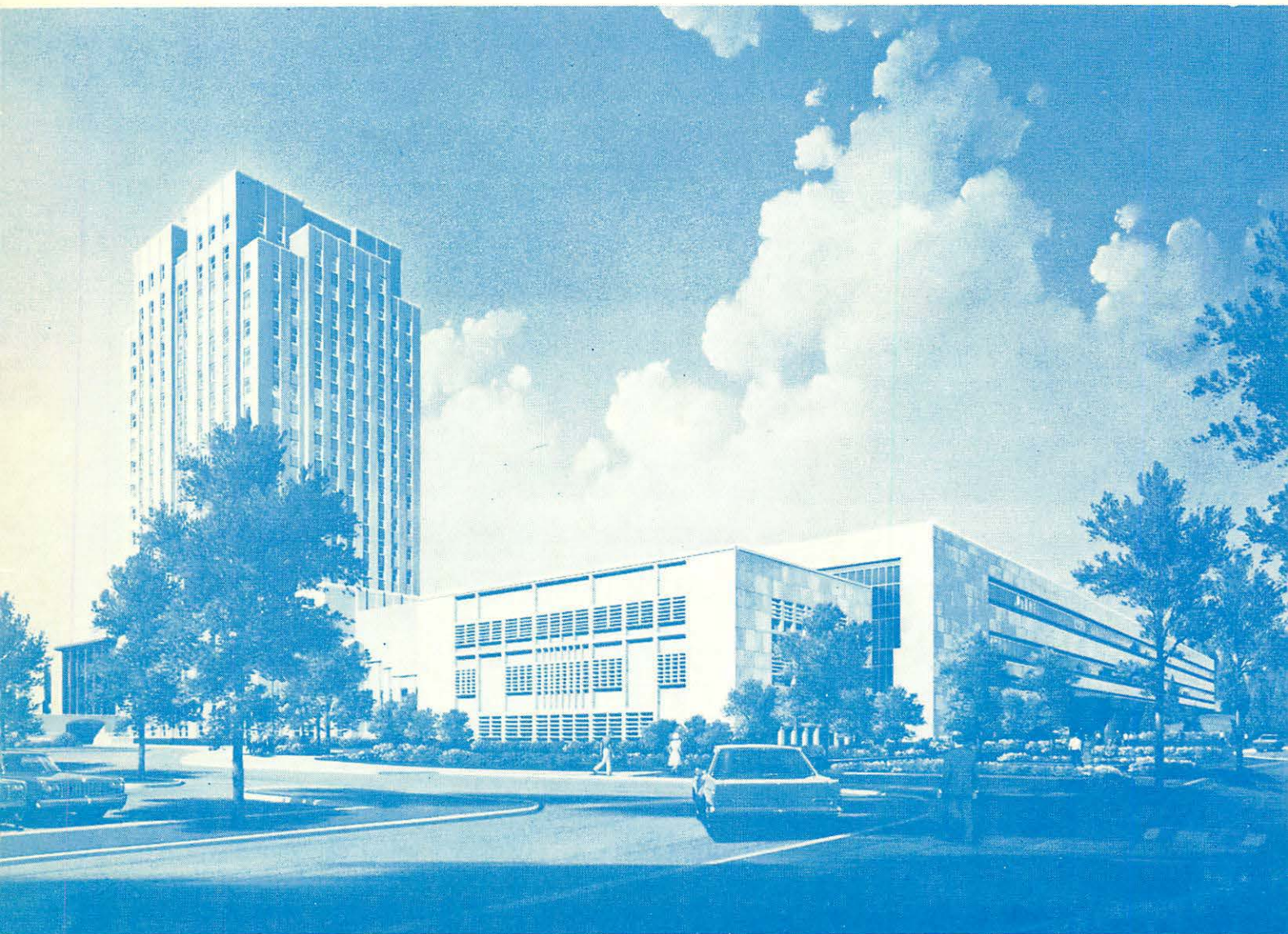


# NORTH DAKOTA JUDICIAL COUNCIL

*Annual Report*

1979



WILLIAM G. BOHN  
*Executive Secretary*

*The new Supreme Court addition to the Capitol Building. To the rear of the Supreme Court is a general government building addition. Completion is scheduled for the spring of 1981.*



# **NORTH DAKOTA JUDICIAL COUNCIL**

## *Annual Report*

CALENDAR YEAR 1979

WILLIAM G. BOHN  
*Executive Secretary*

*On A Foundation of Justice Are Reared Stones of Trust*

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



State of North Dakota  
JUDICIAL COUNCIL

WILLIAM G. BOHN  
EXEC. SECY AND TREAS

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

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

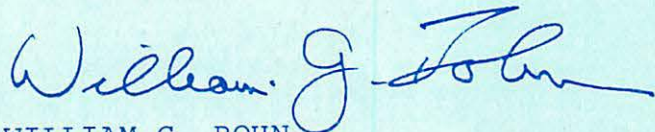
TO THE HONORABLE MEMBERS OF THE  
NORTH DAKOTA JUDICIAL COUNCIL:

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, 1979.

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 goes to the staff of the Court Administrator's Office for their diligent work in compiling the statistics and designing the format for this report.

Respectfully submitted,



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



## TABLE OF CONTENTS

Separation of Powers and the Judicial Funding Process .....	6
North Dakota Judicial System.....	8
Supreme Court .....	9
Report of Clerk of the Supreme Court .....	10
Office of State Court Administrator.....	13
District Courts .....	16
Report of the Northwest Judicial District.....	27
Report of the Northeast Judicial District .....	28
Report of the Northeast Central Judicial District .....	29
Report of the East Central Judicial District.....	30
Report of the Southeast Judicial District .....	31
Report of the South Central Judicial District .....	32
Report of the Southwest Judicial District.....	33
County Courts with Increased Jurisdiction.....	34
County Justice Court .....	36
County Courts .....	39
Municipal Courts.....	41
Report of the Judicial Qualifications Commission.....	42
Report of the Disciplinary Board of the Supreme Court.....	43
Joint Procedure Committee .....	44
Judicial Planning Committee.....	45
Judicial Council.....	47



## SEPARATION OF POWERS AND THE JUDICIAL FUNDING PROCESS

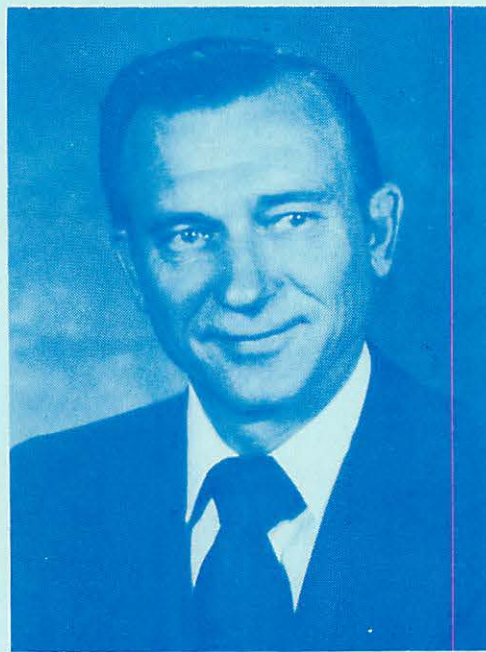
VERN NEFF, ESQUIRE,  
*President, North Dakota Bar Association 1978.*  
*Private Practice of Law in Williston, North Dakota*

A review of *The Federalist* papers brings into focus the concerns of the delegates, who attended the Constitutional Convention of 1787, that the powers delegated to a national government by the new constitution would submerge the states. Less discernible was the concern of the delegates that, of the three co-equal branches created by the Constitution, the judicial branch was the weakest and consequently the most vulnerable. Alexander Hamilton, as one of the three authors of *The Federalist* papers, assumed the responsibility of allaying the obvious concerns of the Colonists. He wrote convincingly that this new Constitution for a United States of America, not only delegated limited powers to a Federal government but also divided authority within its three co-equal branches as well as between the States and a central government. Hamilton's argument focused on the manner in which the branches were arranged. This arrangement, he contended, provided self-restraining safeguards. The first of these safeguards has been termed "Federalism" and the latter "Separation of Powers." This last principle is a subsumption in every judicial funding process.

The doctrine of "Separation of Powers" ascribes to the legislative branch the power to enact laws. It ascribes to the executive branch the power of administration of those laws and it ascribes to the judicial branch the powers of interpretation and enforcement. What the law does not forbid, it allows. Each branch of government thus owes its existence to the Constitution which created it and each sustains and nurtures the other. Each branch of government thus has a vested and abiding interest in the continuing viability of its two co-equal counterparts.

There is, however, both a theoretical and practical difference in the way in which the three branches of government in our Federal-State Republic respond to the electorate and in how each exercises power.

The legislative branch functions as the law-enacting body. It functions, however, only when someone, in or outside that body, who wants a law enacted, prods, nudges or pushes for its enactment. The initial impetus is always to influence the conduct of others. Without the perceived need for the law, those seeking its enactment would not have been moved to nudge, prod or push those to whom has been delegated the power to enact. The interest of the initial perceiver might be altruistic, selfish or vindictive. However, in all cases, there are adverse interests, heard or unheard.



So also with the executive branch which administers legislative enactments. Similarly, each decision made within the executive branch of government is made knowing full well that there may be adverse interests heard or unheard. The impetus to action is again, either generated internally or by someone from without, with altruistic, selfish or vindictive motives.

The situation is the same within the judicial branch of government. Courts do not decide unless requested to do so. Again there are adverse interests heard or unheard. As with the other two branches, the impetus to action is initiated by someone with altruistic, selfish or vindictive motives. Here, however, there exists a difference. The judicial branch is the least likely of the three branches to initiate change from within. Indeed, in most instances it is powerless to do so. Its chief function is to decide between contending adversaries who disagree on the constitutionality, interpretation, applicability or enforcement of legislative enactments or executive actions.

It would seem to follow that so long as our Federal-State system functions within the limits of tolerance which each citizen has set for himself, he or she will not be moved to prod, nudge or push the system to reshape itself or our society. Therefore, it is incumbent upon each of the three co-equal branches to measure their actions against those principles which will not only perpetuate the con-



stitutional scheme but more importantly to make it work. Ideally the best action is that action which prompts the fewest number of the citizenry to be impelled to prod, nudge or push. Each branch thus, in a sense, also becomes the guardians of the powers and prerogatives of the other two. In so doing each preserves and perpetuates its own continued existence. To the extent this historical lesson is overlooked by those within any of the three branches, public probity concentrates on reducing the power of any branch perceived by the public to be over balancing either or both of its two counterparts.

Hamilton perceived the judicial branch to be the weakest. He wrote:

"...the judiciary is beyond comparison, the weakest of the three departments of power, that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks. It equally proves, that, though undivided oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter: I mean so long as the judiciary remains truly distinct from both the legislative and executive. For I agree, that 'there is no liberty, if the power of judging be not separated from the legislative and executive powers.'" (1)

He went on to say that "from the natural feebleness of the judiciary, it is in continued jeopardy of being overpowered, awed or influenced by its coordinate branches." (2)

The interdependency of the three branches of government is a factor often times overlooked in the budgeting process. In this process the judicial branch can propose but only by invoking its seldom used "inherent powers" can it dispose. In the usual course of events the budgetary process is initiated by the executive branch after which it becomes subject to the vagaries of the legislative process. Funds are frequently scarce. Compromise between desire and reality is inevitable. Difficult choices between competing priorities must constantly be made. In this process, however, it is essential for all involved to keep Hamilton's concerns in mind. This requires that the funding of the judicial branch be considered differently during the process of allocating between competing priorities. It cannot, like the legislative appropriation nor can it like the executive veto an appropriation bill.

There is, however, a seldom invoked power, available to the courts to insure the continued viability of the judicial branch of government. Courts may go to court, and in fact have, to secure orders requiring the expenditure of public money to permit the effective operation of the judicial

branch of government. When established methods fail, this right of the judicial branch to go to court to insure funding essential for it to discharge its mandated functions is an "inherent power" of the judicial branch. (3)

In 1976 the people of North Dakota mandated a review and overhaul of the Judicial Article of our Constitution, the first such major change since statehood in 1889. Legislation to flesh out an integrated court system for North Dakota, both as to form and funding, has and will continue to involve all branches of our state government. As we approach this task some conclusions can be drawn from the problems of restructuring and funding the judiciary experienced by other states as well as our own experience.

**First:** Each co-equal branch of government is the guardian of the powers and prerogatives of the other two.

**Second:** So long as our state system functions within the limits of tolerance each citizen has set for himself, he or she will not nudge, prod or push the system to reshape itself.

**Third:** Maintenance of a working relationship between the judicial and other branches of government deteriorates if the judicial branch goes beyond the established political budgetary process for support or self help.

**Fourth:** Courts that have invoked their "inherent power" as a last resort measure risk deteriorating the established legislative-executive-judicial relationships that rely, for workability, upon a common sense of history. The loss that results reduces the effectiveness of each of the three branches.

**Fifth:** The power of the "inherent power" lawsuit, is in the realization that it is and has been used as a measure of last resort to adequately fund the judicial branch sufficiently to permit it to discharge its mandated responsibility. As such it insures and reinforces the concept of judicial independence.

If North Dakota approaches the task of creating an adequately funded restructured court system as a responsibility, mandated by the people, and with the realization that we are funding a co-equal branch of government, and not a subordinate agency or department of either the executive or legislative, the task which needs to be performed is clearer though not necessarily easier.

(1) Alexander Hamilton, *The Federalist*, paper No. 78.

(2) *Ibid.*

(3) *O'Coin v. Worcester*, 287 N.E. 2d, 608 (Mass. 1972); *Judges in the Third Circuit v. County of Wayne*, 172 NW2d 435 (Mich. 1969), Modified 190 NW2d 228 (Mich. 1971); *Commonwealth, ex. rel. Carroll v. Tate*, 442 Pa. 45, 274 A. 2d 193 (1971).

See also: *State ex. rel. Hillis v. Sullivan* 48 Mont. 320; 137 Pac. 392, 395 (1913) where the court stated:

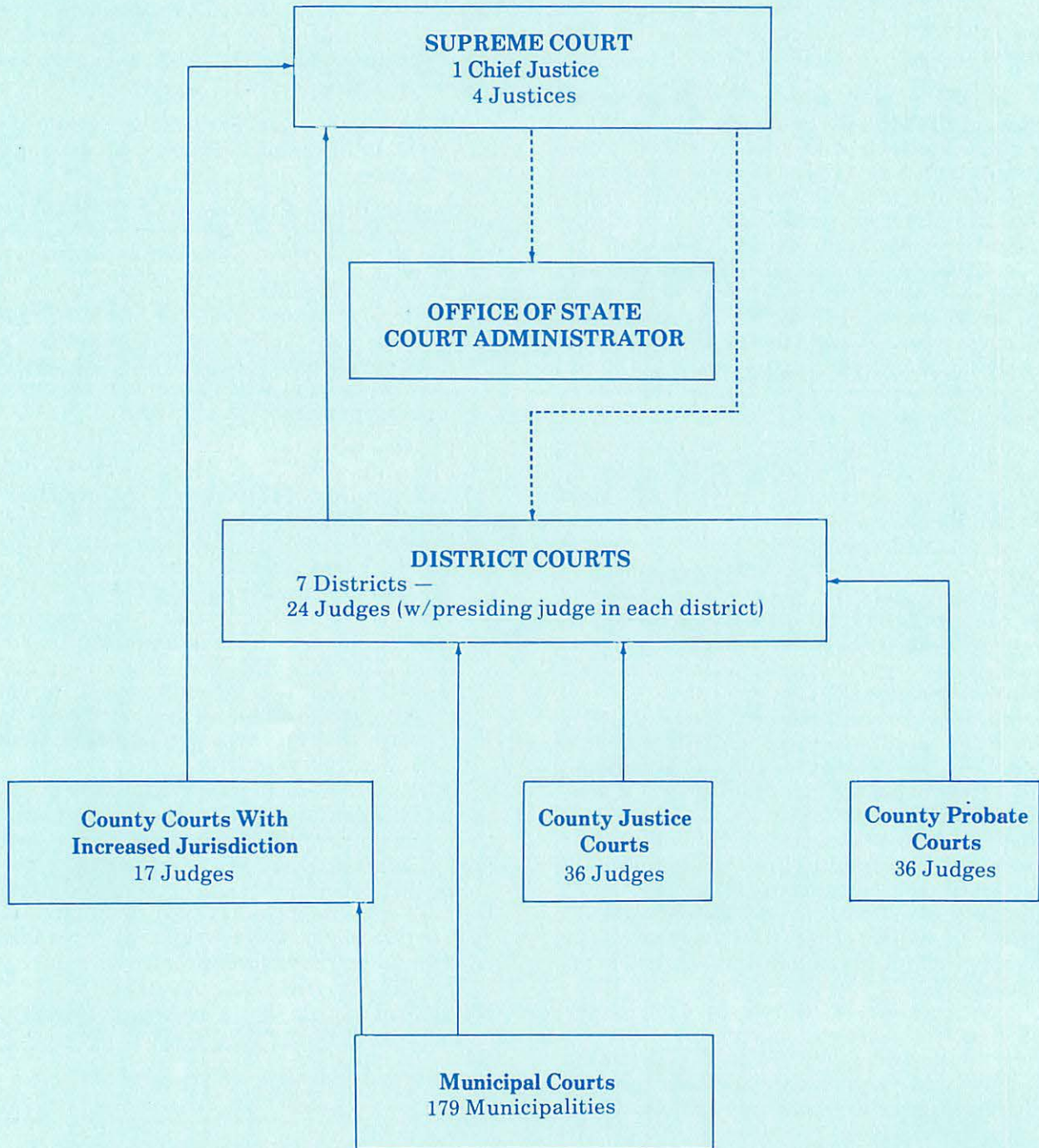
"This very conception of inherent power (in the court) carries with it the implication that its use is for occasions not provided for by established methods."



# NORTH DAKOTA JUDICIAL SYSTEM

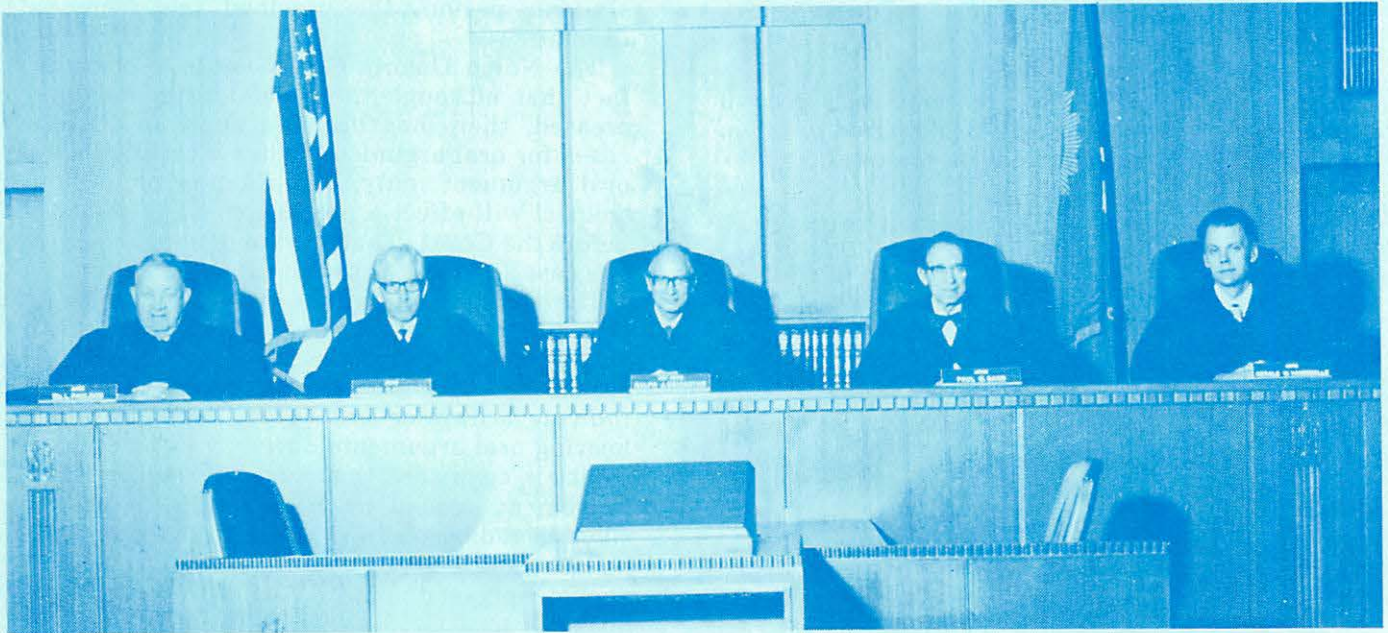
-----  
*Administrative route*

-----  
*Appeals route*





## 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 is the highest court for the State of North Dakota. It is the "court of last resort" in the state for all disputes or legal controversies concerning state law under the North Dakota State Constitution.

Under constitutional provisions relative to the separation of powers and the court's supervisory

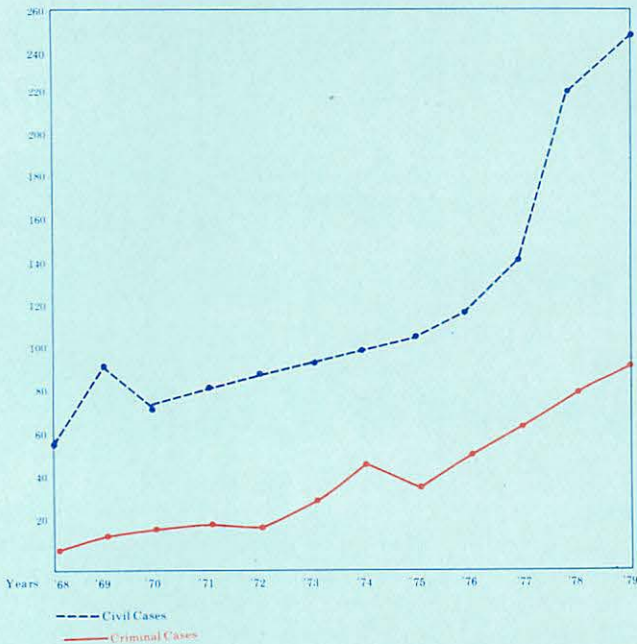
responsibility over all inferior courts, the Supreme Court has administrative responsibility in respect to the judicial branch of government. With the caseload of the system increasing from the standpoint both of numbers and complexity, administrative problems of some considerable magnitude must be addressed.



## REPORT OF THE CLERK OF THE SUPREME COURT

When the Supreme Court business for 1979 was tallied 320 cases had been filed or completed by the Court during the year. This surpassed the record-breaking number of 289 cases in 1978 and represents an increase of approximately 10.7% in court volume. The largest increase was in civil cases filed — 223 cases in 1978 compared to 245 in 1979. The increase in criminal cases was about 3%.

SUPREME COURT  
CIVIL AND CRIMINAL CASES FILED OR COMPLETED DURING 1979



Despite the ever-increasing caseload, by September 1, 1979, the Justices of the Supreme Court had rendered decisions in all cases that had come before it. This marked the sixth consecutive

year the Court started its fall term with all cases decided. It is significant to note that during that six-year period, the caseload has increased a dramatic 70%.

The North Dakota Court can take pride in the fact that although the caseload has steadily increased, there has been no delay in scheduling cases for oral argument. When a case is ready for oral argument, only a stipulation or motion by counsel will effect a postponement of the hearing before the Court. The interval between completion of a case and oral argument averaged 36 days.

The Court has continued to afford all litigants the full time prescribed by the rules for oral argument, that is, 45 minutes for the party taking the appeal and 30 minutes for the response. Records indicate 53 days or 1,325 judge hours were spent in hearing oral arguments during 1979. The Supreme Court is cognizant that many states have had to implement special methods to deal with delay, such as reduction in time for oral argument, appellate settlement conferences, oral decision docket, special dismissal docket, or an accelerated docket.

As stated in last year's report, in order to keep cases moving according to the time prescribed by the Rules of Appellate Procedure, all cases are monitored by the Clerk of the Supreme Court from filing of the Notice of Appeal until the date of argument. Motions for extensions of time are granted only in cases where good cause is shown.

An analysis of the time involved in the preparation of an appeal reveals that in all but two categories the average time consumed to perfect an appeal was actually less than that provided by the rules. Lawyers, court reporters, court personnel and judges are to be commended for this enviable record.





**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	
	CIVIL	CRIMINAL	CIVIL	CRIMINAL	CIVIL	CRIMINAL
From filing Entry of Judgment to filing Notice of Appeal	60*	20*	41	25	49	10
From filing Notice of Appeal to filing of Complete Record	50	50	44	38	48	40
From filing of Complete Record to filing Appellant's Briefs	40	40	43	46	45	35
From filing Appellant's Briefs to filing Appellee's Briefs	30	30	32	30	32	28
From At issue (case ready for calendaring) to Hearing	N/A	N/A	38	43	42	30
From Hearing to Decision	N/A	N/A	49	54	77	58

\*It should be noted certain motions may toll the time prescribed by the rules.  
*All time is computed in days.*

To illustrate, the Rules of Appellate Procedure allow a total of 180 days in civil cases and 140 days in criminal cases from the notice of entry of judgment in the lower court to perfection of the appeal in the Supreme Court. A review of the cases completed in 1979 shows the average time for perfection of an appeal in civil cases was 174 days or 6 days less than that provided by the rules, and in criminal cases the average was 113 days or 27 days less than the rules permit. This demonstrates a maximum effort on the part of lawyers and court personnel.

Records indicate the average time for disposition of a civil case by the Supreme Court was 77 days, that is, from date of oral argument until decision. In criminal cases decision time was only 58 days.

The number of majority opinions filed increased from 133 in 1978 to 171 in 1979. The number of opinions per judge varied from 33 to 36. Special concurring and dissenting opinions were written in 23 cases for a total of 194 opinions. Petitions for rehearing were filed and considered by the Court in 53 cases. The Court issued written opinions in four cases on petitions for rehearing.

**DISPOSITION OF  
CASES BY WRITTEN OPINION**

Affirmed.....	115
Modified.....	2
Reversed.....	12
Reversed and Remanded.....	28
Certified Questions Answered.....	1
Discipline Imposed.....	4

Dismissed.....	3
Writ Denied.....	6

Formal disciplinary proceedings against attorneys in four cases resulted in two suspensions, one probation and one public reprimand.

The Court considered a total of 442 motions in 1979.

Raw statistics do not reflect the varying complexity of cases heard by the Supreme Court. Some cases require many more judge hours. The statistics relating to judge hours per case are not available. The increasing number of complex cases together with the mounting caseload continues to be a serious concern to the judiciary and members of the Bar.

On Law Day, May 1, 1979, the members of the North Dakota Bar offered free consultation to the public. The courts were encouraged not to schedule cases so as to permit lawyers to be available for consultation. The North Dakota Supreme Court observed Law Day by conducting tours of the Court facility and affording the public an opportunity to visit with the Justices.

The Judicial Article approved by the electors on September 7, 1976, provided the state should be divided into judicial districts by order of the Supreme Court. The Court held hearings on the proposed judicial redistricting plan at Grafton, Fargo, and Bismarck before it adopted the present plan which became effective July 1, 1979. The Court order increased the judicial districts from six to seven and ordered certain boundary changes.



The new Judicial Article of the State Constitution authorizes the Supreme Court to promulgate rules of procedure to be followed by the courts of this state. This year the Supreme Court, after due notice and hearing, promulgated amendments to the Rules of Civil Procedure, Rules of Criminal Procedure, Rules of Evidence, Rules of Disciplinary Procedure, and Code of Professional Responsibility.

The Court also promulgated eight different administrative rules or orders in 1979 dealing with such subjects as judicial boundaries, designation of chambers and presiding judges, and assignment of cases during transition to new judicial boundaries. Other administrative rules dealt with jury selection procedure, procedure for appointment of temporary judges and powers and duties of court officials. Continued for a period of six months, on an experimental basis, was the order permitting cameras and electronic recording equipment in the appellate court.

In 1979, district judges sat with the Supreme Court in 24 cases in which Supreme Court Justices were disqualified. The Supreme Court gratefully acknowledges the assistance of:

The Honorable Norman J. Backes  
The Honorable A.C. Bakken  
The Honorable William M. Beede  
The Honorable Eugene A. Burdick,  
Supreme Court Commissioner  
The Honorable Robert L. Eckert  
The Honorable Ray R. Friederich, deceased  
The Honorable Gerald G. Glaser  
The Honorable Larry M. Hatch  
The Honorable Douglas B. Heen

The Honorable Roy A. Ilvedson  
The Honorable Clifford Jansonius,  
Supreme Court Commissioner  
The Honorable Norbert J. Muggli  
The Honorable James H. O'Keefe

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. The justices serve on several committees. Some of the major assignments are:

Justice Wm. L. Paulson is the court's representative to the Appellate Judges Conference and to the National Center for State Courts.

Justice Paul M. Sand has served as chairman of the Joint Procedure Committee for a number of years.

The Judicial Planning Committee is chaired by Justice Vernon R. Pederson.

Justice Gerald W. VandeWalle serves as vice-chairman of the Court Services Administration Committee.

Chief Justice Ralph J. Erickstad is a member of the Executive Board of the National Conference of Chief Justices.

During 1979 Chief Justice Erickstad was elected by Supreme and District Court judges to his second five-year term as Chief Justice.

Justice VandeWalle was elected at the general election in 1978 to a six-year term as a Supreme Court Justice and began that term on January 1, 1979.





## OFFICE OF STATE COURT ADMINISTRATOR

Section 87 of the North Dakota Constitution provides for the appointment of a court administrator for the unified judicial system. Through rule of the Supreme Court, the appropriation process, the provision of judicial education services, statewide planning for judicial needs, coordination of technical assistance to all levels of the judiciary are provided by the Office of State Court Administrator.

### Legislation

In 1979, there was an active legislative session. House Bill 1066 was introduced providing for unification of the state courts following a Constitutional Amendment passed by the citizens in 1976. The bill provided for a two-tiered trial court with district courts and municipal courts. The bill provided for election of Associate District Judges with broader jurisdiction than our present county courts.

The bill was passed by the House of Representatives and failed in the Senate. As a result, an interim study of the Judiciary "A" Committee of the Legislative Council was approved. During 1979 and 1980, Judiciary "A" will study alternatives and recommend legislation for the 1981 session.

A new staff position for the Court Administrators Office was approved. The position of Juvenile Services Coordinator was filled in 1979. While North Dakota is guided by the Uniform Juvenile Court Act, there are many interpretations applied. There is a need to standardize procedures in our juvenile courts throughout the state. The need for uniform juvenile personnel standards for recruitment and promotion are needed as the judiciary looks toward state assumption of judicial costs.

As reference guides are a valuable resource for judges and support staff, the preparation of a juvenile court bench guide will assure a degree of uniformity. It will not remove discretion from the juvenile courts, but will help to assure similar treatment and disposition of cases throughout the state.

### Judicial Education

During 1979, three hundred ninety-five (395) judges, clerks of court, juvenile court personnel, and court reporters were involved in eleven in-state judicial educational programs. The first annual Bench/Bar Seminar was successful. Two hundred fifty (250) judges and attorneys participated in the seminar. This program was the first opportunity for the two groups to get together in a seminar setting.

The first use of public television occurred in the spring of the year. Four one-half hour programs on recent United States and North Dakota Supreme Court cases were analyzed. Faculty from the University of North Dakota Law School conducted the series.

Use of public television will receive increased attention in years to come. With critical shortages of petroleum, adult education programs are using public television to augment conventional programming.

Work commenced on a video program covering personnel involved in juvenile courts and how juvenile cases are processed. When completed, the program will be aired on public television. Copies of the video tape will be available for public speaking occasions and orientation for new juvenile court personnel.

Two programs were sponsored in cooperation with the Continuing Education Division of the Minnesota Judiciary. With many specialty areas of the law, cost effectiveness of programming can only be achieved when rural states cooperate. A judicial writing program for limited and general jurisdiction judges was held in Minnesota. Five North Dakota judges participated in the program. During the summer a multi-state program for new law clerks at the appellate and trial court level was conducted. This was the second year a program of this nature has been held.

With continued cutbacks in the availability of certain federal grant funds, opportunities to attend out-of-state programs is becoming more limited. Greater emphasis will have to be placed on in-state opportunities. This trend will probably increase in the 1980's. With mandatory training required of limited jurisdiction judges, greater reliance on the state appropriation for continuing judicial education will be an objective.

### Judicial Planning

Various committees involved in judicial planning addressed a variety of issues in 1979. Docket currency standards for general trial courts was an area that received considerable attention. The standards outline specific time frames for the processing of civil and criminal cases. An orderly mechanism for reviewing the status of cases is valuable in the overall administration of the judiciary.

New judicial district boundaries were set by the Supreme Court. Caseload imbalance and very large geographical districts were two considerations leading to an intensive study and final adoption of new judicial district boundaries.

During the year a new biennial plan was approved. Goals and objectives were set for the biennium starting July 1, 1979. A more extensive review of planning related activities is covered later in the annual report.

### Court Administration

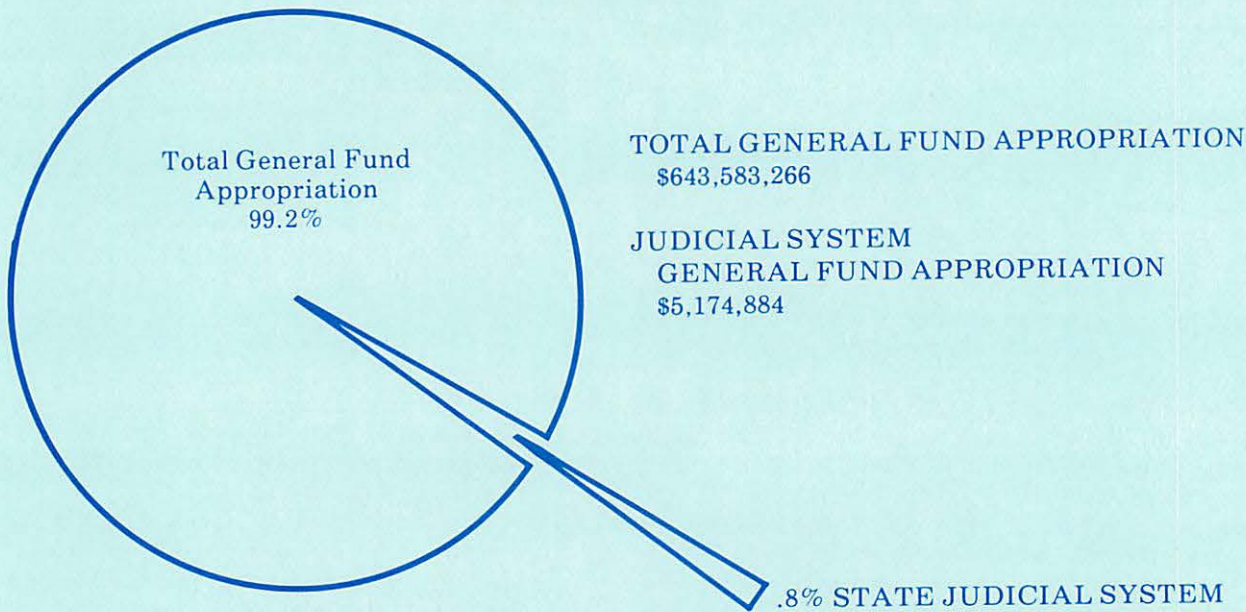
Coordination of Judicial Council committees, planning for the new Supreme Court facility, overseeing the appropriation, special projects, and working with interim legislative committees are



part of the ongoing efforts of the office. A major activity is the management of our state information system. Case by case information is provided to district, juvenile, county judges and ap-

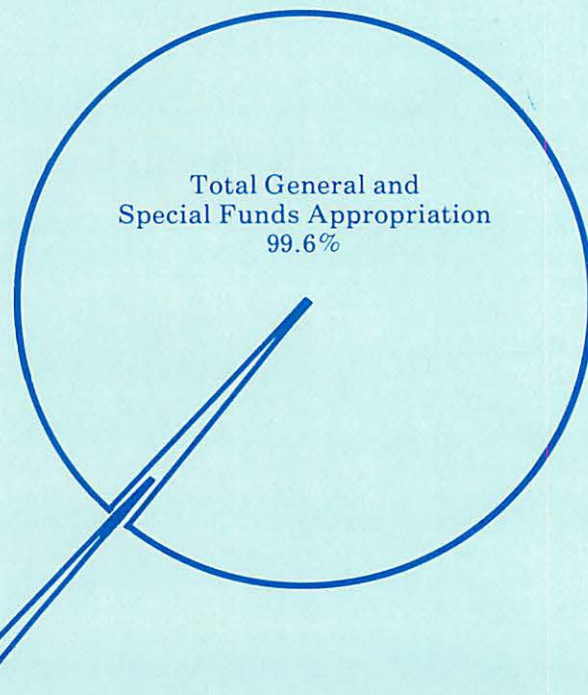
propriate administrative and clerical personnel on a monthly basis. Staff of the Office of State Court Administrator consists of the court administrator, three professional and five support personnel.

### STATE JUDICIAL SYSTEM APPROPRIATION 1979-81 BIENNIUM



TOTAL GENERAL AND  
SPECIAL FUNDS APPROPRIATION  
\$1,422,701,063

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

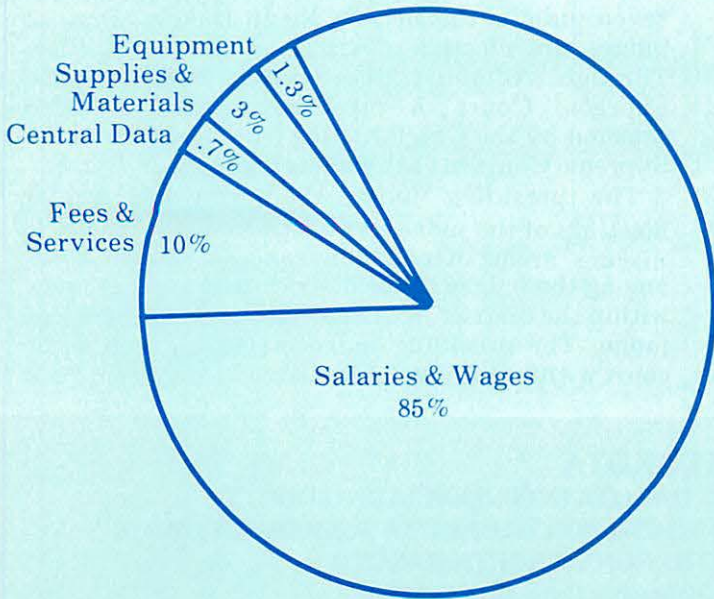


STATE JUDICIAL SYSTEM .4%

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



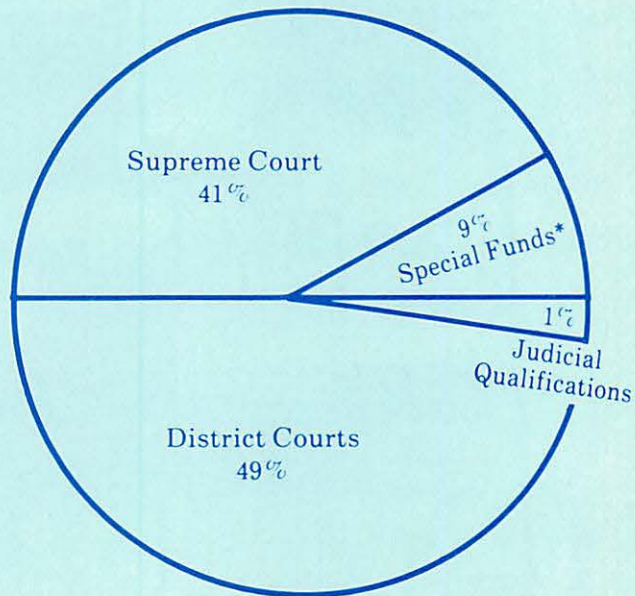
**STATE JUDICIAL SYSTEM APPROPRIATION  
1979-81 BIENNIUM**



**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

<b>SUPREME COURT</b>	
GENERAL FUND .....	\$2,301,788
SPECIAL FUNDS.....	\$ 272,854
<b>DISTRICT COURTS</b>	
GENERAL FUND .....	\$2,808,339
SPECIAL FUNDS.....	\$ 151,000
<b>JUDICIAL QUALIFICATIONS COMMISSION</b>	
GENERAL FUND .....	\$ 64,757
SPECIAL FUNDS: .....	\$ 63,000



\* 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, general jurisdiction of all cases, civil, criminal, and juvenile except as otherwise provided by law. The district court has jurisdiction to hear and the power to issue original and remedial writs. All criminal felony cases are tried in the district court. They have concurrent original jurisdiction with the county courts with increased jurisdiction concerning criminal misdemeanor cases and civil cases up to \$1,000.

Appeals from county justice court, county probate court, and municipal court where there is no county court with increased jurisdiction are heard by the district court. Appeals from many administrative agency hearings go to district court. Administrative appeals involve a review of the record, but an appeal from a limited jurisdiction court involves a complete "retrial" (de novo) of the case as those courts are not "courts of record".

The seventeen counties with courts of increased jurisdiction have the authority to hear appeals from municipal courts. The power was granted

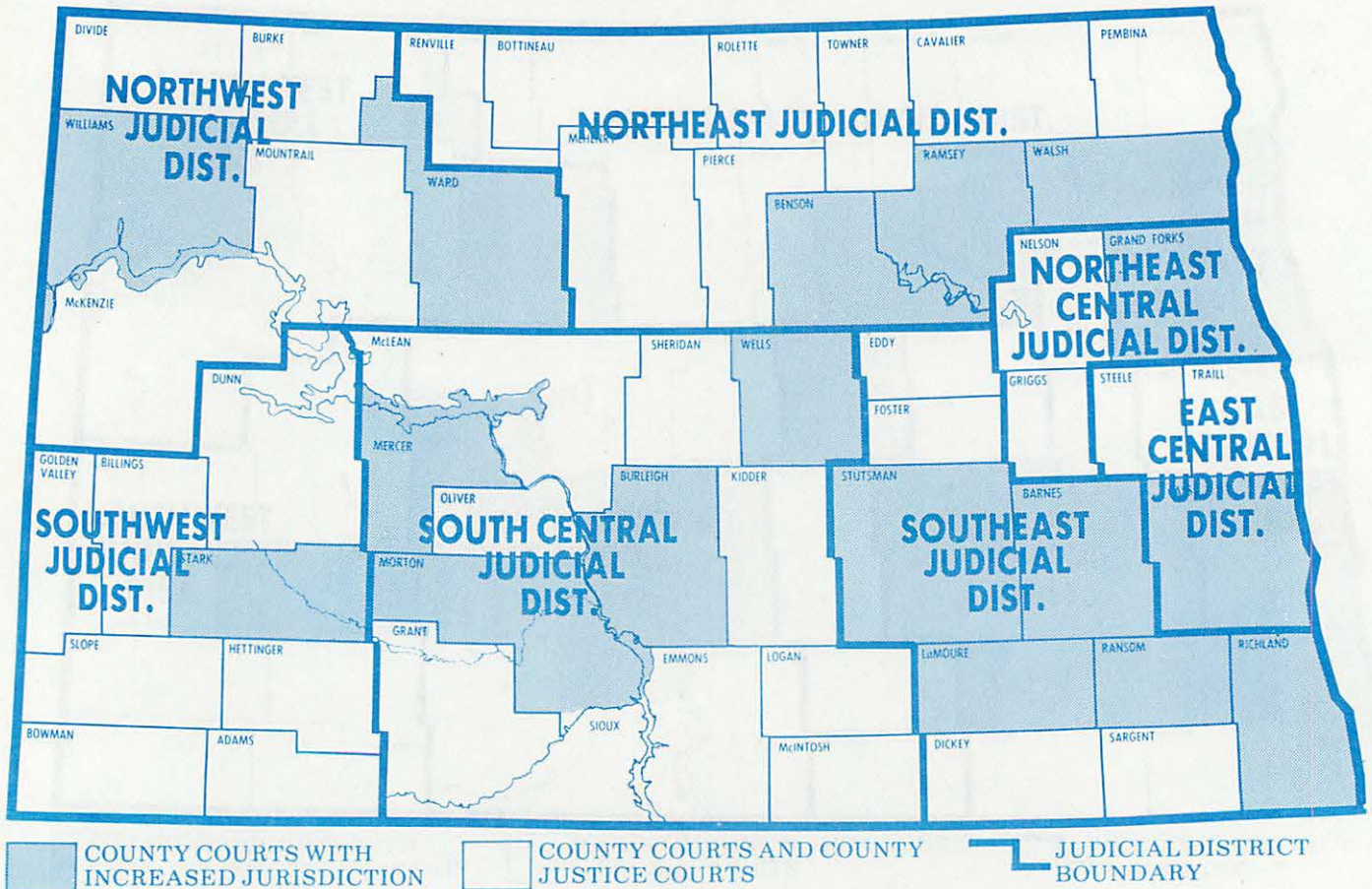
through Administrative Order XII of the Supreme Court pursuant to Section 40-18-19, NDCC and Rule 37, North Dakota Rules of Criminal Procedure.

Effective July 1, 1979, the state judicial boundaries were changed to provide seven districts. The 1979 Legislative Assembly appropriated funds for five new district judgeships.

There are now twenty-four district judges in the seven judicial districts in North Dakota. District judges are elected to six year terms of office. Through Administrative Order 2-1979 of the Supreme Court, a presiding judge has been selected by the Chief Justice with approval of the Supreme Court in each judicial district.

The presiding judge shall convene regular meetings of the judges within the judicial district to discuss areas of common concern, assign cases among the judges of the district, and assign judges within the district in cases of demand for change of judge. The presiding judge may assign terms of court within the district.

### NORTH DAKOTA DIVISION OF THE STATE OF NORTH DAKOTA INTO JUDICIAL DISTRICTS PURSUANT TO THE AUTHORITY GRANTED TO THE NORTH DAKOTA SUPREME COURT IN SECTION 93 OF THE CONSTITUTION OF NORTH DAKOTA (Adopted June 5, 1979 — Effective Date July 1, 1979)





## CIVIL CASELOAD

The number of cases filed in district court continues to increase each year. It should be noted that the district courts have increased the number of case dispositions quite significantly. This may be attributable to the following factors. In the summer, two temporary judges were named to provide services of thirty day duration following the death of a district judge. With geographical realignment through redistricting, caseloads were distributed more equitably and travel distances reduced. In the fall, five new district judges took office. These factors, plus the appointment of judges to vacancies created by resignation and retirement of three district judges have increased the disposition rate.

In 1979, 11,012 civil cases were filed in district court. Six years earlier, in 1973, there were 6,060 cases filed. This represented an 81% increase in civil filings in five years. In 1978, 9,913 civil cases were filed. The one-year increase was 11%. The South Central, Northwest, and East Central Judicial Districts had the largest number of case filings.

There were 9,969 cases disposed of in 1979. This compared with 6,080 civil dispositions in 1972, or a dramatic 63% increase in judicial productivity. There was an increase of 7% in civil case dispositions from 9,268 in 1978.

The number of civil cases pending provides insight into the workload of the district courts. On December 31, 1979, there were 5,338 civil cases pending (excluding trust proceedings). This represented an 8% decrease from 5,834 cases pending on December 31, 1978. This averages 229 cases pending per judge. The highest average of civil cases pending was in the South Central Judicial District with 272 per judge, and the lowest 167 per judge in the Southeast Judicial District.

The number of civil cases pending, 18 months old from date of filing, decreased 22% from December 31, 1978 to December 31, 1979. The decrease was from 1,331 to 1,032. Seventy-six percent of these cases were reduced in the Northeast Central District. This total does not include the few trust cases currently open.

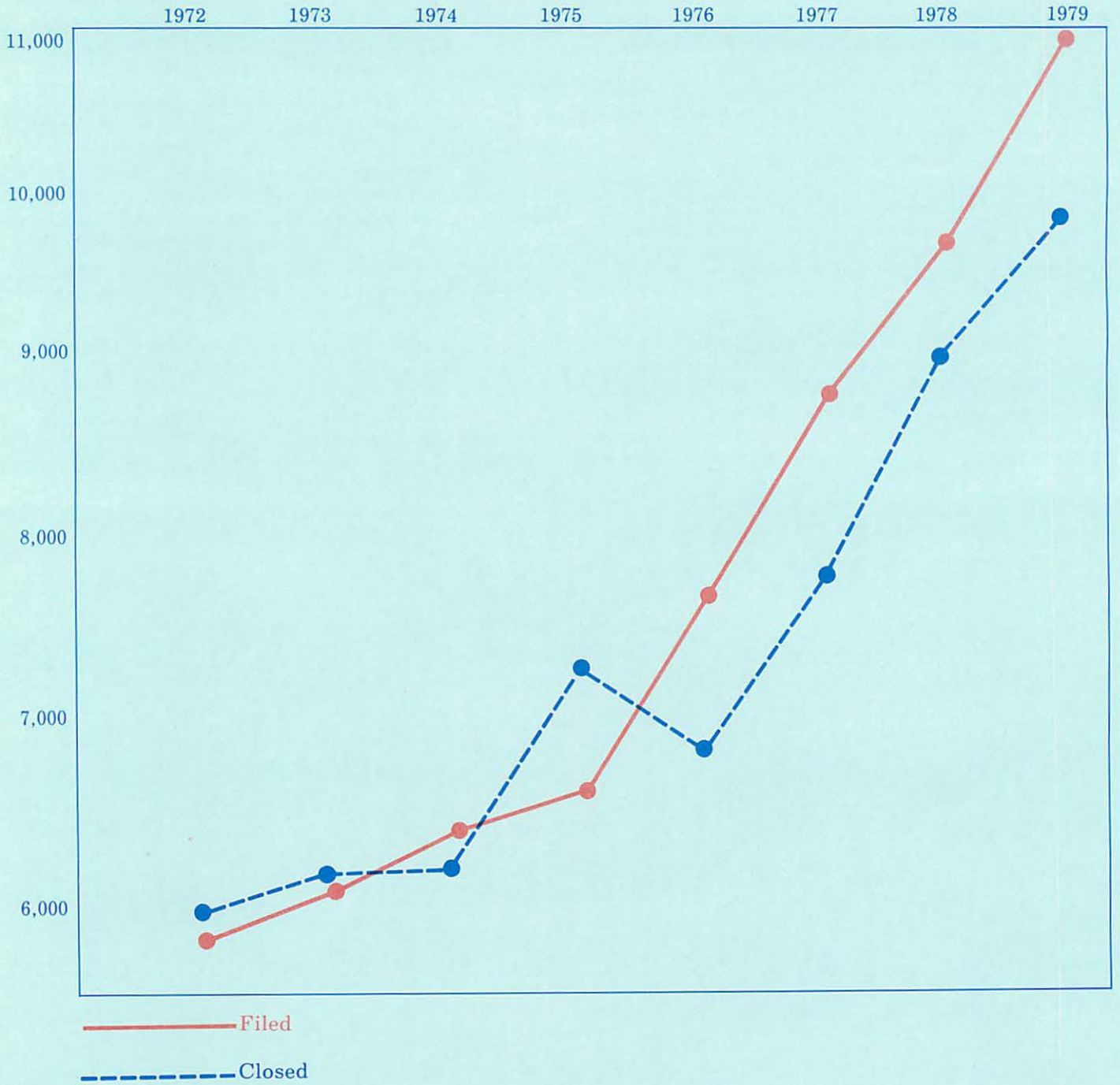
### DISTRICT COURT CIVIL FILINGS AND DISPOSITIONS Calendar Year 1979

	Northwest Judicial District		Northeast Judicial District		Northeast Central Judicial District		East Central Judicial District		Southeast Judicial District		South Central Judicial District		Southwest Judicial District		Statewide	
	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)
Damages .....	99	88	72	63	158	119	127	98	103	90	108	118	53	51	720	627
Collections Action.....	622	587	538	545	471	453	583	518	453	442	979	881	205	156	3851	3582
Real-Estate Matter.....	116	124	62	71	66	48	81	72	59	56	261	100	57	42	702	513
Divorce .....	497	469	229	210	392	387	507	509	320	308	449	421	119	116	2513	2420
Support Proceeding.....	306	244	171	157	202	167	604	545	196	180	373	307	13	10	1865	1610
Adoption.....	84	88	37	36	68	66	65	73	69	68	88	91	23	27	434	449
Appeal-Admin. Hearing.....	8	9	2	2	8	4	10	7		2	49	33	5	3	82	60
Appeal-Other.....	7	20	10	7	10	11	2	3	12	13	33	16	3	4	77	74
Special Remedy .....	1	3	1	2	8	7	23	22	8	5	14	36	1	1	56	76
Trusts.....	2		9	2	4	2	3	3	5	1	2	2	13	4	38	14
Foreign Judgment.....	9	10	5	7	25	25	94	92	21	22	17	16	1	1	172	173
Other Civil.....	72	67	30	27	48	46	18	28	99	93	203	86	32	24	502	371
<b>TOTAL.....</b>	<b>1823</b>	<b>1709</b>	<b>1166</b>	<b>1129</b>	<b>1460</b>	<b>1335</b>	<b>2117</b>	<b>1970</b>	<b>1345</b>	<b>1280</b>	<b>2576</b>	<b>2107</b>	<b>525</b>	<b>439</b>	<b>11012</b>	<b>9969</b>
Per Judge Average.....	455	427	388	376	486	445	529	492	448	426	515	421	262	219	458	415

(F) — Filed (D) — Disposed  
Source: District court reporting system — Office of State Court Administrator.



## CIVIL DISTRICT COURT CASELOAD COMPARISON



1979 Filings ..... 11,012  
 1979 Dispositions ..... 9,969



## CRIMINAL CASELOAD

In criminal cases, the majority of defendants enter the district courts following the filing 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.

From 1973 through 1978, criminal case filings have remained fairly constant. In 1973, there were 1,077 filed. From 1978 to 1979 there was a decrease

from 1,057 criminal cases filed to 1,021 for a 3% decrease.

On December 31, 1979, there were 150 criminal cases pending that were 120 days old from date of filing. Thirty-nine of the cases were in the South Central District. Criminal cases receive a higher priority than civil cases to be set for trial. During 1979, the South Central Judicial District had the greatest number of criminal filings with 320. The second highest volume was in the Northwest Judicial District with 142 filings. Factors contributing to the significant number in the South Central District may be energy-related development, especially coal production. With all state penal facilities in the district there is a higher degree of activity, in fact, over twice as high as in any other district.

### DISTRICT COURT CRIMINAL CASE FILINGS AND DISPOSITIONS

Calendar Year 1979

	Northwest Judicial District		Northeast Judicial District		Northeast Central Judicial District		East Central Judicial District		Southeast Judicial District		South Central Judicial District		Southwest Judicial District		Statewide	
	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)
Felony A .....	6	8	1		4	3	3	5	3	2	8	4	2	1	27	23
Felony B .....	40	43	19	10	13	24	16	18	20	28	29	39	5	5	142	167
Felony C .....	87	85	88	81	73	67	75	75	91	84	245	245	51	44	710	681
Misdemeanor A.....	1	1	2	2					1	1	6	5	8	7	18	16
Misdemeanor B.....	1	3	1						2	1	4	5	14	12	22	21
Infraction .....									1	1					1	1
Special Remedy .....										1	8	5			8	6
Appeal .....		2	9	7	6	6	7	4	8	13	17	17			47	49
Other Criminal .....	7	5	5	1	7	14	10	5	7	4	3	4	7	7	46	40
<b>TOTAL .....</b>	<b>142</b>	<b>147</b>	<b>125</b>	<b>101</b>	<b>103</b>	<b>114</b>	<b>111</b>	<b>107</b>	<b>133</b>	<b>135</b>	<b>320</b>	<b>324</b>	<b>87</b>	<b>76</b>	<b>1021</b>	<b>1004</b>
Per Judge Average.....	35	36	41	33	34	38	27	26	44	45	64	64	43	38	42	41

(F) - Filed (D) - Disposed

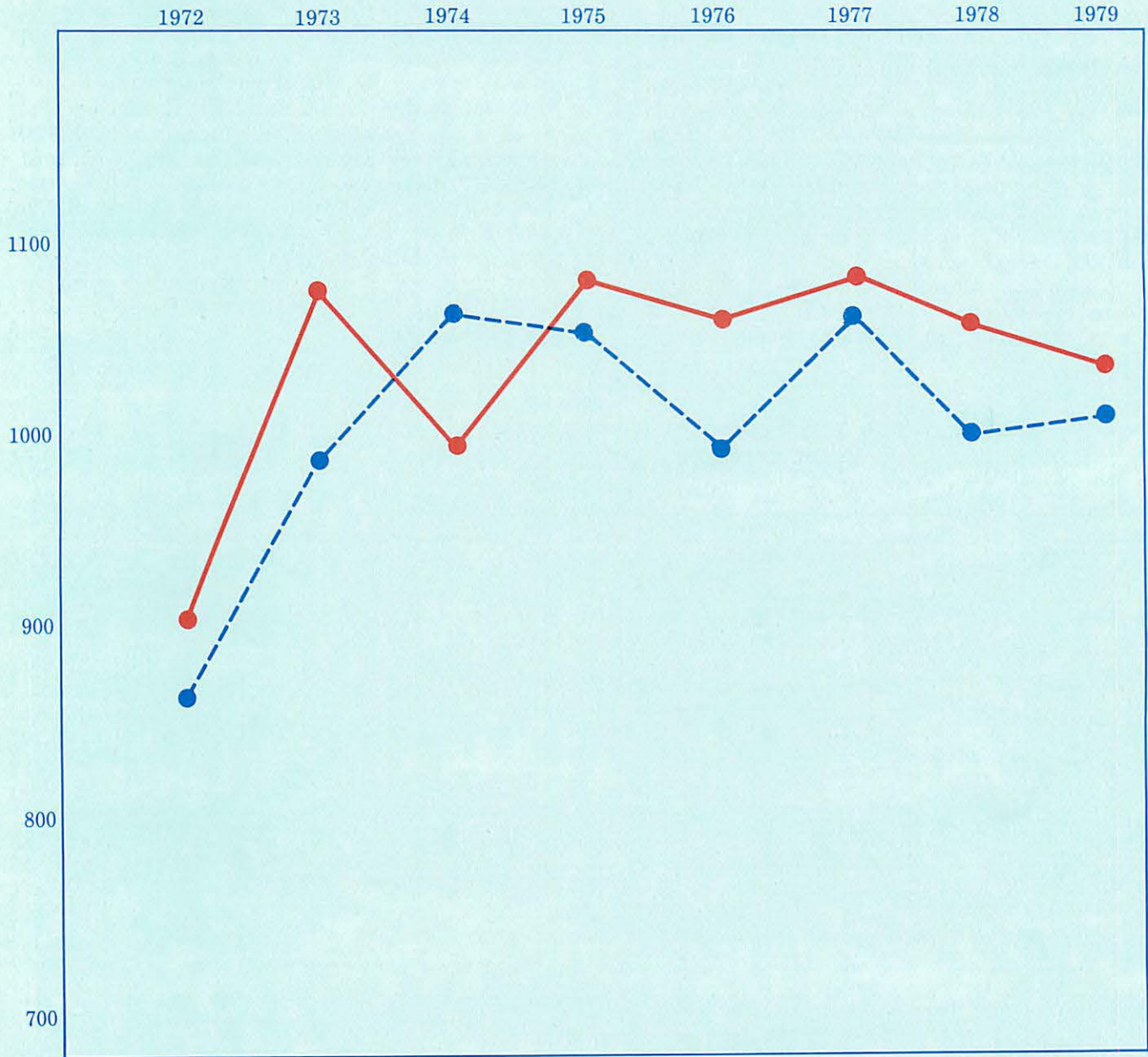
Source: District court reporting system — Office of State Court Administrator.

### METHOD OF DISPOSITION

Judgment on Guilty Plea.....	580
Judgment After Trial	
Court-Guilty .....	123
Court-Acquittal .....	4
Jury-Guilty .....	39
Jury-Acquittal .....	13
Dismissal .....	151
Post Conviction Remedy .....	0
Change of Venue.....	18
Other .....	76
<b>TOTAL CRIMINAL DISPOSITIONS .....</b>	<b>1004</b>



# CRIMINAL DISTRICT COURT CASELOAD COMPARISON



——●—— Filed  
- - - - -●- - - - - Closed

1979 Filings ..... 1021  
 1979 Dispositions ..... 1004



## TOTAL CIVIL AND CRIMINAL DISTRICT CASELOAD

Since 1973 civil and criminal case filings have increased substantially. The total increase in filings was from 10,907 in 1978 to 12,033 in 1979. The number of dispositions remained quite constant for the year. In 1978 there were 10,255 dispositions increasing to 10,973 in 1979.

During the summer the first use of two temporary judges occurred when a district judge passed away. The assignments were for thirty days with up to a thirty day extension. The temporary judges were able to dispose of a number of default matters which kept the caseload of the district active. Five new district judgeships were created by the legislature to become effective July

1, 1979. Selection for the vacancies was not completed until late fall. The positive impact of the added judgeships will not be felt until 1980.

The new judgeships and redistricting should allow for the reordering of resources to reflect an increase in the number of dispositions in 1979.

The statistics contained in this section of the report must be viewed with some caution, as they do not take into consideration the complexity of the litigation, length of trial, travel time of judges and the administrative matters that judges must address. The data does, however, provide some benchmark of the caseload situation statewide by judicial districts.

### DISTRICT COURT TOTAL CASES FILED AND DISPOSED OF IN 1979

	Northwest Judicial District		Northeast Judicial District		Northeast Central Judicial District		East Central Judicial District		Southeast Judicial District		South Central Judicial District		Southwest Judicial District		Statewide	
	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)
Total Civil and Criminal Cases . . . . .	1965	1856	1291	1230	1563	1449	2228	2077	1478	1415	2896	2431	612	515	12,033	10,973

(F) — Filed (D) — Disposed

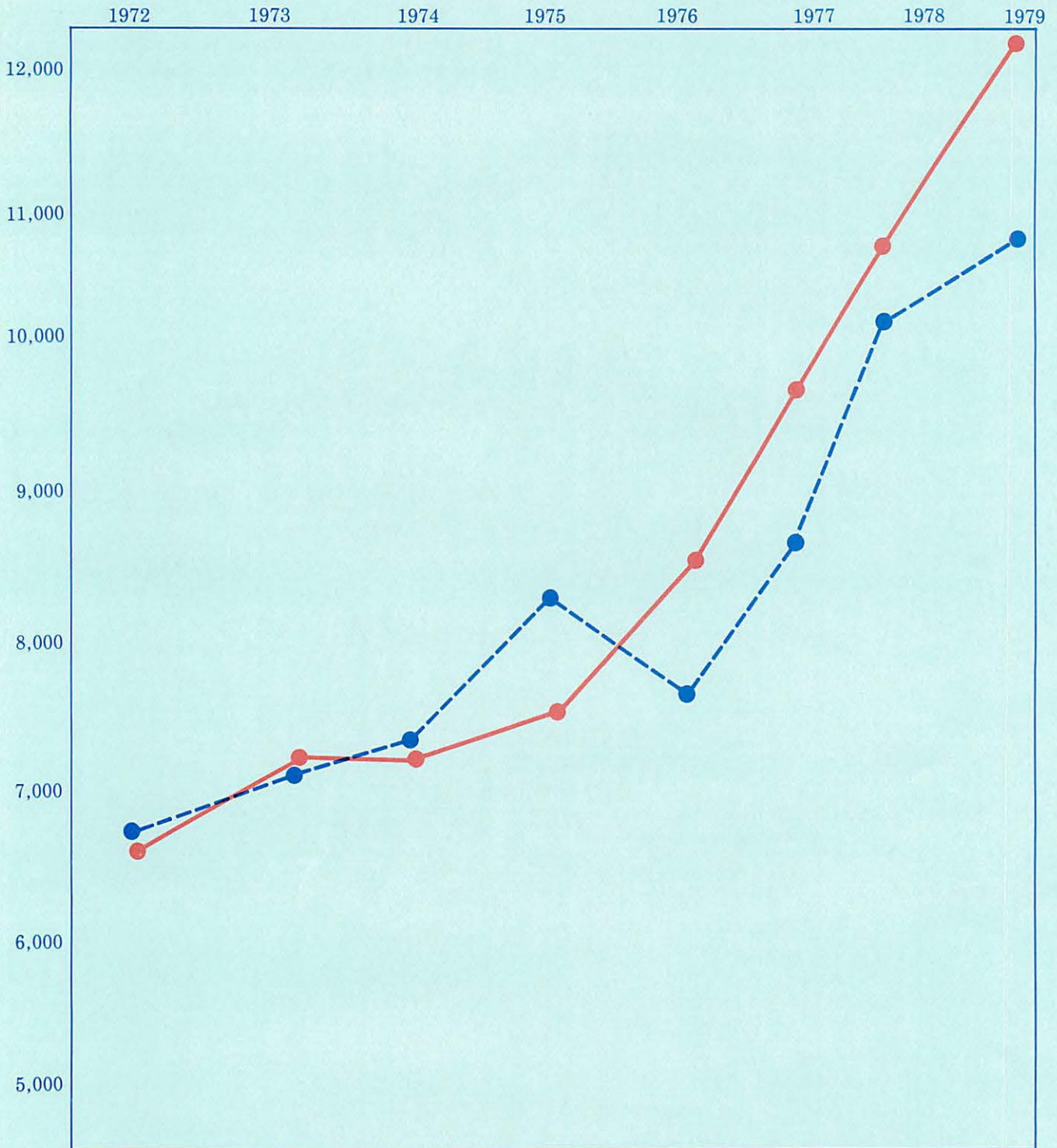
Source: District court case reporting system — Office of State Court Administrator.

### DISTRICT COURT TOTAL CIVIL AND CRIMINAL PENDING DECEMBER 31, 1979

	Northwest Judicial District	Northeast Judicial District	Northeast Central Judicial District	East Central Judicial District	Southeast Judicial District	South Central Judicial District	Southwest Judicial District	Statewide
Total Cases Pending . . . . .	809	577	853	1227	559	1445	398	5868



**TOTAL DISTRICT COURT CASELOAD COMPARISONS**  
**Civil and Criminal**  
**Filings and Dispositions**



————— Filed

- - - - - Closed

1979 Filings . . . . . 12,033

1979 Dispositions . . . . . 10,973



## 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 North Dakota 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.

Statistics contained in this annual report are of both formal and informal proceedings processed by the juvenile courts of our state. Formal juvenile proceedings filed with the clerk of district court make up less than 20% of all juvenile cases processed. The vast majority of juvenile proceedings are handled informally. That is, there is no petition filed in district court.

As shown in the table on page 26, status of offenses, those for which only a juvenile can be charged, make up 37% of all referrals to juvenile court. Misdemeanor theft is the largest criminal violation causing referral. This category includes shoplifting and appears to be of increasing concern.

From 1973 to 1979, formal case dispositions have increased from 799 to 1,066. There was a slight increase from 1,039 formal petitions processed by the courts in 1978. Formal actions receive priority consideration by the courts. All cases must have a hearing within 30 days of filing unless the district judge enters an order for extension. Formal juvenile proceedings have remained fairly constant over the last few years.

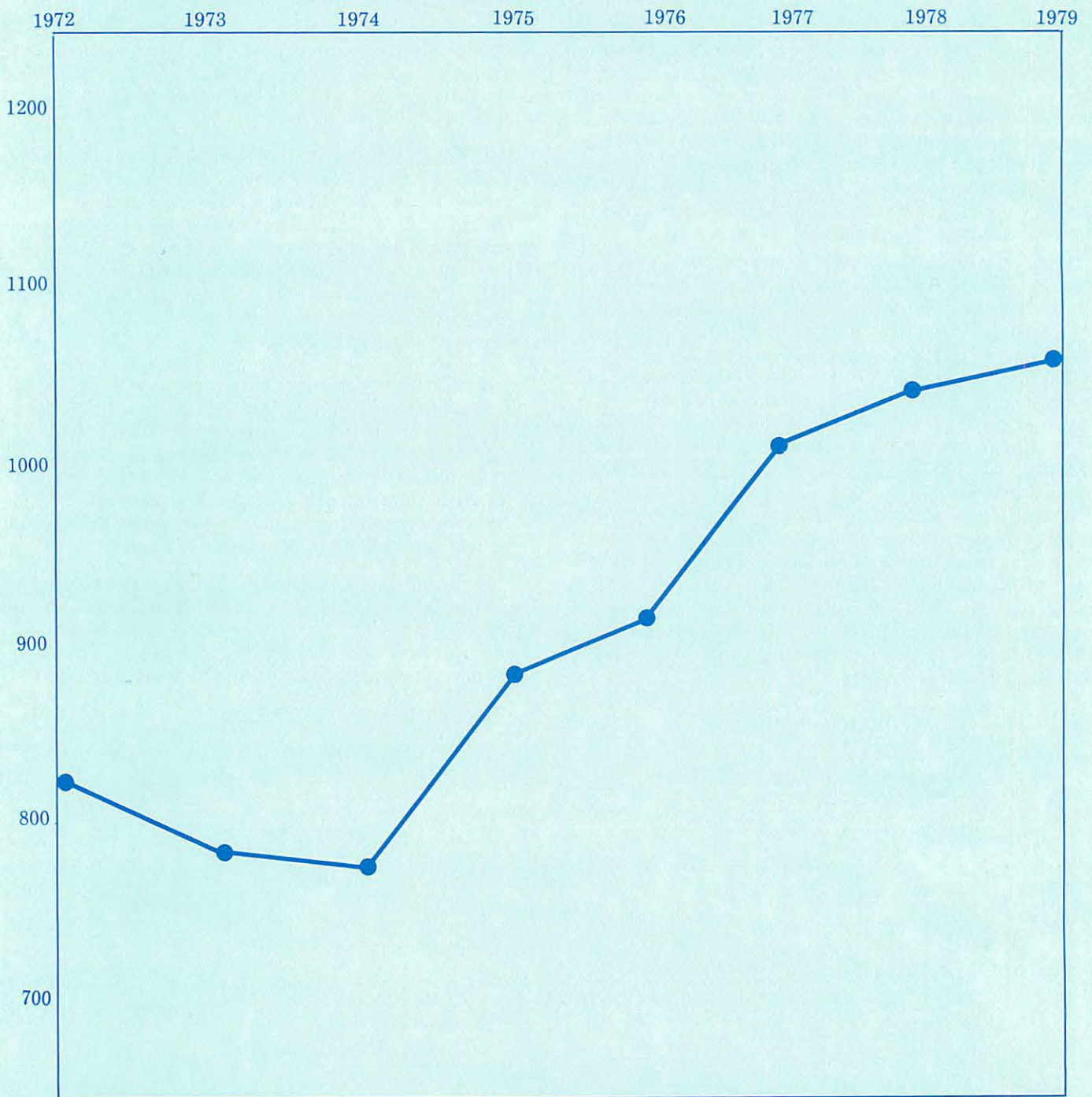
The majority of juvenile court cases are handled informally. Of the 6,814 dispositions in 1979, 5,748 or 84% were processed informally. Nearly half, or 2,371, of all informal proceedings are disposed of by counseling the juvenile and adjusting the matter with no terms of probation being established. In 3,377 informal proceedings, some term of supervision was provided by the juvenile courts.

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





# FORMAL JUVENILE PROCEEDINGS DISTRICT COURT CASELOAD COMPARISON



— Closed

1979 Formal Proceedings . . . . 1,066



# JUVENILE COURT CASE DISPOSITIONS

Calendar Year 1979

Judicial District	Formal	Informal	Counsel/ Adjusted	Total Disposed
<b>NORTHWEST</b>				
Burke .....	2	16	6	24
Divide .....	2	13	5	20
McKenzie.....	9	50	16	75
Mountrail.....	9	18	15	42
Ward .....	57	575	149	781
Williams .....	55	228	122	405
Dist. Total .....	134	900	313	1,347
<b>NORTHEAST</b>				
Benson .....	2	31	47	80
Bottineau.....	8	28	48	84
Cavalier.....	2	37	43	82
McHenry .....	28	14	18	60
Pembina .....	22	51	43	116
Pierce .....	20	20	34	74
Ramsey .....	12	80	87	179
Renville.....	4	10	3	17
Rolette.....	4	45	85	134
Towner .....	3	10	14	27
Walsh .....	23	60	138	221
Dist. Total .....	128	386	560	1,074
<b>NORTH EAST CENTRAL</b>				
Grand Forks .....	160	335	280	775
Griggs .....	3	10	11	24
Nelson .....	2	14	10	26
Dist. Total .....	165	359	301	825
<b>EAST CENTRAL</b>				
Cass .....	284	570	94	948
Steele .....	0	4	4	8
Traill .....	6	40	25	71
Dist. Total .....	290	614	123	1,027
<b>SOUTHEAST</b>				
Barnes .....	29	114	83	226
Dickey .....	10	52	24	86
Eddy .....	3	24	25	52
Foster.....	5	43	81	129
LaMoure.....	2	18	2	22
Ransom .....	12	34	12	58
Richland .....	32	154	58	244
Sargent.....	7	17	16	40
Stutsman .....	38	132	99	269
Dist. Total .....	138	588	400	1,126
<b>SOUTH CENTRAL</b>				
Burleigh.....	82	220	130	432
Emmons .....	14	36	24	74
Grant.....	0	5	14	19
Kidder .....	2	8	11	21
Logan .....	2	9	2	13
McIntosh .....	10	13	6	29
McLean .....	5	15	49	69
Mercer.....	21	10	54	85
Morton .....	35	39	175	249
Oliver .....	0	3	11	14
Sheridan .....	2	1	6	9
Sioux.....	0	4	2	6
Wells .....	3	20	46	69
Dist. Total .....	176	383	530	1,089
<b>SOUTHWEST</b>				
Adams .....	1	11	11	23
Billings.....	0	1	0	1
Bowman.....	4	14	12	30
Dunn .....	1	12	3	16
Golden Valley .....	7	19	9	35
Hettinger .....	0	10	7	17
Slope .....	0	0	1	1
Stark .....	22	80	101	203
Dist. Total .....	35	147	144	326
<b>Total Disposed .....</b>	<b>1,066</b>	<b>3,377</b>	<b>2,371</b>	<b>6,814</b>



# JUVENILE COURT REASON FOR REFERRAL

Calendar Year 1979

REFERRAL REASON	Northwest Judicial District	Northeast Judicial District	North East Central Judicial District	East Central Judicial District	Southeast Judicial District	South Central Judicial District	Southwest Judicial District	Statewide Total
<b>UNRULY</b>								
Poss. or Pur. Alcoholic Bev .....	284	276	113	184	330	190	74	1,451
Runaway-Instate .....	79	14	61	42	20	23	8	247
Runaway-Out of State .....	6	2	11	8	17	7	2	53
Truancy .....	9	61	18	29	13	38	0	168
Ungovernable Behavior .....	18	39	12	33	30	37	14	183
Conduct/Control Violation .....	2	12	4	13	7	2	3	43
Curfew Violation .....	36	19	20	3	60	42	0	180
Other .....	9	5	14	25	0	3	1	57
<b>DELINQUENCY</b>								
<b>Offense Against Person</b>								
Assault .....	19	12	11	13	6	18	3	82
Homicide .....	0	0	0	0	0	1	2	3
Kidnapping .....	0	0	0	1	0	0	0	1
Sex Offense .....	10	0	0	3	4	1	3	21
Other .....	3	1	3	4	3	1	0	15
<b>Offense Against Property</b>								
Arson .....	2	3	4	0	0	0	0	9
Burglary .....	40	37	26	31	36	47	31	248
Criminal Mischief .....	62	64	17	57	63	79	26	368
Criminal Trespass .....	10	14	3	7	8	7	1	50
Forgery .....	6	5	9	2	10	11	0	43
Robbery .....	1	0	4	0	1	6	0	12
Theft-Misdemeanor .....	249	152	175	289	138	164	41	1,208
Theft-Felony .....	23	7	30	27	5	42	9	143
Unauthorized Use of Vehicle .....	30	12	12	25	16	25	7	127
Other .....	21	3	14	21	9	27	10	105
<b>Traffic Offenses</b>								
Driving W/O License .....	128	83	23	6	106	61	20	427
Negligent Homicide .....	1	0	0	0	0	0	0	1
Other .....	20	1	16	2	28	3	2	72
<b>Other Offenses</b>								
Disorderly Conduct .....	27	30	23	17	17	15	6	135
Firearms .....	2	4	4	12	8	7	2	39
Game & Fish Violation .....	5	28	3	2	15	13	13	79
Obstruct of Law Enforce/Escape ..	2	8	14	1	1	3	0	29
Controlled Substance Violation .....	94	24	15	35	28	46	16	258
Other .....	5	3	19	1	2	15	12	57
<b>DEPRIVATION</b>								
Abandoned .....	7	0	0	0	3	5	1	16
Abuse/Neglect .....	17	5	2	3	53	18	4	102
Deprived .....	47	78	31	28	19	45	11	259
Other .....	8	0	0	10	0	1	0	19
<b>SPECIAL PROCEEDINGS</b>								
Termination Parent. Rights Invol.....	1	0	2	0	3	2	0	8
Termination Parent. Rights Vol .....	2	7	21	0	3	17	0	50
Other .....	3	27	23	0	1	4	0	58
<b>TOTAL</b> .....	<b>1,288</b>	<b>1,036</b>	<b>757</b>	<b>934</b>	<b>1,063</b>	<b>1,026</b>	<b>322</b>	<b>6,426</b>

Source: Juvenile court case reporting system — Office of State Court Administrator.



# REPORT OF THE NORTHWEST JUDICIAL DISTRICT

*The Honorable WALLACE D. BERNING, Presiding Judge*



The activities of the Northwest Judicial District could best be described as a matter of adjusting to the reorganization of the district and to new personnel involved. The Northwest Judicial District suffered the loss of two gallant jurists with resignations; namely, Judge Eugene A. Burdick on December 31, 1978, and Presiding Judge Roy A. Ilvedson who resigned effective January 1, 1980. Everett Nels Olson was elected to the bench in the Northwest Judicial District and assumed his

duties January 1, 1979. Judge William M. Beede who had his chambers in Minot assumed the duties as judge in Williston. Judge Wallace D. Berning was appointed to the newly-created judicial position and assumed duties on October 1, 1979. Miss Laurel Nermyr, former court reporter for the late Judge Ray R. Friederich of Rugby, assumed responsibilities as court reporter for Judge Berning on October 15, 1979.

## **Family Court Suspended**

In 1979 the rules requiring family court counseling for litigants in divorce cases were suspended, and litigants in divorce cases were required to be notified by endorsement on the summons of the availability of certain domestic counseling.

## **Prospective Administration**

In the prospective sense, it is hoped to resolve the problems of disposition of records for the juvenile court under Section 27-20-54. It is also hoped that as soon as an additional judge assumes office to replace Judge Ilvedson that work can be commenced on separate local rules for the Northwest Judicial District. It is further contemplated that an advisory committee similar to that which exists in other districts will be appointed with the cooperation of the various local Bars. As soon as the court staff is complete with the appointment of a new judge, it is hoped that the judiciary and the Bar in the respective cities in the district may consider new goals, objectives, and tasks for the next fiscal year.



# REPORT OF THE NORTHEAST JUDICIAL DISTRICT

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



In the interest of increasing the efficiency of court services in the Northeast Judicial District, the following steps have been taken:

## **Advisory Committee Appointed**

An Advisory Committee on Local Rules consisting of six persons was appointed. John Burke of Grafton was elected president and Thomas E. Rutten was elected secretary. This committee held its first meeting on June 25, 1979. In addition to Mr. Burke and Mr. Rutten, the following are the members of this committee: Wesley Argue, Arne

Boyum, Erwin H. Brendel, and Ron Ackerson. Mr. Ackerson is the lay member.

## **Need For Temporary Judges Addressed**

The immediate problem of the vacancy created by the untimely death of Judge Friederich was discussed. The committee recommended the appointment of temporary judges to act until selection of a replacement could be made. Jon R. Kerian of Minot and Harold L. Anderson of Bismarck were appointed as the first two temporary judges by the Supreme Court to assist in Pierce County and the area served by Judge Friederich. The Honorable Clifford Jansonius, Supreme Court Commissioner, was also appointed to assist in taking care of the work in the district.

The appointment in November 1979 of Judge William A. Neumann of Bottineau as judge to fill the vacancy created by the death of Judge Friederich makes it possible for the district to operate with three judges again. This should assist in more expeditious handling of the caseload of the district. The advisory committee decided to defer any study of local rules for the present.

## **Consecutive Jury Terms Set**

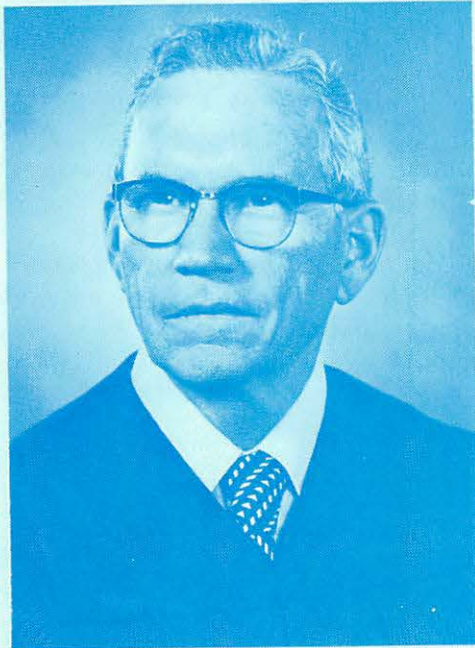
An order was entered allowing the judges to hold consecutive jury terms. Consecutive jury terms will eliminate a great deal of traveling and the cases will be taken care of by the local judge and this should make for speedy trials.

The staff of the office of presiding judge was increased by the addition of an administrative assistant. Dagny Olson retired as court reporter and was appointed as administrative assistant to the presiding judge.



# REPORT OF THE NORTHEAST CENTRAL JUDICIAL DISTRICT

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



In January 1979, secretarial staff was added to assist the administrative assistant. Duties include assisting in the upkeep of the calendar control system, preparing notices of trials, and correspondence for the judges.

## **Calendar Control System Initiated**

During the fall of 1979 the Northeast Central Judicial District implemented a calendar control system which enables the court to have continuing readily available information on the current status and history of each case and the caseload as a whole. By adopting this method it can easily be determined how many cases are pending, how many are in each state of advancement toward

disposition, and which cases are being delayed in excess of the acceptable standard. All trial scheduling for the three district judges and the juvenile court referee is centralized within the office of the administrative assistant for the three-county district. Management of cases receives a high priority in the district.

In January and February a concentrated effort was made to close out old cases which were pending. Notices to Dismiss were sent to attorneys and, as a result, the court was able to dispose of approximately 250 cases.

## **Space Needs Met**

With the appointment of the third district judge effective October 15, 1980, it was necessary to add an additional courtroom, chambers, and office for a court reporter. Fortunately, space was available where the juvenile court offices were once located and a minimum amount of remodeling was required. During 1978 remodeling of the third floor of the old Deaconess Hospital was completed to provide suitable facilities for the juvenile court offices.

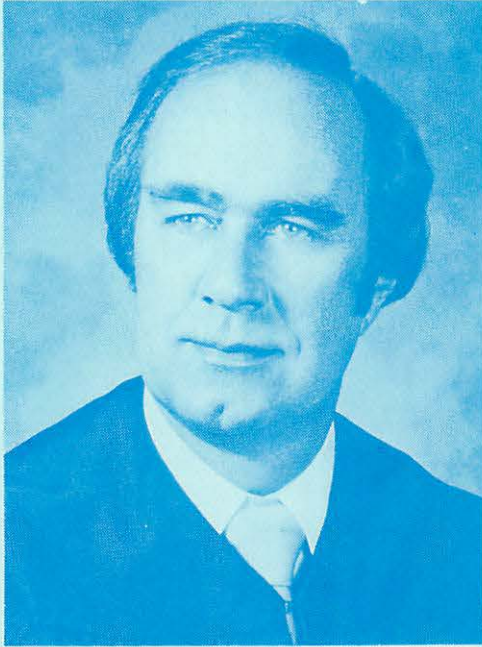
## **Law Intern Program**

For the 1979-80 school year, the District Court was affiliated with the University of North Dakota Law School Intern Program. Their work includes review of the cases in question to determine the main issues, conducting independent related research, meeting with the judges in pre-opinion conferences, and drafting memorandum decisions. This program provides the district court judges with valuable support and has been beneficial to participating students.



# REPORT OF THE EAST CENTRAL JUDICIAL DISTRICT

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



In order to establish a balanced caseload, the court adopted an individual civil case assignment system, wherein cases are assigned by rotation at the time of filing of the case. Due to an insufficient number of courtrooms, the judges approved a scheduling system which provides for rotation of judges into the courtroom and providing adequate chamber time. The district clerk of court developed a new numbering system for civil cases in 1979 which identifies the year a case is filed as well as case number. A similar numbering system for criminal cases is to be adopted in 1980.

## **Space Planning**

To provide space for the two new judges and support personnel, the court developed a space plan that would minimize costs for the court's short term space needs due to the long term plans of an addition to the courthouse. To accomplish this, an agreement was reached with the county officials to use the commissioners' hearing room as a district court hearing room and existing office space was utilized by relocating county offices. Planning for the courthouse addition continued. The proposed addition is to be located on the northside of the county courthouse. To aid in the planning, technical assistance was acquired in December 1979, which proved to be the impetus in providing a satisfactory floor plan for the court system.

## **Other Activity**

On the urging of the presiding judge an in-house reference system is being assembled to include jury instructions and memo opinions for quick reference categorized by type of case. At year's end, preparations were being made to begin a jury sampling study. With the help of the clerk of court, information will be gathered concerning different aspects of the jury system. To close out 1979, the court was in the initial stages of forming an advisory board of attorneys and two lay persons within the East Central Judicial District. The committee is being formed to aid the court in the planning process and offer input for local court rules.

The year 1979 was a year of transition for the East Central Judicial District. This was the first full year that funds were allotted to provide administrative assistance to the judges of the district. Two judges were authorized by the state legislature to be added to the district to help with the increasing caseload. Activity in the district centered around two main areas of concern and great importance to the courts — case flow management and space planning.

## **Case Flow Management**

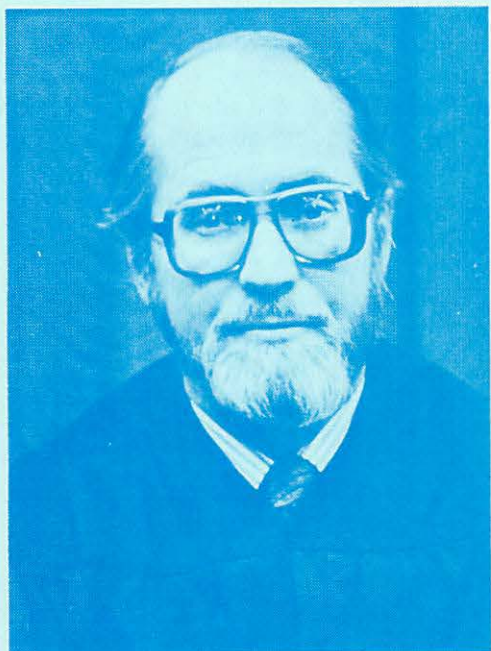
At the beginning of 1979, the trial court administrator was given full authority to take over calendaring activities. A continuous court and jury term was instituted in Cass County to allow for flexibility in scheduling cases for trial. Coupled with elements of a master court calendar and new notice of trial procedures, the court saw a greater number of cases being set and fewer cases continued.

With the addition of two new judges in November 1979, and the development of the new district boundaries, emphasis was placed on providing services to the outer counties of the district.



# REPORT OF THE SOUTHEAST JUDICIAL DISTRICT

*The Honorable ROBERT L. ECKERT, Presiding Judge*



The year 1979 was an organizational year for the Southeast Judicial District. District Judge Robert L. Eckert of Wahpeton was appointed presiding judge. The other district judges within the district are Hamilton Englert of Valley City and M.C. Fredricks of Jamestown.

## **Procedures Established for Court Cases**

In order to fix responsibility as soon as possible for the disposition of cases to be tried to the Court without a jury and so as to avoid unnecessary travel expense, conserve energy and make effi-

cient use of judicial resources, all such cases within Richland, Ransom and Sargent counties have been assigned to Judge Eckert. All court cases from Eddy, Foster, and Stutsman counties have been assigned to Judge Fredricks, and all court cases from Barnes, LaMoure, and Dickey counties have been assigned to Judge Englert.

Clerks of court have also 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 jury terms in each county within the district.

## **Advisory Committee Set**

An Advisory Committee on Local Court Rules was appointed and consulted with in regard to the selection of a temporary judge for one of the county courts of increased jurisdiction within the district. The Advisory Committee, together with the judges, also discussed possible local court rules that might be adopted. Proposed rules have been submitted by the committee to the presiding judge but have not yet been acted upon. Serving as chairman of the committee is John Hjellum of Jamestown, North Dakota.

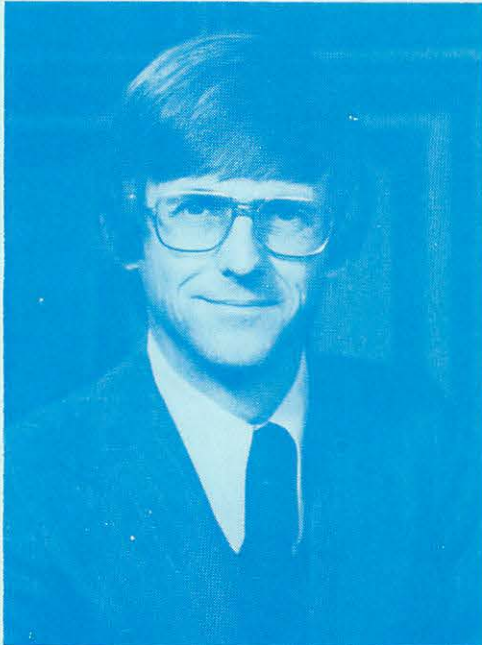
A Southeast Judicial District Bar Association has been formed and the first annual meeting of the association has been scheduled for Jamestown in May. President of the association is Ted Kessel, Jr. of LaMoure, North Dakota.



# REPORT OF THE SOUTH CENTRAL JUDICIAL DISTRICT

*The Honorable BENNY A. GRAFF, Presiding Judge*

*DEE J. HANSON, Court Administrator*



The boundary-line changes in the district and the addition of a fifth judge has made a significant difference in the operation of the court. The addition of a fifth judge in the district has had a direct impact on the trial backlog. In addition, better utilization of judicial resources is now possible because of centralized calendaring through the District Court Administrator's Office. Centralized scheduling and a continuous term of court policy has been transferred from the old Fourth Judicial District to all 13 counties within the new South Central Judicial District. This policy allows necessary flexibility in judicial assignments and the ability to shift case assignments when necessary in order to equalize workloads. Centralized calendaring also makes it relatively easy to switch judges if necessary to keep trial dates. The transfer to centralized calendaring was completed in August and the procedure was reviewed by the district judges in October at the District Advisory Board meeting.

A new District Advisory Board has been established for the South Central Judicial District. The Board consists of nine judges (five district court judges and four county court of increased jurisdiction judges), one clerk of district court, and five attorneys appointed to represent geographical areas within the district. The major objective of the Advisory Board is to provide

Judge Graff, as presiding judge of the district, with input on matters relating to the management of the South Central Judicial District, and in the development of local operating policy. The Board expects to meet from two to four times per year. In conjunction with the Advisory Board, the District Court Administrator has established district-wide meetings with the clerks of district court and their deputies. These meetings offer an opportunity to discuss problems common to the district and are usually scheduled just prior to the District Advisory Board meetings in order to allow interaction between the two groups through the clerk of court representative on the Advisory Board.

Local Rules were revised to reflect the many internal procedural changes which have been taking place over the last several years. The changes that were made were the result of several Advisory Board meetings and considerable input from attorneys who practice in the district. The new rules reflect a strong commitment by the Court to control the progress of all cases from filing to final disposition.

Jury utilization worksheets were used in Burleigh County as part of a continuing jury management program. The worksheets are filled in during each jury trial to indicate the following: the number of jurors reporting for service; size of the jury; number of challenges for cause; number of peremptory challenges; and the total number of jurors not used. In addition, the worksheets are also used to record the amount of time between; when the panel arrives at the courthouse; when voir dire starts; when voir dire is ended; when the trial starts; when a trial is ended; and how long the jury deliberated. After enough information is compiled, the Court will be better able to determine how efficiently the Court is using the jurors which are called in for service, as well as a variety of information regarding the length of key events during the trial.

In 1980 the judges are anticipating that the district will become completely current in case scheduling. This means that the time-lag between when a case is ready for a trial and when a case is actually scheduled for trial will be cut down to a minimum amount of time considering normal conflicts with attorneys, witnesses and the Court.



# REPORT OF THE SOUTHWEST JUDICIAL DISTRICT

*The Honorable NORBERT J. MUGGLI, Presiding Judge*



On July 1, 1979, this district was substantially changed under the Supreme Court's redistricting order. The district was reduced from thirteen counties and three district judges to eight counties and two district judges. The district comprises the southwestern part of the state and is lightly populated with the exception of the Dickinson area.

### **Management Procedures Instituted**

In an effort to increase efficiency, and to cut down travel time, a request was made to the Supreme Court to allow the judges of the district to hold consecutive jury terms. This request was granted and the counties were divided between the two judges with each judge being responsible for his part of the district. Because Stark County (Dickinson) has by far the heaviest caseload, each district judge will preside at one full jury term per year in this county. The other seven counties were assigned to one or the other of the judges and

such judges are then responsible to take care of all calendar calls and cases arising in such counties.

The system seems to be working out quite well. Some problems are encountered when one of the judges is disqualified. Since it is a two judge district, the other judge is automatically designated as the substitute judge. When both judges are disqualified, another judge from out of the district must then be brought in.

### **Advisory Committee Named**

An Advisory Committee on Local Court Rules has been appointed and is active, having already had two formal meetings. The attorney members of this Advisory Committee on Local Court Rules are as follows:

John A. Amundson.....	Bowman
George T. Dynes.....	Dickinson
Maurice R. Hunke.....	Dickinson
Orrin B. Lovell.....	Beach
Gordon W. Schnell.....	Dickinson
T.L. Secrest.....	Hettinger
James M. Vukelic.....	Mott

Maurice R. Hunke was designed as chairman.

This Advisory Committee on Local Court Rules has studied and prepared and is submitting proposed Local Court Rules on the following subjects:

- 1) Interim orders in divorce cases, including forms for the motion, financial statements, and the order itself.
- 2) Forms to be used answering interrogatories.
- 3) Requiring the filing of pending civil cases.
- 4) Rule providing for automatic withdrawal of attorneys of record after divorce judgments have been entered.
- 5) Procedure on calendar calls for setting of cases for trial on dates certain.

The Advisory Committee also considered a rule concerning minimum evidentiary requirements to obtain judgments by default. The Committee however felt that there was no need for the rule and consequently took no action.



## 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. Effect January 1, 1979, Mercer and Richland Counties became County Courts 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.

As of April 1, 1978 county courts with increased jurisdiction hear all municipal court cases on appeal. Prior to this date, district courts and county

courts with increased jurisdiction had concurrent jurisdiction for appeals originating in municipal court. The effect has been a slight increase in the traffic case workload of increased jurisdiction counties.

The number of preliminary hearings conducted in felony matters increased by 12% from 1978 to 1979. The increase was from 940 to 1,053 in one calendar year.

Misdemeanor filings decreased from 11,784 to 11,273 in one year for a 4% decrease. The disposition rate increased from 9,469 to 10,016. This is the largest number of misdemeanor dispositions for any year. During 1979 a total of 57,675 noncriminal traffic cases were disposed of by county courts with increased jurisdiction. This represents a decrease from 59,548 in 1978. The county courts with increased jurisdiction dispose of 72% of all noncriminal traffic cases filed in any municipal or county court.

Stutsman County processed the greatest number of noncriminal traffic cases in the state. During 1979 there was a special saturation patrol effort in Stutsman County. This was the major reason for the impact in the county court.

There were 2,344 civil cases filed in 1979 compared to 2,529 in 1978. County courts with increased jurisdiction have civil jurisdiction up to \$1,000.

In 1979, 5,108 small claims cases were filed, up from 4,305 filings in 1978. This was an 18% increase statewide. The county courts with increased jurisdiction disposed of 5,042 small claim cases compared to 4,265 dispositions the preceding year. One reason for the continued increase in filings of small claims actions may be that small claims jurisdiction is \$1,000 or the same amount as civil jurisdiction.

Stutsman County held the most mental health hearings during the year. This is because the State Hospital is located in Jamestown.



## COUNTY COURTS WITH INCREASED JURISDICTION CASE FILINGS AND DISPOSITIONS

Calendar Year 1979

	Felony		Misdemeanor		Non-Criminal Traffic			Civil		Small Claims	
	(F)	(D)	(F)	(D)	Convictions	Acquittals	Dismissals	(F)	(D)	(F)	(D)
Barnes .....	50	43	522	521	1903	14	0	31	31	349	336
Benson.....	9	5	200	194	804	36	1	14	12	73	56
Burleigh.....	238	216	877	804	3692	35	0	586	601	627	626
Cass .....	153	131	1770	1391	4637	58	0	402	366	1276	1311
Grand Forks.....	189	177	1068	939	7553	38	0	167	171	597	588
LaMoure .....	5	5	50	48	785	2	0	13	13	59	58
Mercer .....	25	21	357	268	1233	28	0	11	10	109	107
Morton.....	50	54	660	464	6224	1	0	152	141	280	280
Ramsey .....	39	48	759	771	1923	39	0	33	33	99	98
Ransom.....	18	18	205	192	744	6	0	23	23	112	109
Richland .....	44	29	435	307	2223	60	5	4	4	189	172
Stark .....	102	83	813	665	3576	26	0	157	158	320	314
Stutsman .....	52	58	1045	1067	11271	49	0	141	138	262	262
Walsh .....	28	22	538	528	2614	2	0			212	190
Ward .....	111	97	817	723	4075	108	4	472	470	472	470
Wells .....			202	202	627	1	0			43	43
Williams .....	61	46	955	932	3329	39	0	138	136	29	22
<b>TOTAL.....</b>	<b>1174</b>	<b>1053</b>	<b>11,273</b>	<b>10,016</b>	<b>57,123</b>	<b>542</b>	<b>10</b>	<b>2334</b>	<b>2307</b>	<b>5108</b>	<b>5042</b>

(F) – Filed (D) – Disposed

Source: County court case reporting system – Office of State Court Administrator.

## COUNTY COURTS WITH INCREASED JURISDICTION CASE FILINGS AND DISPOSITIONS

Calendar Year 1979

	Probate		Guardianship/Conservatorship		Mental Health Hearings Held	Emergency Commitments	Mental Health and Commitments Total
	(F)	(D)	(F)	(D)			
Barnes .....	63	27	9	3	6	32	38
Benson.....	55	19	5	0	3	1	4
Burleigh.....	123	82	26	24	30	54	84
Cass .....	255	166	57	41	118	56	174
Grand Forks.....	163	112	33	14	66	16	82
LaMoure .....	51	106	0	1			
Mercer .....	42	19	3	2	2	6	8
Morton.....	82	6	11	0	16		16
Ramsey .....	62	75	22	6			
Ransom.....	49	25	3	4			
Richland .....	113	92	8	8	15	13	28
Stark .....	111	29	11	2	30	6	36
Stutsman .....	117	38	18	1	132	1	133
Walsh .....	120	103	14	9	75	7	82
Ward .....	188	346	29	32	56	55	111
Wells .....	59	66	5		2	1	3
Williams .....	131	104	12	4	49	2	51
<b>TOTAL.....</b>	<b>1784</b>	<b>1415</b>	<b>266</b>	<b>151</b>	<b>600</b>	<b>250</b>	<b>850</b>

(F) – Filed (D) – Disposed

Source: County court case reporting system – Office of State Court Administrator.



## COUNTY JUSTICE COURT

County justices 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.

In 1979 the thirty-six county justice courts conducted 200 preliminary hearings in felony matters. Both filings and dispositions of preliminary hearings were slightly less than in 1978. The reduction

in filings was from 311 to 211. The reduction in dispositions was 21% from 254 to 200.

The less serious, or misdemeanor criminal offenses filed in county justice court decreased in 1979 from the preceding year. Filings decreased 29% from 4,398 to 3,101. Misdemeanor dispositions decreased 18% from 3,779 to 3,077.

Very few civil cases were filed in county justice court. In 1979 only two were filed, compared to 40 in 1978. The small claims jurisdiction is \$500 while the limit is \$1,000 in counties with increased jurisdiction courts.

Effective July 1, 1979, an amendment to the mental health hearing and commitment law came into effect. As a result the case is heard by one of the 17 county judges with increased jurisdiction or one of the 26 legally trained county justices. The hearing request is filed in the county of residence. This legislation provides for more stringent requirements before a person can be committed through emergency commitment procedures. As a result, the number of emergency commitments have decreased significantly.

All mental health hearings are "on the record". This is the only type of litigation that is on the record in county justice courts.





**COUNTY JUSTICE COURT  
CASE FILINGS AND DISPOSITIONS**  
Calendar Year 1979

	Felony		Misdemeanor		Non-Criminal Traffic			Non-Criminal Traffic Total
	(F)	(D)	(F)	(D)	Convictions	Acquittals	Dismissals	
Adams.....	0	0	0	0	333	1	0	334
Billings.....	1	0	5	5	975	0	0	975
Bottineau.....	1	1	17	16	1104	6	8	1118
Bowman.....	9	8	28	29	288	5	0	293
Burke.....	3	3	522	536	452	6	0	458
Cavalier.....	2	2	13	13	572	10	0	582
Dickey.....	1	1	54	64	795	5	5	805
Divide.....	0	0	55	60	513	28	0	541
Dunn.....	0	0	70	71	543	14	0	557
Eddy.....	0	0	2	6	244	12	1	257
Emmons.....	9	7	45	36	537	19	0	556
Foster.....	6	5	63	57	404	0	0	404
Golden Valley.....	0	0	0	0	587	6	1	594
Grant.....	0	0	0	0	335	0	0	335
Griggs.....	5	4	134	124	1008	5	1	1014
Hettinger.....	0	0	0	1	166	0	1	167
Kidder.....	2	2	31	23	71	2	0	73
Logan.....	4	4	31	31	244	1	0	245
McHenry.....	31	37	169	194	1962	15	1	1978
McIntosh.....	4	5	65	63	315	4	0	319
McKenzie.....	23	10	226	172	2130	17	2	2149
McLean.....	23	21	300	267	2210	31	2	2243
Mountrail.....	7	7	128	128	774	17	0	791
Nelson.....	6	9	147	133	642	1	0	643
Oliver.....	2	4	41	47	258	1	0	259
Pembina.....	12	14	33	33	1228	23	0	1251
Pierce.....	15	9	175	184	709	4	0	713
Renville.....	0	0	0	0	187	1	0	188
Rolette.....	32	32	353	381	664	26	2	692
Sargent.....	2	2	101	108	219	10	0	229
Sheridan.....	0	0	0	0	107	0	0	107
Sioux.....	0	0	12	16	7	0	0	7
Slope.....	2	2	12	13	113	3	0	116
Steele.....	1	1	6	6	310	1	0	311
Towner.....	0	0	0	0	784	9	0	793
Trail.....	8	10	263	260	775	17	0	792
<b>TOTAL.....</b>	<b>211</b>	<b>200</b>	<b>3101</b>	<b>3077</b>	<b>22,565</b>	<b>300</b>	<b>24</b>	<b>22,889</b>

(F) — Filed (D) — Disposed

Source: County court case reporting system — Office of State Court Administrator.



**COUNTY JUSTICE COURT  
CASE FILINGS AND DISPOSITIONS**  
Calendar Year 1979

	Civil		Small Claims		Mental Health Hearings Held	Emergency Commitments	Mental Health and Commitments Total
	(F)	(D)	(F)	(D)			
Adams .....	0	0	13	13	0	0	0
Billings .....	0	0	2	2	0	0	0
Bottineau .....	0	0	78	78	0	0	0
Bowman .....	0	2	13	13	0	0	0
Burke .....	0	0	18	17	0	0	0
Cavalier .....	0	0	54	53	0	0	0
Dickey .....	0	0	93	90	2	1	3
Divide .....	0	0	4	4	0	0	0
Dunn .....	0	0	7	4	0	0	0
Eddy .....	0	0	18	19	0	0	0
Emmons .....	0	0	61	58	0	0	0
Foster .....	0	0	25	21	0	0	0
Golden Valley .....	1	4	5	0	1	1	2
Grant .....	0	0	13	13	0	0	0
Griggs .....	0	0	9	8	0	0	0
Hettinger .....	0	0	33	22	3	1	4
Kidder .....	0	0	7	8	0	0	0
Logan .....	0	0	4	2	1	0	1
McHenry .....	0	0	49	50	0	0	0
McIntosh .....	0	0	4	4	0	0	0
McKenzie .....	0	0	18	17	0	0	0
McLean .....	0	0	60	56	0	0	0
Mountrail .....	0	0	28	16	0	0	0
Nelson .....	0	0	12	6	3	1	4
Oliver .....	0	0	18	18	0	0	0
Pembina .....	0	0	134	135	0	0	0
Pierce .....	0	0	55	58	9	4	13
Renville .....	0	0	0	0	0	0	0
Rolette .....	0	0	64	64	3	1	4
Sargent .....	0	0	51	68	0	6	6
Sheridan .....	0	0	8	8	0	0	0
Sioux .....	0	0	5	5	0	0	0
Slope .....	0	0	2	2	0	0	0
Steele .....	0	0	6	6	0	0	0
Towner .....	1	1	12	9	2	0	2
Traill .....	0	0	116	114	2	1	3
<b>TOTAL .....</b>	<b>2</b>	<b>7</b>	<b>1099</b>	<b>1061</b>	<b>26</b>	<b>16</b>	<b>42</b>

(F) — Filed (D) — Disposed

Source: County court case reporting system — Office of State Court Administrator.



## 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.

With passage of the Uniform Probate Code (UPC) effective July 1, 1975, there has been a reduction in the number of filings of probate proceedings in the county courts of North Dakota. The number of guardianships and conservatorships has remained fairly constant over the years.

In 1979 probate filings decreased 11% to 1,435 from 1,624 in 1978. The disposition of probate proceedings decreased from 1,369 in the preceding year to 1,186 for a 13% decrease. The number of guardianships and conservatorships has remained fairly constant over the years.





**COUNTY COURT  
CASE FILINGS AND DISPOSTIONS**  
Calendar Year 1979

	Probate		Guardianship/Conservatorship		Guardianship/Conservatorship Total
	(F)	(D)	(F)	(D)	
Adams .....	24	12	6	0	6
Billings .....	20	21	10	0	10
Bottineau .....	77	21	5	8	13
Bowman .....	38	24	6	3	9
Burke .....	46	41	4	2	6
Cavalier .....	66	52	5	0	5
Dickey .....	45	31	4	0	4
Divide .....	69	45	8	8	16
Dunn .....	44	31	3	0	3
Eddy .....	13	37	0	0	0
Emmons .....	30	39	6	0	6
Foster .....	26	22	2	1	3
Golden Valley .....	41	32	0	4	4
Grant .....	32	38	1	0	1
Griggs .....	25	18	6	0	6
Hettinger .....	30	51	2	0	2
Kidder .....	29	23	4	5	9
Logan .....	17	15	2	4	6
McHenry .....	56	36	2	2	4
McIntosh .....	24	23	0	0	0
McKenzie .....	58	47	6	0	6
McLean .....	51	51	6	4	10
Mountrail .....	75	55	8	13	21
Nelson .....	44	19	3	1	4
Oliver .....	17	19	0	6	6
Pembina .....	78	58	7	11	18
Pierce .....	55	65	8	5	13
Renville .....	53	51	1	1	2
Rolette .....	32	32	7	1	8
Sargent .....	33	21	5	0	5
Sheridan .....	20	44	1	9	10
Sioux .....	7	3	1	0	1
Slope .....	15	17	0	4	4
Steele .....	16	24	8	0	8
Towner .....	41	10	14	4	18
Traill .....	88	48	6	2	8
<b>TOTAL .....</b>	<b>1,435</b>	<b>1,186</b>	<b>157</b>	<b>98</b>	<b>255</b>

(F) — Filed (D) — Disposed

Source: County court case reporting system — Office of State Court Administrator



## MUNICIPAL COURTS

Presently there are 364 incorporated municipalities in North Dakota. While the 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, 180 cities have municipal courts. There are 167 judges serving these municipalities. Of the total number of municipal judges, 23 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 1979 the traffic-related caseloads varied from one case in very small jurisdictions to 8,043 in Minot. Statewide, there were 45,894 cases disposed of in all municipal courts. This was a 2% increase

from 44,748 dispositions in 1978. The ten highest volume municipalities disposed of 3,044 criminal matters and 33,187 administrative traffic actions. Thus, 5% of the communities process 76% of the total criminal case volume and 79% of the total number of administrative traffic cases.

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.

### SELECTED MUNICIPAL COURT STATISTICS TRAFFIC CASE DISPOSITIONS

Calendar Year 1979

Municipalities With Highest Case Volume	CRIMINAL DISPOSITIONS				NON-CRIMINAL DISPOSITIONS			
	Convictions	Acquittals	Dismissals	Total	Convictions	Acquittals	Dismissals	Total
Bismarck .....	391	87	0	478	4840	136	1	4977
Devils Lake .....	195	32	0	227	970	49	0	1019
Dickinson .....	91	6	0	97	1686	18	3	1707
Fargo .....	256	1	1	258	5619	4	4	5627
Grand Forks .....	594	88	0	682	4799	575	4	5378
Jamestown .....	119	44	2	165	2187	104	0	2291
Mandan .....	171	19	0	190	1852	52	0	1904
Minot .....	480	41	10	531	7209	249	54	7512
Wahpeton .....	151	9	1	161	896	41	10	947
Williston .....	247	7	1	255	1805	10	10	1825
<b>TOTAL .....</b>	<b>2695</b>	<b>334</b>	<b>15</b>	<b>3044</b>	<b>31,863</b>	<b>1238</b>	<b>86</b>	<b>33,187</b>

Source: Municipal court case reporting system — Office of State Court Administrator.

### TOTAL NUMBER OF TRAFFIC RELATED CASES PROCESSED STATEWIDE

Calendar Year 1979

CRIMINAL TRAFFIC CASES		NON-CRIMINAL TRAFFIC CASES	
Convictions .....	3583	Convictions .....	40,259
Acquittals .....	387	Acquittals .....	1489
Dismissals .....	37	Dismissals .....	139
<b>TOTAL .....</b>	<b>4007</b>	<b>TOTAL .....</b>	<b>41,887</b>

Source: Municipal court case reporting system — Office of State Court Administrator.



## REPORT OF THE JUDICIAL QUALIFICATIONS COMMISSION

In 1979, Lowell Lundberg, the attorney member of the Judicial Qualifications Commission, from Fargo, was selected as the Chairman, and Dr. Glenn Smith, Grand Forks, was selected as ViceChairman. The other members of the Commission are: The Honorable William M. Beede, Williston; The Honorable Harold B. Herseth, Jamestown; Ronald Klecker, Minot; Kathy Creighton, West Fargo; and Gorman H. King, Bismarck.

The work of the Commission in 1979 consisted of the consideration of four complaints carried over from 1978. Of those, two resulted in dismissal — one against a small claims court judge and one against a district judge. Two resulted in private censure — one of a district judge and one of a judge of a county court with increased jurisdiction.

Thirty-five new complaints were received.

Twenty-one were dismissed, nine resulted in private reprimands and five were carried over into 1980. Of those received, nineteen were against municipal judges, four were against county judges and justices, one was against a small claims court judge, one against a judge of a county court with increased jurisdiction, and seven against district court judges.

The majority of the complaints were generated by enforcement of statutory educational requirements for county and municipal judges. The commission, in addition to its own proceedings, requested the Judiciary Standards Committee to review the requirements directing special attention to the financial hardships often caused a municipal judge from a smaller community in attending the appropriate seminars.





## REPORT OF THE DISCIPLINARY BOARD OF THE SUPREME COURT

During 1979, Rule 4 of the North Dakota Rules of Disciplinary Procedure was amended to conform with the recent judicial redistricting. The result of that rule change was to increase the membership of the Disciplinary Board from nine to ten members. The attorney members are: Jake Hodny, Grafton; Ronald G. Splitt, LaMoure; Malcolm Brown, Mandan; Henry G. Ruemmele, Grand Forks; David L. Peterson, Bismarck; Mark L. Stenehjem, Williston; and Raymond R. Rund, Finley. The lay members are Ruth Meiers, Ross; Bea Peterson, Dickinson; and Alice Olson, Cavalier.

The complaints received by the Disciplinary

Board for 1979 showed a surprising decline. Eleven complaints were carried over from 1978. Of those carried over, nine were dismissed, one resulted in a private reprimand, and one in a formal proceeding with a recommendation to the Supreme Court for a public reprimand. Fifty-one additional complaints were received. Of the new complaints, twenty-nine were dismissed, three resulted in private reprimands, one resulted in a formal hearing, and eighteen were carried over to 1980. Both formal proceedings centered around questions of delay in estate matters.





## 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 87, 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 1979, the committee completed a comprehensive review of the North Dakota Rules of Criminal Procedure. This resulted in the recommendation to the Supreme Court of several amendments. After a hearing in September, the proposed amendments were adopted by the Court without change, effective January 1, 1980. At the same time, several amendments to the North Dakota

Rules of Civil Procedure were recommended by the committee and adopted by the Supreme Court. Except for a new rule on audio-visual depositions, the substantive amendments were necessary to resolve inconsistencies because of the previous adoption of the North Dakota Rules of Evidence.

The most extensive project started during the year by the Joint Procedure Committee was a study of the North Dakota Rules of Civil Procedure. Providing an explanatory note for each rule was the principle purpose of this project. Although the rules were originally promulgated in 1957 and re-promulgated in 1971, no "official" explanatory notes were provided, as has been done with the Criminal, Appellate, and Evidence Rules. Final adoption of the notes and other proposed amendments to the Civil Rules and a hearing in the Supreme Court can be expected some time in 1980.

Rule 83 of the Rules of Civil Procedure and Rule 57 of the Rules of Criminal Procedure allow district courts to adopt local rules. The committee has begun studying the concept of local court rules. This study will continue into 1980. There will also be an examination of new amendments to the Federal Rules of Criminal and Civil Procedure.





## 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 would then 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 are a new format for revised material previously contained in the *North Dakota Judicial Master Program for the FY 1977-79 Biennium*. The *Working Papers* 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 the *Working Papers* are discussions of traffic cases as a group of cases common to several courts (W.P. 13), public participation in court services (W.P. 34), court services during a period of fuel shortage (W.P. 43), and the substance of the law as it affects court services (W.P. 51).

The Judicial Planning Committee's studies in 1979 included Native American justice issues such as the relationship between state and tribal courts, impact of the Indian Child Welfare Act on state courts, and special problems of Indian criminal defendants in the state court system. The Committee also held discussions with legislative leaders of the 1979 Legislative Assembly regarding implementation of the unified judicial system. The rulemaking authority of the Supreme Court and the maintenance of court records as part of the state archives are studies begun in 1979 that will continue in 1980.

### OTHER STANDING COMMITTEES OF THE SUPREME COURT

Three additional standing committees were organized in 1979 pursuant to Section 8, NDRPR to assist the Supreme Court in its administrative supervision of the state courts.

#### **Attorney Standards Committee**

The Attorney Standards Committee was organized in 1979 under the chairmanship of Edmund Vinje II, to study and review all rules for attorney supervision (Section 8.1(b), NDRPR).

The Committee's first major project was a study of the State Bar Association of North Dakota's proposed amendments to the Code of Professional Responsibility regarding attorney advertising. The Committee's recommendation was submitted to the Supreme Court in November, 1979. A related study continuing into 1980 will be the consideration of an attorney specialization plan and the relation of such a plan to the present continuing legal education requirements. In the area of bar admissions and licensure, the Committee is developing a rule proposing designation of an agent for service of process to replace the current residency requirement for admission to the bar, procedures for review of adverse recommendations by the Bar Board, and clarification of the status of nonresident licensees.

#### **Judiciary Standards Committee**

The Judiciary Standards Committee, chaired by Lowell W. Lundberg, was organized to study rules relating to the state judiciary (Section 8.1(c), NDRPR).

The Committee made a proposal to the interim Judiciary A Committee of the Legislative Council to remove the statutory restrictions on county justices serving as municipal judges, thus encouraging the full utilization of legally trained judicial personnel. The Committee has recommended that additional payments be made as an incentive for municipal judges to attend mandatory training programs.

Two major projects were begun in 1979 for completion in 1980: 1) a proposal for a rule stating procedures for the appointment and service of temporary judges pursuant to Chapter 27-24, NDCC (replacing AR8 and AR8A-1079) and 2) revision of Canon 7 of the Code of Judicial Conduct to provide guidelines and enforcement procedures for judicial election campaigns.

#### **Court Services Administration Committee**

The Court Services Administration Committee is the successor to the Rules Subcommittee, which advised the Supreme Court regarding the implementation of the unified judicial system by Supreme Court rule and administrative action. The new Committee retained several members of the Subcommittee, including Chairman William Strutz. Its mandate is to study and review all rules and orders relating to the administrative supervision of the judicial system (Section 8.1(d) NDRPR).

The Court Services Administration Committee made several proposals which were reviewed by the Supreme Court. The boundaries of the state's judicial districts were changed effective July 1, 1979 (AR6-1979). The transfer of cases from the old to the new districts was provided for by AR4-1979. Other administrative rules proposed by the Com-



mittee dealt with the duties of the Clerk of the Supreme Court (AR5-1979) and waiver of the restrictions on consecutive jury terms by presiding judges (amendment to AR2-1978).

Trial court docket currency standards will be submitted by the Committee to the Supreme Court

in early spring, 1980. The Committee will continue its study of judicial compensation, including nonpecuniary compensation such as transition counseling and retirement planning, and its review of the Rule on Procedural Rules, Administrative Rules, and Administrative Orders in 1980.





## 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 shall be 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 fifty-nine (59) 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, 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.





## **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**

\*Roy A. Ilvedson, Minot  
Everett Nels Olson, Minot  
Wallace D. Berning, 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, Linton  
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, Walhalla

### **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  
Clifford Jansonius, Bismarck  
C. F. Kelsch, Mandan  
Harvey Miller, Glendive, MT

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

## ATTORNEY GENERAL

Allen I. Olson, Bismarck

## U.N.D. SCHOOL OF LAW

Randy Lee, Grand Forks

## MEMBERS OF THE BAR

Jon Kerian, Minot  
J. Philip Johnson, Fargo  
Ward Kirby, Dickinson

Joseph C. McIntee, Towner  
Patrick J. Maddock, Grand Forks

## EXECUTIVE SECRETARY

William G. Bohn

*\*Designates Presiding Judge*

*67 Members*