
1980. This marks a deviation from the four previous years when the number of criminal filings remained fairly constant.

Criminal dispositions also increased substantially (32%) during 1980. Most of these cases were disposed of without a jury trial. Jury trials were held in only 58 cases and court trials in 250 cases in 1980.

Because criminal filings outnumbered criminal dispositions in 1980, the number of cases pending at the end of the calendar year also increased slightly in 1980. Of the 296 criminal cases pending at the end of the year, over 66 percent of them had been pending for four months or less.

Figure 8 portrays the rising trend in criminal filings, dispositions, and pending cases.

**FIGURE 8
CRIMINAL CASELOAD COMPARISON FOR DISTRICT COURT**



* Pending case data prior to 1978 have been excluded for reasons stated in the narrative on page 18.

Juvenile Caseload

One of the most significant activities performed by the district courts, in terms of long range impact of criminal recidivism, is the court's function under the Uniform Juvenile Court Act as provided in Chapter 27-20 NDCC. This Act, passed in 1969, creates a separate juvenile court system. The juvenile court has exclusive original jurisdiction over any juvenile who is alleged to be unruly, delinquent, or deprived. Since the juvenile court is a division of the district court, the twenty-four (24) district judges serve as juvenile court judges.

District judges may appoint one or more juvenile supervisors. The duties and responsibilities of the juvenile supervisors are outlined in Section 27-20-06, NDCC. District judges may also appoint probation officers as provided in Section 27-20-07 NDCC. At the end of the year there were 24 juvenile supervisors and 14 probation officers. All juvenile court personnel are chambered in thirteen communities of the state. Juvenile court personnel are appointed by the district judge and serve at the pleasure of the court.

The vast majority of juvenile cases are handled informally. Of the informal proceedings, over 40 percent of them were disposed of by counseling the juvenile and adjusting the matter with no terms of probation being established. Thus, some term of supervision was provided by the juvenile courts in 60 percent of the informal

proceedings. It should be noted that before any juvenile case can be adjudicated informally, the juvenile must admit to the charge. If there is no voluntary admission to the offense, a petition is prepared and a formal hearing is held on the matter.

Cases are handled formally only when a petition is filed in the district court. Formal actions must have a hearing within thirty days of filing unless the district judge grants a request for extension. Formal proceedings receive priority over informal proceedings. In 1980, about 18 percent of all juvenile matters were filed in the district courts and counted as juvenile cases for the purposes of this report.

As Table 5 illustrates, the total number of juvenile dispositions decreased by 2.4 percent in 1980. This decrease is the result of the decline in informal dispositions. Formal dispositions actually increased by 7 percent.

Table 6 compares the reasons for referral to juvenile court in 1979 and 1980. Except for referral for reason of deprivation, all other types of referrals have decreased slightly. Status offenses, those offenses for which only a juvenile can be charged, continue to comprise a large portion (36%) of all referrals to juvenile court. Moreover, misdemeanor theft remains the largest criminal violation causing referral.

**TABLE 5
TYPES OF JUVENILE COURT DISPOSITIONS FOR THE 1979 AND 1980 CALENDAR YEARS**

| Judicial District | Formal | | Informal | | Counsel Adjusted | | Total Dispositions | | Percent Difference Between Total Dispositions |
|-------------------------|--------------|--------------|--------------|--------------|------------------|--------------|--------------------|--------------|---|
| | 1979 | 1980 | 1979 | 1980 | 1979 | 1980 | 1979 | 1980 | |
| Northwest | 134 | 142 | 900 | 693 | 313 | 266 | 1,347 | 1,101 | -18.3 |
| Northeast | 128 | 140 | 386 | 453 | 560 | 496 | 1,074 | 1,089 | 1.4 |
| Northeast Central | 165 | 139 | 359 | 326 | 301 | 304 | 825 | 769 | -6.8 |
| East Central | 290 | 346 | 614 | 614 | 123 | 92 | 1,027 | 1,052 | 2.4 |
| Southeast | 138 | 136 | 588 | 557 | 400 | 309 | 1,126 | 1,002 | -11.0 |
| South Central | 176 | 188 | 383 | 472 | 530 | 657 | 1,089 | 1,317 | 20.9 |
| Southwest | 35 | 48 | 147 | 152 | 144 | 120 | 326 | 320 | -1.8 |
| TOTAL | 1,066 | 1,139 | 3,377 | 3,267 | 2,371 | 2,244 | 6,814 | 6,650 | -2.4 |

TABLE 6
JUVENILE COURT REASON FOR REFERRAL FOR THE 1979 AND 1980 CALENDAR YEARS

| Referral Reason | 1979 | 1980 | Percent Difference |
|------------------------------------|--------------|--------------|--------------------|
| UNRULY | 2,382 | 2,271 | -4.7 |
| Poss. or Pur. Alcoholic Bev. | 1,451 | 1,459 | .6 |
| Runaway-Instate | 247 | 216 | -12.6 |
| Runaway-Out-of-State | 53 | 42 | -20.8 |
| Truancy | 168 | 177 | 5.4 |
| Ungovernable Behavior | 183 | 169 | -7.7 |
| Conduct/Control Violation | 43 | 23 | -46.5 |
| Curfew Violation | 180 | 138 | -23.3 |
| Other | 57 | 47 | -17.5 |
| DELINQUENCY | 3,532 | 3,469 | -1.8 |
| Offense Against Person | 122 | 134 | 9.8 |
| Assault | 82 | 76 | -7.3 |
| Homicide | 3 | 3 | 0.0 |
| Kidnapping | 1 | 3 | 200.0 |
| Sex offense | 21 | 23 | 9.5 |
| Other | 15 | 29 | 93.3 |
| Offense Against Property | 2,313 | 2,216 | -4.2 |
| Arson | 9 | 19 | 111.1 |
| Burglary | 248 | 256 | 3.2 |
| Criminal Mischief | 368 | 381 | 3.5 |
| Criminal Trespass | 50 | 74 | 48.0 |
| Forgery | 43 | 44 | 2.3 |
| Robbery | 12 | 5 | -58.3 |
| Theft-Misdemeanor | 1,208 | 1,036 | -14.2 |
| Theft-Felony | 143 | 181 | 26.6 |
| Unauthorized Use of Vehicle | 127 | 124 | -2.4 |
| Other | 105 | 96 | -8.6 |
| Traffic Offenses | 500 | 510 | 2.0 |
| Driving w/o license | 427 | 415 | -2.8 |
| Negligent Homicide | 1 | 1 | 0.0 |
| Other | 72 | 94 | 30.6 |
| Other Offenses | 597 | 609 | 2.0 |
| Disorderly Conduct | 135 | 188 | 39.3 |
| Firearms | 39 | 40 | 2.6 |
| Game and Fish Violation | 79 | 70 | -11.4 |
| Obstruction of Law Enforce/Escape | 29 | 32 | 10.3 |
| Controlled Substance Violation | 258 | 190 | -26.4 |
| Other | 57 | 89 | 56.1 |
| DEPRIVATION | 396 | 446 | 12.6 |
| Abandoned | 16 | 6 | -62.5 |
| Abuse/Neglect | 102 | 130 | 27.5 |
| Deprived | 259 | 279 | 7.7 |
| Other | 19 | 31 | 63.2 |
| SPECIAL PROCEEDINGS | 116 | 91 | -21.6 |
| Termination Parental Rights Invol. | 8 | 19 | 137.5 |
| Termination Parental Rights Vol. | 50 | 50 | 0.0 |
| Other | 58 | 22 | -62.1 |
| TOTAL | 6,426 | 6,277 | -2.3 |

REPORT OF THE NORTHWEST JUDICIAL DISTRICT

The Honorable WALLACE D. BERNING, Presiding Judge



The year's activities in the Northwest Judicial District could best be described as an assimilation and digestive process involving two new judges (Judge Berning appointed in October of 1979 and Judge Kerian, whose Chambers are in Minot, appointed in April of 1980). Judge Kerian reappointed as his court reporter Mrs. Darlene Watne, who previously served with Judge Roy A. Ilvedson. Judges Beede, Kerian, and Berning were all returned to office in the November election.

During the year, Judge Kerian and Judge Berning were both absent for prolonged periods due to illness. As a result, Judges Burdick and Ilvedson, who had previously retired, were "recalled to active duty" and through their able assistance the caseload was kept under control.

A secretary, Mrs. LaVonne Carlson, was hired to coordinate secretarial work and handle scheduling matters for

the three judges. This arrangement has been proven to be very successful.

Facility Needs

All the staff have spent considerable efforts in attempting to inform the citizenry of Ward County regarding a mill levy for a new jail. In the November election, the voters of Ward County rejected this proposition by a narrow vote. Continued efforts are still being made regarding the resubmission of this issue to the voters. This matter will most likely be reconsidered by the Ward County Commissioners in the near future.

The western part of the district fared better with their physical facility needs. A new courtroom for the County Court was provided in Williams County at a cost of some \$31,000.00.

Juvenile Court Administration

Messrs. Stenehjem and Blore, Juvenile Supervisors for Williams County and Ward County respectively, report that there is a serious concern over the lack of dispositional alternatives for neglected and abused children. Villa Nazareth at Fargo has closed and the Home on the Range at Sentinel Butte stopped accepting referrals late in the year. It is apparent there is a serious need for an additional parole officer for the Juvenile Court in Williams, McKenzie, Mountrail, and Divide Counties.

Prospective Administration

We expect that the disposition rate of both juvenile and other district court cases will continue to increase. It is anticipated that in the spring of 1981 the Northwest District in Ward County, North Dakota will implement a continuous jury term pursuant to the new rules that will be promulgated by the Supreme Court. The administration of criminal justice would be considerably enhanced by the building of a new jail in Ward County. It is hoped that with the promulgation of the contemplated jail standards by the Attorney General's office that this may become a reality.

TABLE 7
A COMPARISON OF THE NORTHWEST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1979 AND 1980

| | 1979 | 1980 | Percent Difference | | 1979 | 1980 | Percent Difference |
|---|------|------|--------------------|---------------|------|------|--------------------|
| New Filings | 2099 | 2497 | 19.1 | Criminal | 176 | 247 | 40.3 |
| Civil | 1823 | 2137 | 17.2 | Juvenile | 134 | 142 | 6.0 |
| Criminal | 142 | 218 | 53.5 | Dispositions | 1990 | 2410 | 21.1 |
| Juvenile | 134 | 142 | 6.0 | Civil | 1709 | 2043 | 19.5 |
| Cases Carried Over From The Previous Year | 676 | 785 | 16.1 | Criminal | 147 | 225 | 53.1 |
| Civil | 642 | 756 | 17.8 | Juvenile | 134 | 142 | 6.0 |
| Criminal | 34 | 29 | -14.7 | Cases Pending | | | |
| Juvenile | — | — | — | As of Dec. 31 | 785 | 872 | 11.1 |
| Total Cases | | | | Civil | 756 | 850 | 12.4 |
| Docketed | 2775 | 3282 | 18.3 | Criminal | 29 | 22 | -24.1 |
| Civil | 2465 | 2893 | 17.4 | Juvenile | — | — | — |

REPORT OF THE NORTHEAST JUDICIAL DISTRICT

The Honorable DOUGLAS B. HEEN, Presiding Judge
DAGNY OLSON, Administrative Assistant



Increased efficiency has been noted in the disposition of the ever increasing caseload of this judicial district. This is the result of assigning specific Counties to the individual judges of this district, including the holding of successive jury terms of court. In addition, the Juvenile Supervisors have contributed to disposition of legal matters by serving as referees. These changes have brought with them advantages in lessened travel time and expense.

Continuous Training and Education

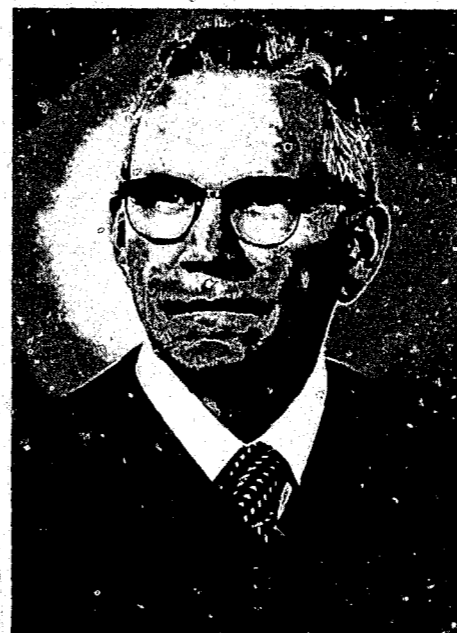
All judges, juvenile supervisors and court reporters in the district attended refresher training courses and workshops during the year. The training received at these workshops and seminars should ease the transitional problems resulting from changes in court rules and the possible restructuring of the North Dakota court system.

TABLE 8
A COMPARISON OF THE NORTHEAST
JUDICIAL DISTRICT CASELOADS FOR
CALENDAR YEARS 1979 AND 1980

| | 1979 | 1980 | Percent Difference | | 1979 | 1980 | Percent Difference |
|-----------------------------|------|------|--------------------|---------------------|------|------|--------------------|
| New Filings..... | 1419 | 1475 | 4.0 | Criminal | 167 | 226 | 35.3 |
| Civil | 1166 | 1175 | .8 | Juvenile | 128 | 140 | 9.4 |
| Criminal | 125 | 160 | 28.0 | Dispositions | 1358 | 1484 | 9.3 |
| Juvenile | 128 | 140 | 9.4 | Civil | 1129 | 1174 | 4.0 |
| Cases Carried Over From The | | | | Criminal | 101 | 170 | 68.3 |
| Previous Year | 480 | 541 | 12.7 | Juvenile | 128 | 140 | 9.4 |
| Civil | 438 | 475 | 8.4 | Cases Pending | | | |
| Criminal | 42 | 66 | 47.1 | As of Dec. 31 | 541 | 532 | -1.7 |
| Juvenile | — | — | — | Civil | 475 | 476 | .2 |
| Total Cases | | | | Criminal | 66 | 56 | -15.2 |
| Docketed | 1899 | 2016 | 6.2 | Juvenile | — | — | — |
| Civil | 1604 | 1650 | 2.9 | | | | |

REPORT OF THE NORTHEAST CENTRAL JUDICIAL DISTRICT

The Honorable A. C. BAKKEN, Presiding Judge
PAT THOMPSON, Administrative Assistant



or are on appeal. The criminal cases shown were fugitives for which bench warrants have been issued. This success is attributed to weekly meetings and continued communication and cooperation of the judges and administrative staff. The addition of a district judge has also been of vital importance to the district in achieving an excellent record for prompt and efficient administration of justice.

Law Intern Program

Continued cooperation with the University of North Dakota School of Law has enabled each district judge to have the assistance of a student law clerk. The law school gives students three credit hours for performing 15 hours of law clerk duties each week during a semester.

Juvenile Court Activities

The Juvenile Court Division has eight employees under the administrative supervision of Dorothy E. Ramberg. Services of the division have been extended to Griggs and Nelson Counties following the establishment of the Northeast Central Judicial District. The Juvenile Court Referee, Harlan Dyrud, in addition to presiding over hearings on petitions under the Uniform Juvenile Court Act, also presides over hearings on orders to show cause in domestic relations cases as authorized by Section 27-05-29, NDCC, as amended. Juvenile Court petitions numbered 138 and orders to show cause numbered 123 during 1980. A fully staffed juvenile detention center is also operated by the Juvenile Court.

Advisory Committee for the Northeast Central Judicial District

Members of the Advisory Committee to the District Court for the Northeast Central Judicial District are Lloyd B. Omdahl, a Professor in the University of North Dakota Department of Governmental Affairs, Damon Anderson and Grace A. Melgard, Grand Forks Attorneys. Following consultation with the Advisory Committee, candidates nominated for temporary judge are: Shirley A. Dvorak, Edward C. Gillig, and John E. Widell, Jr.

TABLE 9
A COMPARISON OF THE NORTHEAST CENTRAL JUDICIAL DISTRICT
CASELOADS FOR CALENDAR YEARS
1979 AND 1980

| | 1979 | 1980 | Percent Difference | | 1979 | 1980 | Percent Difference |
|-----------------------------|------|------|--------------------|---------------------|------|------|--------------------|
| New Filings..... | 1728 | 1838 | 6.4 | Criminal | 154 | 188 | 22.1 |
| Civil | 1460 | 1551 | 6.2 | Juvenile | 165 | 139 | -15.8 |
| Criminal | 103 | 148 | 43.7 | Dispositions | 1614 | 1894 | 17.3 |
| Juvenile | 165 | 139 | -15.8 | Civil | 1335 | 1610 | 20.6 |
| Cases Carried Over From The | | | | Criminal | 114 | 145 | 27.2 |
| Previous Year | 626 | 740 | 18.2 | Juvenile | 165 | 139 | -15.8 |
| Civil | 575 | 700 | 21.7 | Cases Pending | | | |
| Criminal | 51 | 40 | -21.6 | As of Dec. 31 | 740 | 684 | -7.6 |
| Juvenile | — | — | — | Civil | 700 | 641 | -8.4 |
| Total Cases | | | | Criminal | 40 | 43 | 7.5 |
| Docketed | 2354 | 2578 | 9.5 | Juvenile | — | — | — |
| Civil | 2035 | 2251 | 10.6 | | | | |

REPORT OF THE EAST CENTRAL JUDICIAL DISTRICT

The Honorable NORMAN J. BACKES, Presiding Judge
MARK HINNEN, Court Administrator



The year 1980 was one of growth for the East Central Judicial District. It was a year where experimental procedures came into full force and were improved upon. It was also a year for experimentation, study, and planning to deal with an expected caseload growth for the coming year. In calendar year 1980, the district experienced a 14 percent gain in civil filings and a 60 percent increase in criminal filings. The Court has responded with a 11 percent increase in civil dispositions and a 68 percent increase in criminal dispositions.

Caseflow Management Activities

A local rule allowing for the dismissal of old cases at the 18 month juncture rather than the two year period was adopted by the Court in October of 1980. The rule was adopted to aid in the identification of old cases and to clear the dockets of cases that will not come to trial for want of prosecution. This will allow the Court to identify cases that should move forward with Court proceedings without undue delay.

The purchase of office equipment became important in

1980. The Court purchased a word processor as an aid in processing increased paperwork. The main strength of the machine as a time-saving device is its text-editing capabilities in producing the increased output of judges' memorandum opinions.

The development of an automated case-tracking system is also taking place. The primary goal is to automate the manual case-tracking system now employed by the Court, allowing for easier output of local case management reports, daily schedules, and trial calendars. In conjunction with this, a new civil case processing procedure is being developed.

The Court is also studying the possibility of employing a criminal fast track system wherein methods would be devised to insure a minimum amount of delay in the processing of criminal cases. The strength and success of such a system will depend on the cooperation of the state's attorney, public defender, and the Courts.

Jury Management

In January of 1980 a jury sampling study began. The purpose of the study is to determine how efficiently the Court is utilizing its jurors, to recommend changes in panel sizes, and determine if changes can or should be made in the jury system.

For each jury case where jurors have reported for jury duty, a worksheet is completed by the Clerk of Court. Information that is collected includes the size of the panel reporting, number of peremptory and challenges for cause, and the total number of jurors not used. The worksheets also include space to record time intervals between panel arrival, voir dire start and end, trial start and end, and length of jury deliberation.

Juvenile Court

To address the juvenile needs in Traill County, the district negotiated an agreement with Social Services to employ a half-time probation officer. A part-time secretary was also hired in Traill County.

Space Planning

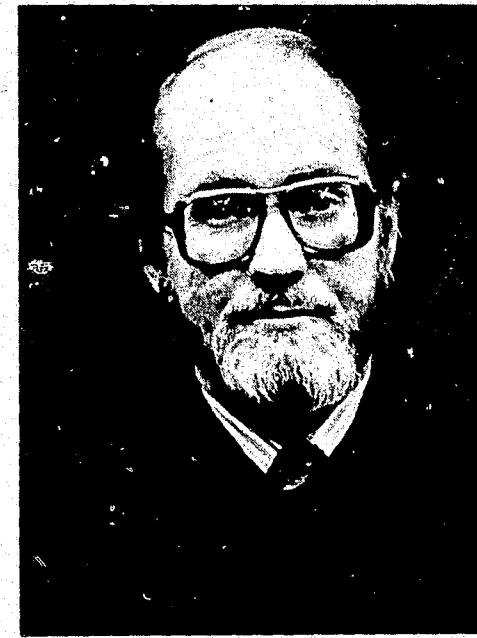
Finally, space planning is still a crucial factor in Cass County. Although the shell of the addition on the north side of the courthouse has been completed, planning and recommendations for courtrooms and office layout continue to take place.

TABLE 10
A COMPARISON OF THE EAST CENTRAL JUDICIAL DISTRICT
CASELOADS FOR CALENDAR YEARS 1979 AND 1980

| | 1979 | 1980 | Percent Difference | | 1979 | 1980 | Percent Difference |
|---|------|------|--------------------|---------------|------|------|--------------------|
| New Filings | 2518 | 2938 | 16.7 | Criminal | 146 | 216 | 47.9 |
| Civil | 2117 | 2415 | 14.1 | Juvenile | 290 | 346 | 19.3 |
| Criminal | 111 | 177 | 59.5 | Dispositions | 2367 | 2717 | 14.8 |
| Juvenile | 290 | 346 | 19.3 | Civil | 1970 | 2191 | 11.2 |
| Cases Carried Over From The Previous Year | 952 | 1103 | 15.9 | Criminal | 107 | 180 | 68.2 |
| Civil | 917 | 1064 | 16.0 | Juvenile | 290 | 346 | 19.3 |
| Criminal | 35 | 39 | 11.4 | Cases Pending | | | |
| Juvenile | — | — | — | As Of Dec. 31 | 1103 | 1324 | 20.0 |
| Total Cases | | | | Civil | 1064 | 1288 | 21.0 |
| Docketed | 3470 | 4041 | 16.5 | Criminal | 39 | 36 | -7.7 |
| Civil | 3034 | 3479 | 14.7 | Juvenile | — | — | — |

REPORT OF THE SOUTHEAST JUDICIAL DISTRICT

The Honorable ROBERT L. ECKERT, Presiding Judge



tion President J. Philip Johnson, and the father of the new district judge, Justice Wm. L. Paulson. All of the members of the North Dakota Supreme Court were present as were all the members of the district court from the Southeast Judicial District and many other judges and dignitaries. Following the investiture, a reception was held in the Court chambers and law library. Chairman of the event was attorney David Walker of Valley City.

Annual Meeting of the Southeast Judicial District Bar Association

The first annual meeting of the Southeast Judicial District Bar Association was held at LaMoure, North Dakota. Presiding at the meeting was President Ted Kessel, Jr., of LaMoure, North Dakota, who was reelected as president. Valley City attorneys extended an invitation to the Association to meet in their city in 1981. This invitation was unanimously accepted by the Association.

Assignment of Cases

Cases from Richland, Ransom, and Sargent Counties which are tried to the Court without a jury continued to be assigned to Judge Eckert. Cases arising in Eddy, Foster, and Stutsman Counties which are to be tried to the Court without a jury continued to be assigned to Judge Fredricks. All the cases from Barnes, LaMoure, and Dickey Counties which are to be tried to the Court without a jury have now been assigned to Judge Paulson.

Clerks of court have been ordered to immediately notify the district judge of the filing of any bind-over papers so that criminal arraignments and criminal trials can be held as soon as possible. The district judges continue to alternate civil and jury terms in each county within the district.

Election and Investiture of a New Judge

The year 1980 was a year of change for the Southeast Judicial District. District Judge Hamilton Englert of Valley City resigned effective October 1, 1980. In a hotly contested election contest, John T. Paulson, a Valley City attorney, bested three contenders.

On January 9, 1981, a formal investiture ceremony was held at the Barnes County Courthouse in Valley City for Judge Paulson. An overflowing courtroom heard remarks from Chief Justice Ralph J. Erickstad, Attorney General Robert O. Wefald, North Dakota Bar Associa-

TABLE 11
A COMPARISON OF THE SOUTHEAST
JUDICIAL DISTRICT CASELOADS FOR
CALENDAR YEARS 1979 AND 1980

| | 1979 | 1980 | Percent Difference | | 1979 | 1980 | Percent Difference |
|---|------|------|--------------------|---------------|------|------|--------------------|
| New Filings | 1616 | 1771 | 9.6 | Criminal | 177 | 204 | 15.3 |
| Civil | 1345 | 1473 | 9.5 | Juvenile | 138 | 136 | -1.4 |
| Criminal | 133 | 162 | 21.8 | Dispositions | 1553 | 1637 | 5.4 |
| Juvenile | 138 | 136 | -1.4 | Civil | 1280 | 1344 | 5.0 |
| Cases Carried Over From The Previous Year | 448 | 511 | 14.1 | Criminal | 135 | 157 | 16.3 |
| Civil | 404 | 469 | 16.1 | Juvenile | 138 | 136 | -1.4 |
| Criminal | 44 | 42 | -4.5 | Cases Pending | | | |
| Juvenile | — | — | — | As Of Dec. 31 | 511 | 645 | 26.2 |
| Total Cases | | | | Civil | 469 | 598 | 27.5 |
| Docketed | 2064 | 2282 | 10.6 | Criminal | 42 | 47 | 11.9 |
| Civil | 1749 | 1942 | 11.0 | Juvenile | — | — | — |

REPORT OF THE SOUTH CENTRAL JUDICIAL DISTRICT

The Honorable BENNY A. GRAFF, Presiding Judge
DEE J. HANSON, Court Administrator



Caseflow Management

The South Central Judicial District, under the supervision of Presiding Judge Benny A. Graff, has been progressing toward a current caseload in terms of scheduling trial dates shortly after cases reach ready-for-trial status. The time lag from when a case is ready for trial and the scheduled trial date has been reduced considerably from previous years. The judges, however, realize that case control must begin when a case is originally filed. A local rule which directs that most cases must be ready for trial within one year from the filing date has dramatically shortened the overall time span between filing and final disposition of cases. This local rule, along with a master (team concept) scheduling technique, has resulted in a smooth and relatively current caseflow in all 13 counties within this district.

Kidder and Oliver Counties have recently modernized their Register of Actions. The traditional large canvas-covered books have been replaced with a streamlined 8½ x 14" register page. The new Registers are very cost effective and much easier to handle.

Facility Planning

Dr. Michael Wong, an architect and consultant who specializes in courthouse facility planning, has provided

Burleigh County with a preliminary facility improvement program. The study, which was part of a statewide facility study through the State Court Administrator's Office, included facility design guidelines and expansion alternatives for the Burleigh County Courthouse. Marian Barbie, Clerk of the Burleigh County District Court, was a member of the facility committee which assisted Dr. Wong in his study. Grant County completed their new courthouse and Sioux County presently has a new courthouse under construction.

Jury Management

Burleigh, McLean, and Morton Counties used the computer facilities from Central Data Processing in compiling their Master List and Master Jury Wheel. Several other counties within the district used the Kadana/Lehoczy jury selection technique to cut down on the number of name comparisons between the drivers list and voters. The time spent in compiling the jury list has been greatly reduced in those counties using the State computer and the alternative jury selection method.

Chamber Designation

In the spring of 1980, Judges Graff and Schneider petitioned the State Supreme Court for specific chamber designations. This was done because of the confusion which was caused by the fact that four of the five judges in the South Central Judicial District were running for election in November 1980. Rather than running at large, the judges requested the Supreme Court to designate specific chambers for election purposes. This ensured that each judge was running for his own position, and would not be involved in a popularity contest with his colleagues on the bench. The Supreme Court, after holding a hearing, did provide by rule a chamber designation for each judge in the state.

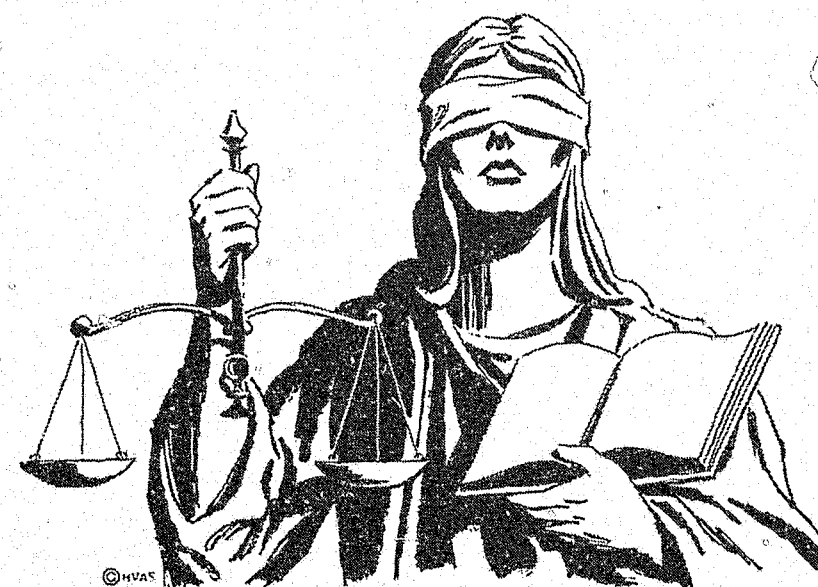
Data Processing Equipment

In 1981 the Court Administrator is looking forward to installing data processing and/or computer equipment in his office. The Court Administrator's first priority is to link up with the State Judicial Information System and have the ability to enter data directly into the state computer from his office. This will provide the Court with more timely information for management purposes. There are also many word processing and calendaring functions which can be performed to aid the Court in processing cases.

TABLE 12

A COMPARISON OF THE SOUTH CENTRAL JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1979 AND 1980

| | 1979 | 1980 | Percent Difference | | 1979 | 1980 | Percent Difference |
|-----------------------------|------|------|--------------------|---------------------|------|------|--------------------|
| New Filings..... | 3072 | 3050 | -7 | Criminal | 379 | 434 | 14.5 |
| Civil | 2576 | 2483 | -3.6 | Juvenile | 176 | 188 | 6.8 |
| Criminal | 320 | 379 | 18.4 | Dispositions | 2607 | 3108 | 19.2 |
| Juvenile | 176 | 188 | 6.8 | Civil | 2107 | 2560 | 21.5 |
| Cases Carried Over From The | | | | Criminal | 324 | 360 | 11.1 |
| Previous Year..... | 826 | 1291 | 56.3 | Juvenile | 176 | 188 | 6.8 |
| Civil | 767 | 1236 | 61.1 | Cases Pending | | | |
| Criminal | 59 | 55 | -6.8 | As Of Dec. 31 | 1291 | 1233 | -4.5 |
| Juvenile | — | — | — | Civil | 1236 | 1159 | -6.2 |
| Total Cases | | | | Criminal | 55 | 74 | 34.5 |
| Docketed..... | 3898 | 4341 | 11.4 | Juvenile | — | — | — |
| Civil | 3343 | 3719 | 11.2 | | | | |



REPORT OF THE SOUTHWEST JUDICIAL DISTRICT

The Honorable NORBERT J. MUGGLI, Presiding Judge



reconsidered in 1981. It seems to be working out quite well and in all likelihood it will be renewed for another year.

Compliance with the Docket Currency Standards

On December 31, 1980 a meeting was held at Dickinson for all of the clerks of court of the district. All the clerks were present along with the two district judges. The main purpose of the meeting was to review procedures concerning the reporting and status of cases with reference to AR 12-1980, our docket currency standards rule. The clerks were asked to bring along certain files so that their status in relation to the docket currency standards could be determined.

In order to maintain a current docket throughout the district, an Order was issued assigning all unassigned cases and future cases in certain counties to either Judge Stuart or Judge Muggli. Judge Stuart has been assigned all present and future cases in Adams, Hettinger, Bowman, and Slope Counties and Judge Muggli has been assigned all such unassigned and future cases in the counties of Billings, Golden Valley, and Dunn. The County of Stark was left open since both judges are sharing the responsibility of keeping the Stark County cases current. Since Judge Stuart will be holding the October jury term of Stark County, it is contemplated that he will be assigned all of the cases on the calendar at that time. The rest of the cases on the Stark County docket will be assigned to Judge Muggli.

Additional Judge Needed

The workload in the district, especially in Stark County, has increased by leaps and bounds in the past two years. While the number of cases disposed of has also increased substantially, it has still lagged behind the increase in filings. Chief Justice Erickstad has recommended to the Legislature that it appropriate funds for an additional judge for this district. The Legislature will meet in 1981 and it is hoped that the district's request for an additional judge will be granted.

Distribution of Workload

In a continuing effort to increase efficiency and cut down travel time, judicial duties in the Southwest Judicial District have been divided along geographical lines. Judge Lyle G. Stuart has been assigned all terms of court for the counties of Adams, Hettinger, Bowman, and Slope, and the regular October jury term for Stark County. In addition to all other court terms for Stark County, Judge Muggli will hold court in the counties of Dunn, Billings, and Golden Valley. Thus, judicial duties have been assigned in such a way that the workload is equalized and the travel time is reduced.

The Order assigning these terms of court specifically allows each judge to hold consecutive jury terms. This was permitted by the addition of Section 13 to AR 2-1978, which was adopted as an emergency matter in September 1979. It was put into effect in this district as of July 1, 1980 for a period of one year. It will have to be

TABLE 13
A COMPARISON OF THE SOUTHWEST
JUDICIAL DISTRICT CASELOADS FOR
CALENDAR YEARS 1979 AND 1980

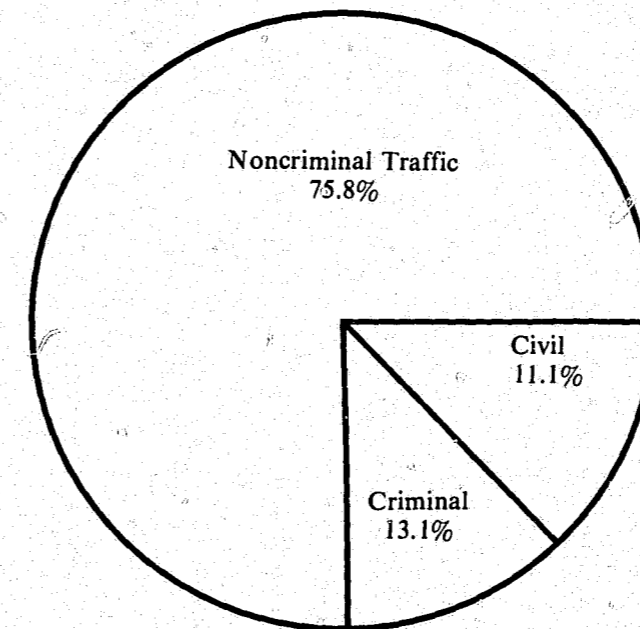
| | Percent Difference | | | Percent Difference | | | |
|-----------------------------|--------------------|------|------|---------------------|------|-----|------|
| | 1979 | 1980 | | 1979 | 1980 | | |
| New Filings..... | 647 | 798 | 23.3 | Criminal | 87 | 109 | 25.3 |
| Civil | 525 | 652 | 24.2 | Juvenile | 35 | 48 | 37.1 |
| Criminal | 87 | 98 | 12.6 | Dispositions | 550 | 675 | 22.7 |
| Juvenile | 35 | 48 | 37.1 | Civil | 439 | 536 | 22.1 |
| Cases Carried Over From The | | | | Criminal | 76 | 91 | 19.7 |
| Previous Year | 248 | 345 | 39.1 | Juvenile | 35 | 48 | 37.1 |
| Civil | 248 | 334 | 34.7 | Cases Pending | | | |
| Criminal | 0 | 11 | — | As Of Dec. 31 | 345 | 468 | 35.6 |
| Juvenile | — | — | — | Civil | 334 | 450 | 34.7 |
| Total Cases | | | | Criminal | 11 | 18 | 63.6 |
| Docketed | 895 | 1143 | 27.7 | Juvenile | — | — | — |
| Civil | 773 | 986 | 27.6 | | | | |

THE COUNTY COURT SYSTEM

North Dakota has three types of county courts. They are the county courts with increased jurisdiction, the county justice courts, and the county probate courts. Generally speaking, the most populous counties in the state have the county courts with increased jurisdiction and the lesser populated counties have both county justice courts and county probate courts. All three types of county courts are courts of limited jurisdiction.

Most of the cases filed in the county courts are non-criminal traffic cases. Such cases constitute nearly 76 percent of the county courts' caseload. Criminal cases, mainly misdemeanors, make up over 13 percent of the caseload and civil cases compose approximately 11 percent of the caseload. Within the civil category, small claims cases and probate cases dominate. Figure 9 provides a pictorial breakdown of the types of cases filed in all of the county courts in the state.

FIGURE 9
TYPES OF CASES FILED IN ALL COUNTY
COURTS FOR THE 1980 CALENDAR YEAR



Breakdown of Civil Filings

| | |
|------------------------------|------|
| Small Claims | 5.8% |
| Probate | 2.5% |
| Mental Health | .7% |
| Guardianship/Conservatorship | .2% |
| Other Civil | 1.9% |

As with the district courts, the caseload of the county courts increased in 1980. Most of the increase was in the noncriminal traffic cases. It should be noted, however, that the increase in civil cases recorded for 1980 may actually be larger because several county courts did not file their caseload reports for 1980 with the Court Administrator's Office.

County court dispositions also increased during 1980. In fact, criminal dispositions were greater than criminal filings. This accounts for the 17 percent decrease in the number of pending criminal cases on the docket at the end of the 1980 calendar year. In contrast, civil dispositions decreased in 1980 and the number of pending civil cases rose significantly.

Table 14 provides a caseload synopsis of the county courts for 1979 and 1980.

TABLE 14
CASELOAD SYNOPSIS OF ALL COUNTY
COURTS FOR THE 1979 AND 1980
CALENDAR YEARS

| | 1979 | 1980 | Percent Difference |
|-----------------------------|---------|---------|--------------------|
| New Filings..... | 109,400 | 121,220 | 10.8 |
| Civil | 13,077 | 13,387 | 2.4 |
| Criminal | 15,759 | 15,897 | .9 |
| Noncriminal Traffic*..... | 80,564 | 91,936 | 14.1 |
| Cases Carried Over From The | | | |
| Previous Calendar Year | 12,300 | 14,631 | 19.0 |
| Civil | 9,514 | 10,432 | 9.7 |
| Criminal | 2,786 | 4,199 | 50.7 |
| Noncriminal Traffic..... | — | — | — |
| Total Cases Docketed | 121,700 | 135,851 | 11.6 |
| Civil | 22,591 | 23,819 | 5.4 |
| Criminal | 18,545 | 20,096 | 8.4 |
| Noncriminal Traffic..... | 80,564 | 91,936 | 14.1 |
| Dispositions | 107,069 | 120,370 | 12.4 |
| Civil | 12,159 | 11,814 | -2.8 |
| Criminal | 14,346 | 16,620 | 15.9 |
| Noncriminal Traffic..... | 80,564 | 91,936 | 14.1 |
| Cases Pending as | | | |
| Of Dec. 31 | 14,631 | 15,481 | 5.8 |
| Civil | 10,432 | 12,005 | 15.1 |
| Criminal | 4,199 | 3,476 | -17.2 |
| Noncriminal Traffic..... | — | — | — |

* In the absence of data on filings for noncriminal traffic cases, dispositions for noncriminal traffic cases have also been used as an indicator of filings. Since non-criminal traffic cases are disposed of very quickly, any discrepancy between filings and dispositions is very minimal.

COUNTY COURTS WITH INCREASED JURISDICTION

Chapter 27-08, NDCC, provides for the establishment and operation of the county courts with increased jurisdiction. A special election to establish or abolish a county court with increased jurisdiction must be held if a petition requesting that election and containing the names of at least ten percent of the county's total vote cast for governor in the last election is presented to the board of county commissioners.

The majority vote in this election determines whether such a court is to be established or abolished. Presently, seventeen of North Dakota's 53 counties have established county courts with increased jurisdiction. If a majority of the county voters agree to grant increased jurisdiction to the county court, the offices of county judge and county justice are merged into one court referred to as the county court with increased jurisdiction. This court has original concurrent jurisdiction with the district court in all civil cases where the amount in controversy does not exceed \$1,000 and in all criminal misdemeanor cases. The county court with increased jurisdiction has exclusive original jurisdiction in probate, testamentary and guardianship matters. This court has concurrent appellate jurisdiction with the district court in municipal court appeals.

The judge of the county court with increased jurisdiction has the authority to issue warrants and complaints, to determine whether an individual accused of a felony should be held for trial, and perform other standard judicial functions.

The county courts with increased jurisdiction have authority as small claims courts. The jurisdiction of the small claims court is limited to cases for recovery of not more than \$1,000. This is the same monetary limit for their civil jurisdiction.

In 1978 the county courts with increased jurisdiction were authorized by a Supreme Court order (now AR 16-1978) to hear all appeals from the municipal courts

within their respective counties. Prior to 1978, both district courts and county courts with increased jurisdiction had concurrent appellate jurisdiction for cases originating in municipal court. The effect of this change has been to produce a significant increase in the traffic case workload of county courts with increased jurisdiction. As Table 15 shows, noncriminal traffic cases increased by 13 percent from 1979 to 1980.

Noncriminal traffic cases comprised the bulk (74%) of the caseload of the county courts with increased jurisdiction in 1980. Although these cases are by far the most numerous, they are disposed of very rapidly. Thus, the amount of time spent by the judges of county courts with increased jurisdiction in processing noncriminal traffic cases is not proportional to their numerical dominance.

Criminal cases comprised over 14 percent of all filing in the county courts of increased jurisdiction for 1980. Nearly 11 percent of these criminal cases were preliminary hearings conducted in felony matters and 89 percent were misdemeanors. The number of preliminary hearings for felonies increased by 17 percent from 1979 to 1980 while the number of misdemeanor filings essentially stayed the same.

The various types of civil cases within the jurisdiction of the county courts with increased jurisdiction constituted approximately 12 percent of all filings in 1980. Of this 12 percent, over 6 percent were small claims cases, approximately 2 percent were probate cases, 1 percent was mental health or guardianship/conservatorship cases, and about 2.5 percent were a mixture of various types of civil actions. With the exception of small claims cases, all categories of civil cases experienced a decline in filings from 1979 to 1980. Small claims cases increased by over 11 percent.

A summary of the caseload changes for the county courts with increased jurisdiction from 1979 to 1980 is provided in Table 15.

**TABLE 15
CASELOAD SYNOPSIS OF COUNTY
COURTS WITH INCREASED
JURISDICTION FOR THE 1979 AND 1980
CALENDAR YEAR**

| | 1979 | | | 1980 | | | Percent Difference |
|---|--------|--------|--------------------|------|------|--------------------|--------------------|
| | 1979 | 1980 | Percent Difference | 1979 | 1980 | Percent Difference | |
| New Filings..... | 80,464 | 88,459 | 9.9 | | | | |
| Civil..... | 10,342 | 10,636 | 2.8 | | | | |
| Criminal..... | 12,447 | 12,650 | 1.6 | | | | |
| Noncriminal Traffic..... | 57,675 | 65,173 | 13.0 | | | | |
| Cases Carried Over From the Previous Calendar Year.. | 7,693 | 9,648 | 25.4 | | | | |
| Civil..... | 5,965 | 6,542 | 9.7 | | | | |
| Criminal..... | 1,728 | 3,106 | 79.7 | | | | |
| Noncriminal Traffic..... | — | — | — | | | | |
| Total Cases Docketed..... | 88,157 | 98,107 | 11.3 | | | | |
| Civil..... | 16,307 | 17,178 | 5.3 | | | | |
| Criminal..... | 14,175 | 15,756 | 11.1 | | | | |
| Noncriminal Traffic..... | 57,675 | 65,173 | 13.0 | | | | |
| Dispositions..... | 78,509 | 87,869 | 11.9 | | | | |
| Civil..... | 9,765 | 9,331 | -4.4 | | | | |
| Criminal..... | 11,069 | 13,365 | 20.7 | | | | |
| Noncriminal Traffic..... | 57,675 | 65,173 | 13.0 | | | | |
| Cases Pending as of December 31..... | 9,648 | 10,238 | 6.1 | | | | |
| Civil..... | 6,542 | 7,847 | 19.9 | | | | |
| Criminal..... | 3,106 | 2,391 | -23.0 | | | | |
| Noncriminal Traffic..... | — | — | — | | | | |

**TABLE 16
COUNTY COURTS WITH INCREASED JURISDICTION
CASE FILINGS AND DISPOSITIONS
CALENDAR YEAR 1980**

| County | Felony | | Misdemeanor | | Convictions | Noncriminal Traffic | | | Total Noncriminal Traffic |
|-------------------|--------------|--------------|---------------|---------------|---------------|---------------------|------------|---------------|---------------------------|
| | (F) | (D) | (F) | (D) | | Acquittals | Dismissals | | |
| Barnes..... | 37 | 39 | 474 | 461 | 2,571 | 4 | 1 | 2,576 | |
| Benson..... | 4 | 9 | 197 | 200 | 792 | 17 | 0 | 809 | |
| Burleigh..... | 249 | 237 | 886 | 873 | 4,289 | 33 | 0 | 4,322 | |
| Cass..... | 190 | 205 | 1,411 | 1,796 | 9,086 | 64 | 2 | 9,152 | |
| Grand Forks..... | 269 | 264 | 1,593 | 1,373 | 12,348 | 25 | 0 | 12,373 | |
| LaMoure..... | 5 | 4 | 54 | 54 | 893 | 5 | 0 | 898 | |
| Mercer..... | 42 | 40 | 320 | 332 | 2,153 | 2 | 0 | 2,155 | |
| Morton..... | 51 | 51 | 401 | 627 | 6,460 | 2 | 0 | 6,462 | |
| Ramsey..... | 41 | 41 | 734 | 805 | 2,728 | 33 | 2 | 2,763 | |
| Ransom..... | 18 | 12 | 206 | 245 | 490 | 5 | 0 | 495 | |
| Richland..... | 36 | 33 | 376 | 298 | 2,208 | 14 | 0 | 2,222 | |
| Stark..... | 104 | 119 | 964 | 1,059 | 4,341 | 19 | 0 | 4,360 | |
| Stutsman..... | 88 | 89 | 1,218 | 1,209 | 4,659 | 10 | 0 | 4,669 | |
| Walsh..... | 48 | 49 | 493 | 485 | 2,675 | 0 | 0 | 2,675 | |
| Ward..... | 110 | 117 | 762 | 881 | 4,965 | 91 | 1 | 5,057 | |
| Wells..... | 0 | 0 | 14 | 15 | 763 | 1 | 0 | 764 | |
| Williams..... | 77 | 86 | 1,178 | 1,257 | 3,379 | 42 | 0 | 3,421 | |
| TOTAL..... | 1,369 | 1,395 | 11,281 | 11,970 | 64,800 | 357 | 6 | 65,173 | |

TABLE 16 (Con't)

| County | Small Claims | | Probate | | Guardianship/Conservatorship | | Other Civil (D) | Mental Health Hearings Held |
|-------------------|--------------|--------------|--------------|--------------|------------------------------|-----------|-----------------|-----------------------------|
| | (F) | (D) | (F) | (D) | (F) | (D) | | |
| Barnes..... | 323 | 350 | 76 | 26 | 1 | 0 | 24 | 81 |
| Benson..... | 60 | 116 | 61 | 15 | 1 | 2 | 8 | 9 |
| Burleigh..... | 670 | 675 | 150 | 102 | 9 | 17 | 546 | 539 |
| Cass..... | 1,541 | 1,345 | 225 | 280 | 23 | 17 | 448 | 459 |
| Grand Forks..... | 796 | 758 | 137 | 82 | 13 | 3 | 231 | 232 |
| LaMoure..... | 75 | 81 | 40 | 136 | 1 | 0 | 16 | 15 |
| Mercer..... | 133 | 129 | 45 | 16 | 0 | 0 | 36 | 35 |
| Morton..... | 221 | 221 | 83 | 188 | 3 | 0 | 66 | 71 |
| Ramsey..... | 96 | 93 | 91 | 141 | 5 | 3 | 31 | 31 |
| Ransom..... | 45 | 47 | 35 | 30 | 1 | 0 | 18 | 17 |
| Richland..... | 206 | 189 | 116 | 75 | 13 | 1 | 0 | 0 |
| Stark..... | 364 | 356 | 112 | 36 | 14 | 2 | 134 | 132 |
| Stutsman..... | 314 | 314 | 96 | 42 | 5 | 0 | 102 | 102 |
| Walsh..... | 245 | 222 | 116 | 101 | 5 | 0 | 0 | 0 |
| Ward..... | 506 | 483 | 164 | 60 | 7 | 1 | 475 | 473 |
| Wells..... | 9 | 13 | 8 | 17 | 0 | 0 | 15 | 15 |
| Williams..... | 93 | 87 | 155 | 145 | 8 | 0 | 154 | 160 |
| TOTAL..... | 5,697 | 5,479 | 1,710 | 1,492 | 109 | 46 | 2,304 | 2,314 |

COUNTY JUSTICE COURTS

There are thirty-six county justice courts in North Dakota. County justice courts have jurisdiction to hear misdemeanor and civil money claims not exceeding \$200 in value. They also act as committing magistrates in determining whether a person accused of a felony should be held for trial. The criminal jurisdiction of a county justice court is the same as that of a county court with increased jurisdiction. The civil jurisdiction of a county justice court is limited not only by the amount of the claim, but by its nature. A mechanic's lien, for example, could not be foreclosed in county justice court even though the claim was less than \$200.

A county justice court is not a court of record. An appeal means that the entire proceeding is tried anew. Appeals are taken to the district court.

County justice court also serves as the small claims court. The jurisdiction of the small claims court is confined to the cases for the recovery of money, or the cancellation of any agreement involving fraud, deception, misrepresentation, or false promise. The jurisdictional limitation in county justice court is \$500. Cases

filed in the small claims court cannot be appealed to any other jurisdiction. The finding is final.

While the number of filings, disposition, and pending cases in the civil and noncriminal traffic categories increased in 1980, the number of criminal cases in all three areas decreased. This decrease was due to the decline in the number of misdemeanor filings and dispositions. The number of preliminary hearings in felony matters conducted in county justice courts increased by 6 percent.

Like the county courts with increased jurisdiction, the caseload of the county justice courts is comprised mainly of noncriminal traffic cases (86%), criminal cases (10%), and small claims cases (4%). Mental health cases constitute only a negligible proportion of total filings even though they have increased slightly (21 cases) from 1979 to 1980.

The table below provides a synopsis of caseload activity for county justice courts for the last two calendar years.

**TABLE 17
CASELOAD SYNOPSIS OF COUNTY
JUSTICE COURTS FOR THE 1979 AND
1980 CALENDAR YEARS**

| | 1979 | 1980 | Percent Difference | | 1979 | 1980 | Percent Difference |
|---|--------|--------|-----------------------|--------------------------|--------|--------|-----------------------|
| New Filings..... | 27,344 | 31,308 | 14.5 | Criminal | 4,370 | 4,340 | -.7 |
| Civil | 1,143 | 1,298 | 13.6 | Noncriminal Traffic..... | 22,889 | 26,763 | 16.9 |
| Criminal | 3,312 | 3,247 | -2.0 | Dispositions | 27,276 | 31,238 | 14.5 |
| Noncriminal Traffic..... | 22,889 | 26,763 | 16.9 | Civil | 1,110 | 1,220 | 9.9 |
| Case Carried Over From The Previous Calendar Year | 1,112 | 1,180 | 6.1 | Criminal | 3,277 | 3,255 | -.7 |
| Civil | 54 | 87 | 61.1 | Noncriminal Traffic..... | 22,889 | 26,763 | 16.9 |
| Criminal | 1,058 | 1,093 | 3.3 | Cases Pending As Of | | | |
| Noncriminal Traffic..... | — | — | — | December 31 | 1,180 | 1,250 | 5.9 |
| Total Cases Docketed | 28,456 | 32,488 | 14.2 | Civil | 87 | 165 | 89.7 |
| Civil | 1,197 | 1,385 | 15.7 | Criminal | 1,093 | 1,085 | -.7 |
| | | | | Noncriminal Traffic..... | — | — | — |

TABLE 18

COUNTY JUSTICE COURT CASE FILINGS AND DISPOSITIONS CALENDAR YEAR 1980

| County | Felony | | Misdemeanor | | Noncriminal Traffic | | Noncriminal Traffic | |
|---------------------|------------|------------|--------------|--------------|---------------------|------------|---------------------|---------------|
| | (F) | (D) | (F) | (D) | Convictions | Acquittals | Dismissals | Total |
| Adams | 0 | 0 | 0 | 0 | 400 | 0 | 0 | 400 |
| Billings | 1 | 0 | 73 | 63 | 2,298 | 1 | 0 | 2,299 |
| Bottineau | 0 | 0 | 0 | 0 | 879 | 6 | 1 | 886 |
| Bowman | 4 | 6 | 55 | 50 | 456 | 4 | 0 | 460 |
| Burke | 2 | 2 | 569 | 568 | 454 | 5 | 0 | 459 |
| Cavalier | 1 | 0 | 13 | 13 | 737 | 14 | 3 | 754 |
| Dickey | 12 | 11 | 69 | 70 | 812 | 3 | 1 | 816 |
| Divide | 0 | 0 | 50 | 61 | 377 | 4 | 0 | 381 |
| Dunn | 5 | 4 | 64 | 64 | 565 | 6 | 0 | 571 |
| Eddy | 0 | 0 | 1 | 1 | 295 | 3 | 2 | 300 |
| Emmons | 5 | 7 | 69 | 73 | 327 | 1 | 0 | 328 |
| Foster | 8 | 7 | 54 | 40 | 589 | 1 | 0 | 590 |
| Golden Valley | 0 | 0 | 0 | 0 | 627 | 3 | 0 | 630 |
| Grant | 0 | 1 | 1 | 1 | 521 | 0 | 0 | 521 |
| Griggs | 9 | 10 | 134 | 131 | 645 | 0 | 0 | 645 |
| Hettinger | 0 | 0 | 0 | 0 | 203 | 0 | 0 | 203 |
| Kidder | 5 | 3 | 38 | 35 | 510 | 0 | 0 | 510 |
| Logan | 4 | 5 | 26 | 25 | 306 | 1 | 0 | 307 |
| McHenry | 19 | 17 | 173 | 192 | 1,886 | 6 | 1 | 1,893 |
| McIntosh | 1 | 0 | 65 | 57 | 462 | 1 | 0 | 463 |
| McKenzie | 0 | 0 | 0 | 0 | 2,816 | 7 | 1 | 2,824 |
| McLean | 28 | 17 | 220 | 212 | 2,862 | 26 | 1 | 2,889 |
| Mountrail | 2 | 2 | 100 | 101 | 1,102 | 11 | 0 | 1,113 |
| Nelson | 10 | 10 | 128 | 134 | 954 | 5 | 0 | 959 |
| Oliver | 8 | 2 | 25 | 34 | 338 | 1 | 0 | 339 |
| Pembina | 22 | 20 | 55 | 52 | 1,252 | 7 | 0 | 1,259 |
| Pierce | 15 | 23 | 205 | 232 | 637 | 10 | 1 | 648 |
| Renville | 0 | 0 | 0 | 0 | 225 | 2 | 0 | 227 |
| Rolette | 37 | 35 | 398 | 410 | 830 | 24 | 0 | 854 |
| Sargent | 6 | 6 | 137 | 116 | 223 | 1 | 0 | 224 |
| Sheridan | 0 | 0 | 1 | 1 | 105 | 1 | 0 | 106 |
| Sioux | 0 | 0 | 14 | 15 | 30 | 0 | 0 | 30 |
| Slope | 4 | 4 | 17 | 17 | 161 | 1 | 0 | 162 |
| Steele | 5 | 3 | 26 | 21 | 156 | 0 | 0 | 156 |
| Towner | 1 | 0 | 13 | 12 | 872 | 3 | 0 | 875 |
| Traill | 10 | 8 | 230 | 251 | 675 | 7 | 0 | 683 |
| TOTAL | 224 | 203 | 3,023 | 3,052 | 26,587 | 165 | 11 | 26,763 |

**TABLE 18 (Con't)
COUNTY JUSTICE COURT CASE FILINGS AND DISPOSITIONS CALENDAR YEAR 1980**

| County | Small Claims | | Other Civil | | Mental Health Hearings Held |
|---------------|--------------|--------------|-------------|----------|-----------------------------|
| | (F) | (D) | (F) | (D) | |
| Adams | 0 | 0 | 0 | 0 | 2 |
| Billings | 3 | 3 | 0 | 0 | 0 |
| Bottineau | 0 | 0 | 0 | 0 | 0 |
| Bowman | 8 | 8 | 3 | 2 | 2 |
| Burke | 6 | 6 | 0 | 0 | 0 |
| Cavalier | 1 | 2 | 0 | 0 | 0 |
| Dickey | 170 | 159 | 0 | 0 | 0 |
| Divide | 2 | 1 | 0 | 0 | 0 |
| Dunn | 10 | 3 | 0 | 0 | 0 |
| Eddy | 0 | 0 | 0 | 0 | 0 |
| Emmons | 75 | 79 | 0 | 0 | 0 |
| Foster | 26 | 30 | 0 | 0 | 0 |
| Golden Valley | 0 | 0 | 0 | 0 | 0 |
| Grant | 51 | 51 | 0 | 0 | 1 |
| Griggs | 9 | 10 | 0 | 0 | 1 |
| Hettinger | 17 | 17 | 0 | 0 | 2 |
| Kidder | 12 | 12 | 0 | 0 | 0 |
| Logan | 25 | 26 | 0 | 0 | 0 |
| McHenry | 69 | 70 | 0 | 0 | 0 |
| McIntosh | 15 | 11 | 3 | 3 | 2 |
| McKenzie | 62 | 52 | 0 | 0 | 0 |
| McLean | 83 | 45 | 0 | 0 | 6 |
| Mountrail | 72 | 66 | 0 | 0 | 0 |
| Nelson | 31 | 31 | 0 | 0 | 0 |
| Oliver | 29 | 28 | 0 | 0 | 23 |
| Pembina | 43 | 41 | 0 | 0 | 1 |
| Pierce | 78 | 74 | 0 | 0 | 0 |
| Renville | 0 | 0 | 0 | 0 | 5 |
| Rolette | 134 | 135 | 0 | 0 | 5 |
| Sargent | 46 | 41 | 1 | 0 | 0 |
| Sheridan | 0 | 0 | 0 | 0 | 0 |
| Sioux | 0 | 0 | 0 | 0 | 0 |
| Sioux | 0 | 0 | 0 | 0 | 3 |
| Slope | 3 | 3 | 0 | 0 | 1 |
| Steel | 12 | 11 | 0 | 0 | 1 |
| Steel | 12 | 11 | 0 | 0 | 2 |
| Towner | 0 | 0 | 0 | 0 | 7 |
| Trail | 134 | 135 | 2 | 2 | 7 |
| TOTAL | 1,226 | 1,150 | 9 | 7 | 63 |

COUNTY COURTS

County courts have exclusive original jurisdiction in probate and testamentary matters, including the appointment of administrators and guardians. Thirty-six counties have county courts.

The jurisdiction of the county court is limited strictly by statute and case law. Matters which are closely related to probate and testamentary issues and may arise in a probate case cannot be tried in a county court.

By statutes, appeals are taken from the county court to the district court. North Dakota statutes appear to require the probate proceedings in the county court to be on the record; the current practice is to the contrary. Verbatim transcripts or records of the proceedings are not compiled. The usual method of appeal is a trial de novo in district court and not a trial on the record or transcript of testimony.

There is no requirement that the judge of the county court be trained in the law and the office is usually filled by a lay judge. All county judges run for election every four years. The duty of county judge is combined with the

office of clerk of the district court in the rural counties.

Since the passage of the Uniform Probate Code (UPC) in 1975, there has been a steady reduction in the number of filings of probate proceedings in the county courts in North Dakota. In 1980 probate filings declined by 5 percent compared to an eleven percent decrease in 1979.

Guardianship and conservatorship cases also declined in 1980. While there were 157 such cases filed in 1979, only 87 cases were filed in 1980.

A caseload summary for the county courts is provided in the table below. However, this data should be viewed with caution. For one thing, the procedure established by the Uniform Probate Code makes it very difficult to obtain an accurate count of probate filings, dispositions, and pending cases. Secondly, several county courts did not provide the court administrator's office with caseload information on their courts. Thus, the caseload data for the county courts are probably more suspect than the data for the other courts.

**TABLE 19
CASELOAD SYNOPSIS OF COUNTY COURTS FOR THE 1979 AND 1980 CALENDAR YEARS**

| | 1979 | 1980 | Percent Difference |
|--|-------|-------|--------------------|
| New Filings | 1,592 | 1,453 | -8.7 |
| Cases Carried Over From the Previous Calendar Year | 3,495 | 3,803 | 8.8 |
| Total Cases Docketed | 5,087 | 5,256 | 3.3 |
| Dispositions | 1,284 | 1,263 | -1.6 |
| Cases Pending as of December 31 | 3,803 | 3,993 | 5.0 |



**TABLE 20
COUNTY COURT CASE FILINGS AND DISPOSITIONS
CALENDAR YEAR 1980**

| County | Probate | | Guardianship/Conservatorship | | Total | |
|---------------|--------------|--------------|------------------------------|-----------|--------------|--------------|
| | (F) | (D) | (F) | (D) | (F) | (D) |
| Adams | 32 | 18 | 3 | 1 | 35 | 19 |
| Billings | 10 | 8 | 0 | 0 | 10 | 8 |
| Bottineau | 75 | 59 | 3 | 0 | 78 | 59 |
| Bowman | 50 | 31 | 4 | 1 | 54 | 32 |
| Burke | 61 | 32 | 2 | 3 | 63 | 35 |
| Cavalier | 76 | 58 | 0 | 0 | 76 | 58 |
| Dickey | 29 | 24 | 3 | 0 | 32 | 24 |
| Divide | 68 | 49 | 0 | 1 | 68 | 50 |
| Dunn | 39 | 49 | 5 | 1 | 44 | 50 |
| Eddy | 18 | 5 | 0 | 0 | 18 | 5 |
| Emmons | 30 | 25 | 5 | 3 | 35 | 28 |
| Foster | 2 | 0 | 0 | 0 | 2 | 0 |
| Golden Valley | 25 | 22 | 1 | 0 | 26 | 22 |
| Grant | 25 | 52 | 0 | 0 | 25 | 52 |
| Griggs | 28 | 17 | 2 | 3 | 30 | 20 |
| Hettinger | 23 | 47 | 7 | 1 | 30 | 48 |
| Kidder | 34 | 14 | 2 | 2 | 36 | 16 |
| Logan | 30 | 13 | 0 | 0 | 10 | 13 |
| McHenry | 61 | 64 | 8 | 3 | 69 | 67 |
| McIntosh | 30 | 34 | 1 | 0 | 31 | 34 |
| McKenzie | 63 | 70 | 2 | 0 | 65 | 70 |
| McLean | 63 | 128 | 7 | 8 | 70 | 136 |
| Mountrail | 68 | 75 | 4 | 2 | 72 | 77 |
| Nelson | 53 | 14 | 3 | 0 | 56 | 14 |
| Oliver | 18 | 8 | 2 | 4 | 18 | 12 |
| Pembina | 59 | 42 | 7 | 5 | 66 | 47 |
| Pierce | 23 | 58 | 0 | 0 | 23 | 58 |
| Renville | 28 | 30 | 1 | 0 | 29 | 30 |
| Rolette | 46 | 21 | 3 | 0 | 49 | 21 |
| Sargent | 43 | 29 | 0 | 3 | 43 | 32 |
| Sheridan | 15 | 8 | 0 | 0 | 15 | 8 |
| Sioux | 0 | 0 | 0 | 0 | 0 | 0 |
| Slope | 19 | 24 | 0 | 1 | 19 | 25 |
| Steele | 26 | 14 | 1 | 0 | 27 | 14 |
| Towner | 40 | 24 | 8 | 0 | 48 | 24 |
| Traill | 78 | 55 | 3 | 0 | 81 | 55 |
| TOTAL | 1,366 | 1,221 | 87 | 42 | 1,453 | 1,263 |

MUNICIPAL COURTS

Presently there are 364 incorporated municipalities in North Dakota. Although state law provides that every incorporated city shall have a municipal court, many cities do not. This is due, in part, to the fact many municipalities do not have police officers. Of the total municipalities, 167 cities have municipal courts. There are 157 judges serving these municipalities. Of the total number of municipal judges, 20 are legally-trained. Section 40-18-01, NDCC, requires the municipal judge in a city having a population of 3,000 or more to be an attorney, unless a licensed attorney is not available. The section also permits an individual to serve more than one city as a municipal judge.

In 1980 the traffic caseloads of the municipal courts varied from no cases in very small jurisdictions to over 8,300 cases in Minot. Statewide, North Dakota municipalities disposed of over 52,600 traffic cases. This represented an increase of nearly 15 percent over the 45,894 cases that were disposed of in 1979. As shown in Table 21, most of these dispositions resulted in conviction.

The vast majority (77%) of all traffic cases are processed by ten communities, or less than 2 percent of all the municipalities in the state. Within these ten communities, the greatest increase in traffic dispositions have occurred in those cities which are in the western part of the state. This probably reflects population increases and other social/economic changes brought about by the recent surge of energy development in the western part of the state.

Of the entire caseload of municipal courts, over 91% are administrative traffic cases. Administrative traffic cases can be processed in less time than it takes to dispose of criminal traffic matters. There is a lesser degree of burden of proof for administrative traffic cases. In addition, the vast majority of the less serious traffic cases are disposed of with bond forfeitures. While no judge time is needed to process bond forfeitures, support personnel in the office of clerk of municipal court must account for every citation received by the court.

**TABLE 21
COMPARISON OF ALL MUNICIPAL COURT TRAFFIC DISPOSITIONS
FOR CALENDAR YEARS 1979 AND 1980**

| Type of Disposition | Criminal Traffic Dispositions | | Noncriminal Traffic Dispositions | | Total Traffic Dispositions | | Percentage Difference between 1979 and 1980 Total Traffic Disposition |
|---------------------|-------------------------------|--------------|----------------------------------|---------------|----------------------------|---------------|---|
| | 1979 | 1980 | 1979 | 1980 | 1979 | 1980 | |
| Conviction | 3,583 | 4,022 | 40,259 | 47,362 | 43,842 | 51,384 | 17.2 |
| Acquittal | 387 | 230 | 1,489 | 870 | 1,876 | 1,100 | -41.4 |
| Dismissal | 37 | 27 | 139 | 91 | 176 | 118 | -33.0 |
| TOTAL | 4,007 | 4,279 | 41,887 | 48,323 | 45,894 | 52,602 | 14.6 |

**TABLE 22
SELECTED MUNICIPAL COURT STATISTICS
TRAFFIC CASE DISPOSITIONS
CALENDAR YEAR 1980**

| Municipalities With Highest Case Volume | Criminal Dispositions | | | | Noncriminal Dispositions | | | | TOTAL |
|---|-----------------------|------------|------------|--------------|--------------------------|------------|------------|---------------|---------------|
| | Convictions | Acquittals | Dismissals | Total | Convictions | Acquittals | Dismissals | Total | |
| Bismarck | 368 | 51 | 14 | 433 | 6,135 | 73 | 18 | 6,226 | 6,659 |
| Devils Lake | 224 | 15 | 0 | 239 | 893 | 17 | 0 | 910 | 1,149 |
| Dickinson | 175 | 1 | 0 | 176 | 2,260 | 10 | 1 | 2,271 | 2,447 |
| Fargo | 372 | 0 | 0 | 372 | 5,546 | 1 | 1 | 5,548 | 5,920 |
| Grand Forks | 674 | 48 | 3 | 725 | 4,895 | 307 | 7 | 5,209 | 5,934 |
| Jamestown | 121 | 14 | 0 | 135 | 2,646 | 57 | 1 | 2,704 | 2,839 |
| Mandan | 178 | 9 | 1 | 188 | 1,457 | 52 | 0 | 1,509 | 1,697 |
| Minot | 449 | 45 | 3 | 497 | 7,616 | 203 | 45 | 7,864 | 8,361 |
| Wahpeton | 214 | 12 | 1 | 227 | 1,025 | 27 | 5 | 1,057 | 1,284 |
| Williston | 341 | 2 | 0 | 343 | 3,812 | 4 | 0 | 3,816 | 4,159 |
| TOTAL | 3,116 | 197 | 22 | 3,335 | 36,285 | 751 | 78 | 37,114 | 40,449 |

TABLE 23
**COMPARISON OF MUNICIPAL COURT TRAFFIC CASE DISPOSITIONS
 FOR SELECTED MUNICIPALITIES FOR CALENDAR YEARS 1979 AND 1980**

| Municipalities With Highest Case Volume | Criminal Traffic Dispositions | | Noncriminal Traffic Dispositions | | Total Traffic Dispositions | | Percentage Differ- ence Between 1979 and 1980 Total Traffic Dispositions |
|---|----------------------------------|--------------|-------------------------------------|---------------|-------------------------------|---------------|--|
| | 1979 | 1980 | 1979 | 1980 | 1979 | 1980 | |
| Bismarck | 433 | 478 | 4,977 | 6,226 | 5,455 | 6,659 | 22.1 |
| Devils Lake | 227 | 239 | 1,019 | 910 | 1,246 | 1,149 | -7.8 |
| Dickinson | 97 | 176 | 1,707 | 2,271 | 1,804 | 2,447 | 35.6 |
| Fargo | 258 | 372 | 5,627 | 5,548 | 5,885 | 5,920 | 6.0 |
| Grand Forks | 682 | 725 | 5,378 | 5,209 | 6,060 | 5,934 | -2.1 |
| Jamestown | 165 | 135 | 2,291 | 2,704 | 2,456 | 2,839 | 15.6 |
| Mandan | 190 | 188 | 1,904 | 1,509 | 2,094 | 1,697 | -19.0 |
| Minot | 531 | 497 | 7,512 | 7,864 | 8,043 | 8,361 | 4.0 |
| Wahpeton | 161 | 227 | 947 | 1,057 | 1,108 | 1,284 | 15.9 |
| Williston | 255 | 343 | 1,825 | 3,816 | 2,080 | 4,159 | 100.0 |
| TOTAL | 3,044 | 3,335 | 33,187 | 37,114 | 36,231 | 40,449 | 11.6 |



JUDICIAL PLANNING COMMITTEE

The Judicial Planning Committee (JPC) is the forum for overall planning for judicial services in North Dakota. Established in 1976 by the Supreme Court and chaired by Justice Vernon R. Pederson, the Judicial Planning Committee membership includes all presiding judges and representatives of attorneys, all categories of judges, court support personnel, and the public. The role of the Judicial Planning Committee is to identify, describe, and clarify problem areas which can be referred to judicial leaders and other standing committees for resolution.

The Judicial Planning Committee prepared the **Judicial Master Program for the Biennium Ending June 30, 1981** which was approved by the Supreme Court and sets out the goals, objectives, and tasks for the North Dakota judicial system for the biennium.

The Committee prepared the **North Dakota Judicial Planning Committee Working Papers**, which provide the basis for goals, objectives, and tasks of the **Judicial Master Program**. The **Working Papers** contain a description and analysis of court structures and services, with problems and needs identified for each subject area.

Among the new topics developed in 1980 for the **Working Papers** are discussions of the North Dakota Supreme Court's rulemaking authority, the preservation of historical records by trial courts, and the separation of power problems likely to be encountered in the administration of a unified judicial system in North Dakota.

Other discussions of the Committee focused on such issues as the relationship between courts and social service agencies, the need for procedural rules for original jurisdiction proceedings of the Supreme Court, the development of pattern jury instructions, and the establishment of a uniform records management system for courts.

The Committee also began work on the **Judicial Master Program for the 1981-1983 Biennium** and encouraged the development of a local judicial district planning process in each judicial district. To aid it in its formulation of the **Judicial Master Program for the 1981-1983 Biennium**, the Committee prepared and sent out a questionnaire soliciting public comments concerning the problems with court services and suggestions for improvements.

OTHER STANDING COMMITTEES OF THE SUPREME COURT

Three additional standing committees organized in 1979 continued to assist the Supreme Court in its administrative supervision of North Dakota state courts.

Attorney Standards Committee

The Attorney Standards Committee studies and reviews all rules for attorney supervision. Edmund Vinje II has chaired the committee since its inception.

During 1980 the Committee initiated a study of the senior practice rule, discussed the need for revising the

lawyer advertising and specialization sections of the Code of Professional Responsibility, and considered the issue of the delegation of some Supreme Court authority regarding attorney supervision to the State Bar Association of North Dakota. Upon recommendation by the Committee, the Supreme Court abolished the residency requirement for admission to the bar, established a rule designating the Clerk of the Supreme Court as the agent for service of process for all attorneys belonging to the State Bar Association of North Dakota, and promulgated rules establishing a procedure for review of adverse decisions of the State Bar Board.

Judiciary Standards Committee

The Judiciary Standards Committee, chaired by Lowell Lundberg, studies rules relating to the state's judiciary.

Since its inception, the Judiciary Standards Committee has been in the process of revising the Code of Judicial Conduct. In April, 1980 the Committee submitted a proposal to modify Canon 7 of the Code relating to guidelines of judicial conduct for judicial elections. After a hearing in June on the proposal, the Supreme Court returned the proposal to the Committee for further study.

A Committee proposal to revise the temporary judges rule by creating a statewide pool of temporary judgeship candidates was adopted by the Supreme Court in May. After consideration of the problems regarding the Judicial Qualification Commission's enforcement of the mandatory continuing legal education requirements for municipal judges, the Committee drafted and approved a legislative proposal to allow each municipality the option of establishing a municipal judgeship for the municipality. This legislation will be submitted to the 1981 Legislature.

Court Services Administration Committee

The Court Services Administration Committee studies and reviews all rules and orders pertaining to the administrative supervision of the judicial system. The Committee is currently chaired by William Strutz.

Several of the Committee's recommendations were adopted by the Supreme Court and promulgated as administrative rules or orders. The Court established docket currency standards for district courts, revised the administrative order relating to mental health proceedings in county justice courts by law trained judges, and authorized a court facility guidelines study.

Other matters that the Committee considered included the impact of trial court bail procedures on Indians, revision of the Supreme Court rulemaking process, and appellate procedural rules for agencies not included in the Administrative Practice Act. In addition, the Committee adopted resolutions urging the 1981 Legislature to increase judicial salary and retirement benefits and to pass legislation which eliminates the compensation differences between attorneys serving as temporary judges and retired judges serving as temporary judges.

JOINT PROCEDURE COMMITTEE

The Joint Procedure Committee is composed of ten judges representing the North Dakota Judicial Council, and ten attorneys representing the State Bar Association. It is chaired by Justice Paul M. Sand, North Dakota Supreme Court. Keith Magnusson serves as full-time staff counsel for the committee. The committee is an advisory committee. The North Dakota Constitution, Section 3, authorizes the Supreme Court to "promulgate rules of procedure, including appellate procedure to be followed by all courts of this state ...". The committee's duties include study, discussion, and revision of the procedural rules of North Dakota, including the Rules of Civil Procedure, Criminal Procedure, Appellate Procedure, Evidence, and other rules of pleading, practice and procedure. The committee proposes the adoption of new procedural rules when appropriate.

During 1980, the Committee completed a review of the North Dakota Rules of Civil Procedure. This resulted in the recommendation to the Supreme Court of several amendments to the Civil Rules. Some of these are to conform the rules to recent changes to the Federal Rules, especially in the discovery area. Other amendments are clarifying or housekeeping in nature. The major purpose of this project was to provide an official explanatory note for each rule, as has been previously done for the Criminal, Appellate, and Evidence Rules. An added feature to each note is a list of pertinent cases in which the rule has been interpreted by the North Dakota Supreme Court or a federal court.



The Committee also continued and completed a study on the concept of local court rules. Part of this involved sending a questionnaire to every member of the bench and bar in the state. Approximately 50% of the questionnaires were returned with responses, indicating this topic is important to the bench and bar. An overwhelming majority of the attorneys and increased jurisdiction judges indicated that local court rules are unnecessary and should be eliminated. The district judges were split on these questions. Based on these responses and other considerations, the Committee has recommended to the Supreme Court amendments to Rule 83 NDR CivP, which would have the effect of abolishing local court rules. In conjunction with this, a new set of statewide rules, the North Dakota Rules of Court, have been proposed to replace the Rules of Court for District Courts and any local court rules. This incorporates many of the better rules from these two sets.

Early in 1981, these proposals, along with minor amendments to the Criminal, Evidence, and Appellate Rules, were submitted to the Supreme Court. A hearing is scheduled for February 9, 1981.

The Committee also proposed, and the Court subsequently approved, that starting on July 1, 1981, the rules now contained in our five black loose-leaf binders be printed and published in one paperback book by West Publishing Company.

REPORT OF THE JUDICIAL QUALIFICATIONS COMMISSION

The Judicial Qualifications Commission was created by a statute enacted by the 1975 Legislature. The Commission was given the power to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal or retirement of judges.

Dr. Glenn Smith of Grand Forks serves as chairman and Ronald Klecker of Minot as vice chairman. The other members of the commission are as follows: William

M. Beede, District Judge; Harold B. Herseth, County Judge; Kathy Creighton, Gorman H. King, Sr. and Lowell W. Lundberg. Mr. Gregory Morris serves as staff counsel on a part-time basis. Mr. Morris resigned this position effective January, 1981, to accept other employment.

A summary of the activity of the Judicial Qualifications Commission during 1980 follows:

TABLE 24
SUMMARY OF COMPLAINTS
JUDICIAL QUALIFICATIONS
COMMISSION
FOR THE YEAR 1980

| General Nature of Complaint | Occurrences |
|---|-------------|
| Lack of judicial temperament in court | 4 |
| Failure to comply with the law | 9 |
| Biased decisions | 8 |
| Delay in rendering a decision | 2 |
| Failure to afford complainant due process | 3 |
| Failure to attend judicial seminar as required by North Dakota Century Code | 13 |
| Questionable campaign practices | 1 |
| | <hr/> 40 |
| Disposition of Complaints: | |
| Dismissed | 29 |
| Private censure | 4 |
| Pending | 7 |
| | <hr/> 40 |

Of the 40 complaints filed:

- 20 were against district judges (1 private censure)
- 7 were against county judges with Increased Jurisdiction (1 private censure)
- 13 were against municipal judges (2 private censures)

40

REPORT OF THE DISCIPLINARY BOARD OF THE SUPREME COURT

The Grievance Commission of the Supreme Court was created in 1965. Twelve years later, on July 1, 1977, the Grievance Commission became the Disciplinary Board of the Supreme Court. New rules of procedure provided for increased membership and lay participation.

The present membership consists of seven lawyers and three non-lawyer members. Mr. Ronald Splitt of LaMoure, serves as chairman and David L. Peterson of Bismarck, as vice chairman. The other lawyer members are: Malcolm H. Brown, Jake C. Hodny, H.G. Ruem-

mele, Raymond R. Rund, and Mark L. Stenehjem. The non-lawyer members are: Ruth Meiers, Alice Olson and Bea Peterson. Mr. Gregory Morris serves as staff counsel on a part-time basis. Mr. Morris resigned this position effective January, 1981, to accept other employment.

A total of 85 complaints were filed with the Board in 1980 as compared with 51 in 1979, an increase of 66%. The nature of the complaints and the disposition are listed below.

TABLE 25
SUMMARY OF DISCIPLINARY BOARD COMPLAINTS
1980

| Nature of Complaint | Dismissed | Private Reprimand | Disciplinary Proceedings | Pending |
|---|-----------|-------------------|--------------------------|-----------|
| Neglect, delay or incompetent representation | 23 | 1 | 3 | 6 |
| Alleged criminal conduct, fraud, use of trust funds | 4 | | 1 | 1 |
| Excessive fees or failure to account for expenses | 2 | | | 2 |
| Failure to communicate | 3 | 1 | | 5 |
| Probate Problems | 3 | | 2 | 4 |
| Conflict of interest, multiple clients | 3 | | | 1 |
| Practicing without a license | | | | |
| Threats, improper conduct | 12 | | 1 | 7 |
| Withdrawal as attorney without explanation | | | | |
| Total complaints filed — 85 | 50 | 2 | *7 | 26 |

*1 Suspension based on criminal conviction

3 complaints each against two individuals — disciplinary proceedings instituted — no decision reached



JUDICIAL COUNCIL

The North Dakota Judicial Council was established as an arm of the judicial branch of state government in 1927. Present statutory language governing the Judicial Council is found in Chapter 27-15, NDCC.

The Council is composed of the following members:

1. All judges of the Supreme court, district courts, and county courts with increased jurisdiction of the state;
2. The attorney general;
3. The dean of the school of law of the university;
4. Five members of the bar who are engaged in the practice of law who are chosen by the executive committee of the state bar association;
5. All retired judges of the supreme and district courts of the state; and
6. Two judges of the county court without increased jurisdiction; two county justices, and two municipal judges, selected by the North Dakota Supreme Court.

In general, the Judicial Council is given the duty to make a continuous study of the judicial system of the

state to the end that procedure may be simplified, business expedited and justice better administered. The sixty-five members of the Council serve without compensation, but are allowed necessary expenses which are incurred in the discharge of their duties. The Chief Justice of the North Dakota Supreme Court serves as Chairman of the Judicial Council.

There are two regular meetings of the Judicial Council held each year and the chairman may call special meetings from time to time.

The Judicial Council employs an executive secretary to assist in its duties. Through the Council, the executive secretary is empowered to gather and publish statistical data concerning the courts, judges, and officers, thereof; to make recommendations to the Council for improvement of the judicial system; to hold public hearings on behalf of the Council; and in general to lend any assistance to the Council in its efforts to improve the state's judicial system.

MEMBERSHIP OF THE NORTH DAKOTA JUDICIAL COUNCIL

JUSTICES OF THE SUPREME COURT

Ralph J. Erickstad, Chief Justice, Bismarck
Wm. L. Paulson, Justice, Bismarck
Vernon R. Pederson, Justice, Bismarck
Paul M. Sand, Justice, Bismarck
Gerald W. VandeWalle, Justice, Bismarck

JUDGES OF THE DISTRICT COURTS

NORTHWEST JUDICIAL DISTRICT

* Wallace D. Berning, Minot
Everett Nels Olson, Minot
Jon-R. Kerian, Minot
Wm. M. Beede, Williston

NORTHEAST JUDICIAL DISTRICT

* Douglas B. Heen, Devils Lake
James H. O'Keefe, Grafton
Wm. A. Neumann, Rugby

NORTHEAST CENTRAL JUDICIAL DISTRICT

* A.C. Bakken, Grand Forks
Kirk Smith, Grand Forks
Joel D. Medd, Grand Forks

SOUTHWEST JUDICIAL DISTRICT

* Norbert J. Muggli, Dickinson
Lyle G. Stuart, Hettinger

EAST CENTRAL JUDICIAL DISTRICT

* Norman J. Backes, Fargo
John O. Garaas, Fargo
Lawrence A. Leclerc, Fargo
Michael O. McGuire, Fargo

SOUTHEAST JUDICIAL DISTRICT

* Robert L. Eckert, Wahpeton
Hamilton E. Englert, Valley City
M.C. Fredricks, Jamestown

SOUTH CENTRAL JUDICIAL DISTRICT

* Benny A. Graff, Bismarck
Gerald G. Glaser, Bismarck
Larry M. Hatch, Bismarck
Wm. F. Hodny, Mandan
Dennis A. Schneider, Bismarck

JUDGES OF THE COUNTY COURTS WITH INCREASED JURISDICTION

C. James Cieminski, Valley City
Donald J. Cooke, Fargo
Ronald M. Dosch, Devils Lake
Wm. G. Engelter, Mandan
Thomas D. Ewing, Dickinson
Halvor L. Halvorson, Minot
Harold B. Herseth, Jamestown
Frank J. Kosanda, Grand Forks

Samuel D. Krause, Fessenden
Bayard Lewis, Wahpeton
Robert Mandel, Stanton
Ann C. Mahoney, Minnewaukan
George Margulies, Lisbon
Thomas W. Nielsen, LaMoure
Burt L. Riskedahl, Bismarck
Theodore Weisenburger, Grafton
Burt L. Wilson, Williston

JUDGES OF THE COUNTY JUSTICE COURTS

R.C. Heinley, Carrington

Paul T. Crary, Wahalla

JUDGES OF THE COUNTY COURTS WITHOUT INCREASED JURISDICTION

R.M. Lundberg, Washburn

Ross McNea, Bottineau

JUDGES OF THE MUNICIPAL COURTS

Robert Brown, Mayville

Daniel Buchanan, Jamestown

RETIRED JUDGES OF THE SUPREME AND DISTRICT COURTS

Emil A. Giese, Green Valley, AZ
C.F. Kelsch, Mandan
Roy A. Ilvedson, Minot

Eugene A. Burdick, Williston
Roy K. Redetzke, Eugene, OR
Wallace E. Warner, Green Valley, AZ

ATTORNEY GENERAL

Allen I. Olson, Bismarck

U.N.D. SCHOOL OF LAW

Karl Warden, Grand Forks

MEMBERS OF THE BAR

J. Philip Johnson, Fargo
Ward Kirby, Dickinson
Joseph C. McIntee, Towner

Patrick J. Maddock, Grand Forks
Walfrid B. Hankla, Minot

EXECUTIVE SECRETARY

William G. Bohn

*Designates Presiding Judge

END