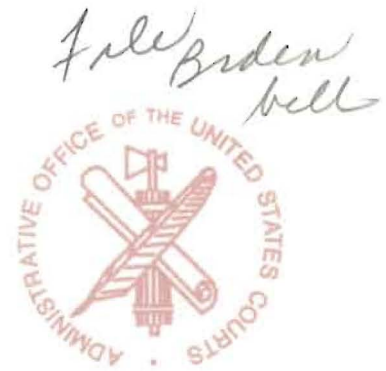


THE THIRD BRANCH

Newsletter
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President Nominates Circuit Judge For Supreme Court

President George Bush has nominated U.S. Court of Appeals Judge David H. Souter to the U.S. Supreme Court, three days after Justice William J. Brennan, Jr. announced his retirement.

In making the nomination July 23, Bush described Souter as "a remarkable judge of keen intellect and the highest ability, one whose scholarly commitment to the law and whose wealth of experience mark him of first rank." The Senate Judiciary Committee is expected to begin confirmation hearings September 13.

On April 27, 1990, the Senate confirmed Souter for a seat on the First Circuit, replacing Judge Hugh H. Bownes, who took senior status on January 1.

Souter, 50, had served as an Associate Justice on the New Hampshire Supreme Court from 1983 until his confirmation for the First Circuit. He sat on the New Hampshire Superior Court from 1978 to 1983, served as Attorney General of New Hampshire from 1976 to 1978, Deputy Attorney General from 1971 to 1976 and Assistant Attorney General from 1968 to 1971. He was in private practice in Concord, New Hampshire from 1966 to 1968.



President Bush speaks to reporters in the White House as he announces the nomination of Judge Souter (left) for a seat on the Supreme Court.

He has served on the Maine-New Hampshire Interstate Boundary Commission, the New Hampshire Police Standards and Training Council, and the New Hampshire Governor's Commission on Crime and Delinquency.

Souter graduated Phi Beta Kappa from Harvard College, receiving a B.A. degree in 1961. He attended Oxford University as a Rhodes Scholar from 1961 to 1963 and received an A.B. degree and an M.A. degree from Oxford in 1989. In 1966

he received an LL.B. degree from Harvard Law School.

Brennan, 84, retired from the Supreme Court July 20 after almost 34 years of service, saying that "the strenuous demands of court work and its related duties required or expected of a Justice appear at this time to be incompatible with my advancing age and medical condition." President Eisenhower nominated Brennan to the Court in 1956 to replace Justice Sherman Minton.

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CIVIL REFORM / JUDGESHIP LEGISLATION MOVES AHEAD

By a vote of 12 to one on July 12, the Senate Judiciary Committee marked up and reported out an amended version of S. 2648, the Judicial Improvements Act of 1990. Sen. Howell Heflin (D-Ala.) cast the sole dissenting vote.

In May, Sen. Joseph Biden, Jr. (D-Del.) introduced S. 2648 as a complete substitute for S. 2027, taking into account a number of concerns raised by the Judicial Conference.

As reported from the Committee, the bill has two titles. Title I, the Civil Justice Reform Act of 1990, is a substitute for S. 2027. Title II, the Federal Judgeship Act of 1990, creates 77 new appeals and district court judgeships.

Meanwhile, the House Subcommittee on Courts, Intellectual Property and the Administration of Justice has set a hearing for September 6 on the latest version of the Civil Justice Reform Act of 1990. The hearing also will embrace H.R. 5381, a bill introduced by Rep. Robert Kastenmeier (D-Wis.) covering many Federal Courts Study Committee recommendations (See page 4). In

addition, a separate bill to create 54 judgeships has been introduced.

At the mark-up of S. 2648, Biden said Title II was "long overdue," and noted that Title I "reflects many of the good ideas we received from critics, including sitting judges."

A third title containing the non-controversial recommendations of the Judicial Conference and the Federal Courts Study Committee may be added on the Senate floor. Senate consideration is expected before the August recess.

On July 19, House Judiciary Committee Chairman Jack Brooks introduced H.R. 5316, the Federal Judgeship Act of 1990, which would create nine court of appeals and 45 district court judgeships. Hearings were held July 30 before the House Subcommittee on Economic and Commercial Law, with Judge Walter McGovern, Chairman of the Committee on Judicial Resources, appearing as the only witness.

Brooks targeted several jurisdictions with particularly high drug caseloads for new judgeships, noting that "in some districts the soaring

number of drug cases has produced a staggering workload that threatens to undermine our efforts to bring drug criminals to justice."

"And mounting drug caseloads result in more than just long hours for judges," Brooks said in a statement on the House floor when he introduced the bill.

"Civil cases in such districts can languish on the court's docket for years as criminal cases consume more and more of the judges' time. The bottom line is that without additional judgeships, the courts in these districts could soon lapse into a state of judicial gridlock."

Judgeships were last authorized in 1984 when Congress processed legislation to provide 61 additional positions for the district courts and 24 for the courts of appeals. Since then the workload of the courts has grown dramatically.

Over the past six years the number of criminal cases filed in the trial courts has grown by 30 percent, with drug cases alone increasing by nearly 130 percent. In the courts of appeals the situation is similar.

SUMMARY OF JUDGESHIP RECOMMENDATIONS BIDEN JUDGESHIP BILL AND BROOKS JUDGESHIP BILL

	Approved by Judicial Conference in 1988	Approved by Judicial Conference in 1990	Biden Bill S. 2648	Brooks Bill H.R. 5316
Courts of Appeals	16	20	11	9
District Courts	60	76	66	45
Total All Courts	76	96	77	54

Note: Totals do not include recommendations to convert existing temporary judgeships to permanent or existing roving judgeships to nonroving.

CONGRESS PUTS CRIME LEGISLATION ON FAST TRACK

Two anti-crime bills are quickly making their way through the House and Senate. Senate bill 1970, the Omnibus Crime Bill, which at one time seemed dead after two cloture votes failed, passed the Senate July 11 by a 94 to 6 margin. Meanwhile, on the House side, Rep. Jack Brooks (D-Tex.), Chairman of the House Judiciary Committee, introduced H.R. 5269, the Comprehensive Crime Control Act of 1990, on July 13 and four days later began to mark up the bill. By a 19-17 margin on July 23, the Committee voted to send the bill to the House floor.

While both bills are composed of multiple titles addressing a broad array of issues, S. 1970 appears to contain more sections than H.R. 5269 that would affect the work of the courts. The following are provisions of the bills that may be of interest to the Judiciary:

S. 1970

☛ TITLE II

Habeas corpus amendment to the bill by Senators Specter and Thurmond passed in late May. It would require federal district courts to rule on petitions within 110 days of filing. Courts of appeals would have to rule within 90 days of the filing of the notice of appeal, and the Supreme Court would have to act on the petition for certiorari within 90 days. A 180-day deadline would be allowed for the appointment of counsel to file a habeas petition. It would be a state's option to create a certifying authority establishing standards for appointed counsel. State habeas proceedings would no longer be a prerequisite to filing a petition in federal court.

☛ TITLE III

Provides for mandatory minimum sentences for those convicted of a drug crime while carrying a

firearm. This title also provides for longer prison sentences for those who sell drugs to minors and life imprisonment for those convicted of a drug offense for a third time.

☛ TITLE VI

Makes certain crimes against children felonies, provides for a grant program for the investigation and prosecution of child abuse cases, and makes certain rule changes. This section also would require judges and probation officers to report child abuse as soon as they learn of it. Changes to Federal Rules of Criminal and Civil Procedure and the Federal Rules of Evidence would grant exceptions to the hearsay rule to protect child victims and witnesses and facilitate their testimony.

☛ TITLE VII

Contains two mandatory sentencing provisions for child abuse crimes.

☛ TITLE X

Contains additional mandatory minimum sentences for offenses involving children.

☛ TITLE XI

Victims rights. This requires courts to order restitution without consideration of the offender's economic circumstances, and requires the clerk of court to collect and distribute restitution.

☛ TITLE XVI

Provides \$9 million for additional probation officers, judges, magistrates and other personnel.

☛ TITLE XXIV

Amends the Federal Rules of Criminal Procedure to equalize the number of preemptory challenges available to the defense and prosecution in criminal cases.

☛ TITLE XXV

Federal prisoner drug testing. Makes drug testing mandatory for all those on probation, supervised release or parole.

☛ TITLE XXXVII

Debt collection. Clerk of court is to review application for post judgment writs of garnishment. Restricts the court's discretion to order the procedure by which restitution is to be paid.

H.R. 5269

☛ TITLE II

Federal death penalty. Anyone who intentionally kills a federal judge or law enforcement official shall be subject to the death penalty. Provides for bifurcated trial of death penalty cases. In such cases there would be an automatic right of review on appeal.

☛ TITLE XII

Mandatory minimums. Provides for mandatory minimum sentences for those who attempt to kill or threaten the life of a judge or juror.

☛ TITLE XIII

Habeas corpus. Requires that habeas petition be filed within one year of appointment of counsel. Is silent on specific timetables for court action on habeas petitions. Sets out detailed standards for counsel at trial and appellate stages.

DOCUMENT ROOM MOVES

The House Document Room has moved out of the Capitol Building. For copies of bills, write or call: House Document Room, House Annex No. 2, Room B-18, Third and D Streets, S.W., Washington, D.C. 20515, (202) 225-3456.

GSA BILL INTRODUCED IN SENATE

Legislation that would provide the Judicial Branch with the same real property authority enjoyed by the other two branches of government was introduced July 12 by Sen. Daniel P. Moynihan (D-N.Y.).

Senate bill 2837, the Judicial Space and Facilities Management Improvement Act of 1990, would provide the courts with the necessary independence to plan more adequately for, and meet, their space needs. Last March, a companion bill, H.R. 4178, was introduced by request in the House by Congressmen Douglas H.

Bosco (D-Cal.) and Thomas E. Petri (R-Wis.), chairman and ranking minority member of the Subcommittee on Public Buildings and Grounds, respectively.

The House subcommittee then held a hearing at which Judge Robert C. Broomfield, acting chairman of the Judicial Conference's Committee on Space and Facilities, and AO Director L. Ralph Mecham testified. Both witnesses strongly endorsed the legislation, which would allow the Judiciary to work directly with congressional committees having

jurisdiction over public works projects. Currently, the General Services Administration controls planning and the provision of courts' space needs. The Office of Management and Budget reviews, and frequently amends, GSA's plans.

The Senate Subcommittee on Water Resources, Transportation and Infrastructure, which Moynihan chairs, is expected to conduct a hearing on the bill in September.

The Judicial Conference unanimously endorsed such legislation at its September 1989 meeting.

HOUSE CONSIDERS PERSONNEL LEGISLATION

Judge Harlington Wood, Jr. (7th Cir.), Chairman of the Judicial Conference's Committee on the Administrative Office, and AO Director L. Ralph Mecham testified before a House subcommittee July 26 in support of legislation establishing a comprehensive personnel system for the AO. The same day the subcommittee marked up the bill and sent it to the full committee.

"This bill will benefit the Administrative Office, the entire judicial family, and the government-wide personnel management system as a whole by recognizing the unique nature of the Judiciary and creating a flexible personnel system suited to our needs," Wood told the House Subcommittee on the Civil Service.

H.R. 4174, the Administrative Office of the U.S. Courts Personnel Act of 1990, was introduced March 5 by Rep. William D. Ford (D-Mich.), Chairman of the Post Office and Civil Services Committee. Sen. Joe Lieberman (D-Conn.) introduced a companion bill, S. 2269, on March 9.

The AO, although an arm of the Judicial Branch, is subject to the control of the Executive Branch in personnel matters. At the same time,

judges, their staffs and other court personnel are independent of the Office of Personnel Management (OPM) and the Executive Branch with regard to personnel policies. Consequently, the 23,000 people who work in the courts throughout the country are subject to one personnel system the courts control, while the 800-person administrative staff in Washington is subject to a different system the Executive Branch controls. The proposed legislation would correct this constitutional inequity, the two witnesses said.

Mecham also told the subcommittee that existing policies make it very difficult to move employees from the courts to the AO where their expertise can be fully utilized.

"In virtually every case where a manager wanted to hire an experienced court employee, the application of OPM rules has resulted in months of delay before an employee could be hired, or we were prevented from doing so," Mecham testified.

AO employees have been briefed on the pending legislation, and an informal survey indicates their support.

COURTS STUDY RECOMMENDATIONS INTRODUCED IN HOUSE

On July 26, Rep. Robert Kastemeier introduced H.R. 5381, which contains many of the non-controversial recommendations of the Federal Courts Study Committee. The bill

- Increases witness and juror fees
- Vests the authority to appoint Federal Public Defenders with an independent commission
- Restricts the removal of separate and independent claims
- Extends the life of the Parole Commission, and
- Authorizes judges to encourage parties to have civil cases tried by magistrates.

HOTLINE

For the latest information on legislative issues please call the tape-recorded "hotline" in the AO's Legislative and Public Affairs Office, FTS 786-6297.

RAND STUDIES CIVIL WORKLOAD OF COURTS

Nationwide over the past 16 years the disposition time for private civil suits in the federal courts has remained "remarkably stable," concluded a recently released report.

The study by the Rand Institute for Civil Justice found that despite the overall rise in caseload, the median time from filing to disposition of private civil cases over the past 16 years has fluctuated by no more than two months.

The Institute for Civil Justice, established within the Rand Corporation 11 years ago, performs independent, objective policy analysis and research on the American civil justice system.

The report focused on private civil cases only because many suits involving the U.S. are recovery or enforcement actions, making only minimal demands on the Judiciary. Trials also are rare in such cases. While the study examined the years 1971 through 1986, the trends identified hold true in more recent years. In 1971 there were 68,310 private civil actions filed in the U.S. district courts. In 1986 the figure was 162,998 and in 1989, 171,623.

According to the report, the median time nationwide from filing to disposition fluctuated between eight and 10 months. At the same time, the rate of terminations remained proportionate to the rate of filings, indicating that the courts have been able to keep pace with the increase in cases filed.

In 1971, 60 percent of the private civil cases were disposed of within one year of filing, 22 percent within two years, 10 percent within three years and 8 percent in more than three years. In 1986, the percentages were 61, 23, 9 and 7, respectively.

There was, however, a large variation regarding time from filing to disposition by district. For example, the percentage of cases terminated within one year ranged

from more than 80 percent in some districts to less than 40 percent in others. The percentage of old cases—those filed more than three years before termination—ranged from more than 20 percent to less than one percent.

"The stable system-wide figures, then, seem to be a case of ice and fire averaging to a comfortable temperature," the report said. "At the extremes, there are some districts that are much faster than the system as a whole and some that are much slower."

The reasons for these apparent discrepancies, however, are difficult to measure.

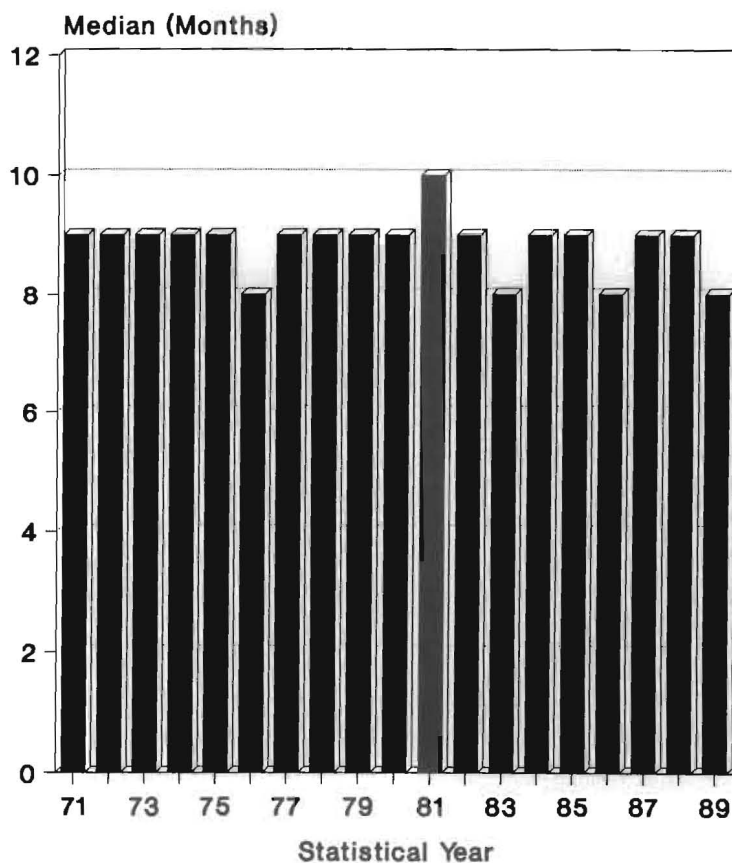
"The district courts do not operate in a vacuum. They are part of a system that includes litigants and

attorneys as well as other components. These elements of the system interact with and influence each other," the report noted.

The Rand report also concluded that developing more complete information on what actually occurs during the life of a case, on the varying management practices and philosophies of the districts and judges, and the specific practices and procedures of the federal bar in each district would explain why there is variation among courts in processing times.

For copies of *Statistical Overview of Civil Litigation in the Federal Courts*, write: The Rand Corporation, 1700 Main Street, P.O. Box 2138, Santa Monica, CA 90406-2138.

U.S. District Courts-Private Civil Case Median Time from Filing to Disposition



JUDICIAL FELLOWS CHOSEN FOR 1990-91



Robert S. Peck



Mary F. Radford



Anthony M. Champagne

Two men and one woman have been selected as the Judicial Fellows for 1990-91. Robert S. Peck will be assigned to the Administrative Office of the U.S. Courts, Mary F. Radford to the U.S. Supreme Court, and Anthony M. Champagne to the Federal Judicial Center.

Retired Chief Justice Warren E. Burger created the Judicial Fellows Program in 1973. Each year, two or three outstanding individuals are chosen to spend one year working with top officials in the Judicial Branch, giving them a first-hand understanding of the workings of the federal government and in particular, the Judiciary. The Fellows are involved in varied projects examining the federal judicial process and seeking, proposing, and implementing solutions to problems in the administration of justice.

The Chief Justice appoints a 13-member committee to select the Judicial Fellows, who come from diverse fields, including political science, public and business administration, economics, the behavioral sciences, journalism, and the law.

As the Fellow at the Administrative Office, Robert Peck will work on various projects involving court support, and the implementation of specific policies set by the Judicial Conference.

Peck served as staff director for the American Bar Association Commission on Public Understanding about the Law from 1982 to 1989, and was Director of the Education Rights Project in New York's Public Education Association from 1978 to 1982. He worked as an editor for Matthew Bender and Company, writing and editing for legal publications from 1977 to 1978, and was a law clerk for Chief Justice Richard Brennan and Senior Judge Edward Feighan in the Cleveland Municipal Court in 1976.

Peck received a Master of Laws from Yale Law School in June of 1990; a J.D. from the Cleveland-Marshall School of Law in 1978; and a B.A. from George Washington University in 1975.

Mary Radford is an associate professor at Georgia State University College of Law. While at the Supreme Court, Radford will work in the Office of the Administrative Assistant to the Chief Justice and will be involved with speech writing and research, briefing visiting dignitaries and preparing analytical reports.

Radford has been a professor at Georgia State University since 1984. She practiced law with the firm of Hansell and Post in Atlanta from 1981 to 1984, and taught high school English and French in Atlanta from

1974 to 1978. Radford has written and lectured on legal topics, including fiduciary administration and domestic law.

She received a J.D. with distinction from Emory University in 1981, and a B.A. summa cum laude from Newcomb College of Tulane University in 1974.

Anthony Champagne is a professor of social sciences at the University of Texas at Dallas and has been since 1979. During his fellowship at the FJC, Champagne will work on projects such as policy research, the preparation and the presentation of educational seminars for federal judges, and the development of computer information systems for both trial and appellate courts.

Champagne began his teaching career at Rutgers University in 1973. He is the author of a biography of the late Speaker of the U.S. House of Representatives, Sam Rayburn. He also has written and lectured on a number of topics regarding political science and the law.

Champagne received a Ph.D. in 1973 and an M.A. in 1971 from the University of Illinois; and a B.A. cum laude from Millsaps College in 1969.

All three fellowships will begin in late August or September.

JUDICIAL MILESTONES

RETIRED. Justice **William J. Brennan, Jr.**, from the U.S. Supreme Court, effective July 27.

SENIOR STATUS. Judge **Jerre S. Williams**, U.S. Court of Appeals for the Fifth Circuit, effective July 2.

RETIRED. **Paul Game**, U.S. Magistrate for the M.D. of Florida, effective July 15.

APPOINTED. **Samuel A. Alito, Jr.**, to the U.S. Court of Appeals for the Third Circuit, effective July 15.

APPOINTED. **David C. Norton**, to the U.S. District Court for the S.D. of South Carolina, effective July 13.

APPOINTED. **Richard W. Vollmer, Jr.**, to the U.S. District Court for the

S.D. of Alabama, effective June 18.

APPOINTED. **Samuel G. Wilson**, to the U.S. District Court for the W.D. of Virginia, effective June 22.

APPOINTED. **Robert H. Cleland**, to the U.S. District Court for the E.D. of Michigan, effective June 21.

APPOINTED. **Donald MacDonald IV**, to a newly created position on the U.S. Bankruptcy Court for the D. of Alaska, effective July 2.

APPOINTED. **Catherine D. Perry**, to a newly created position as U.S. Magistrate for the E.D. of Missouri, effective June 29.

APPOINTED. **Nancy K. Pecht**, as U.S. Magistrate for the S.D. of

Texas, effective June 12.

APPOINTED. **Wendell C. Radford**, as U.S. Magistrate for the E.D. of Texas, effective July 2.

ELEVATED. District Judge **Karen LeCraft Henderson**, to the U.S. Court of Appeals for the D.C. Circuit, effective July 11.

ELEVATED. District Judge **Richard F. Suhrheinrich**, to the U.S. Court of Appeals for the Sixth Circuit, effective July 13.

ELEVATED. Judge **Howard F. Sachs**, to Chief Judge of the W.D. of Missouri, succeeding Chief Judge **Scott O. Wright**, effective July 31.

NEW SENTENCING COMMISSIONERS SWORN IN



The three new members of the U.S. Sentencing Commission were sworn in during a ceremony at the Supreme Court on July 24. From left: Michael S. Gelacak, Julie E. Carnes, and Judge A. David Mazzone (D. Mass.). They will join Commissioners Judge William W. Wilkins, Jr. (4th Cir.), Chairman, Judge George E. MacKinnon (D.C. Cir.), Helen G. Corothers, and Ilene H. Nagel.

For the first time since 1988, the Sentencing Commission has its full complement of seven commissioners.

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Please direct all inquiries and address changes to the managing editor of The Third Branch at the above address.

Court Employees Honored in Wake of Hurricane and Earthquake

When Hurricane Hugo and the San Francisco earthquake struck last year, a group of federal court employees jumped into action, disregarding their own safety and welfare for that of the courts and their surrounding communities. They rescued neighbors, secured their courthouses and properties, and worked tireless hours to restore service to the public. As a result, the Judicial Conference has specially recognized three court employees in St. Croix and St. Thomas in the Virgin Islands, and 13 employees in the Ninth Circuit for their extraordinary service to the courts. Each received a monetary award and either a plaque or certificate.

Orinn Arnold, the clerk of the district court in St. Croix, protected the courthouse after Hurricane Hugo destroyed or substantially damaged more than 80 percent of island housing. There was widespread civil disorder on St. Croix, particularly in Christiansted, where the federal courthouse is located and where looting of stores occurred. While more than 200 escaped prisoners reportedly roamed the island, Arnold disregarded his own personal circumstances and the substantial damage to his house, and secured the courthouse in the

immediate wake of the storm. As a result, no court property was lost, files were saved, and the court was functioning just one week after the hurricane hit.

Frank Blackman, deputy clerk in charge of the district court clerk's office in St. Thomas, appeared at the courthouse before the storm had passed and was instrumental in



Workers outside the federal courthouse in St. Croix begin cleaning up after Hurricane Hugo.

allowing the court to stay open for business without interruption. The back wall of the clerk's office, composed largely of glass windows, was blown away. With the office now completely exposed to weather and to vandalism, Blackman secured the building and protected all the property of the court. As a result, there was very little damage to the equipment and property in the office and no court files were lost.

Stephen Daner, court reporter for Judge Stanley S. Brotman (D. N.J.), was on temporary assignment in the Virgin Islands when the storm hit. After a day of court work on St. Thomas, Daner returned to St. Croix

to prepare for an airplane crash trial. As the force of the hurricane grew and efforts to secure their temporary quarters failed, Daner and his companions retreated to a small windowless space. After midnight, in the relative calm of the eye of the hurricane, they heard calls for help from a nearby building. Daner rushed to the scene, where he helped

free two people trapped in the debris of a collapsed third floor condominium.

At its March meeting, the Judicial Conference passed a resolution recognizing the extraordinary performance of these and other court employees. They received individual copies of the resolution during ceremonies held in the Virgin Islands, Old San Juan and Hato Ray, Puerto

Rico, and Charleston, South Carolina, where the devastating effects of the hurricane were felt most directly.

At the other edge of the continental United States, 13 employees in the Ninth Circuit have been honored "for exemplary dedication during the [San Francisco] Earthquake crisis in quickly bringing the court back into operation and minimizing disruption of service to the public."

Tom Arthurs, Karl Gerdes, Richard Mansfield, Ted Peterson, and Roger Tom, of the computer staff, worked around the clock for more than 40 days to get the court's computer systems up and running. They restored electronic mail, the

court's vital link among all 38 judges' chambers, within three days. This resulted in great monetary and time savings. Though the court building was "red-tagged," meaning that it was unsuitable to enter, staff pulled equipment and irreplaceable data files from all four floors of the building and hand-carried them to their own vehicles for transportation to rented quarters.

Robert Pleasant and Beverly Breaux, of the procurement staff, had primary responsibility for coordinating the more than 200 moves of all displaced employees of the Seventh and Mission Street Courthouse. They managed the Herculean task of getting all the court units set up and functioning in the seven different buildings the court now occupies throughout San Francisco. Pleasant spent many hours in the building salvaging furniture and files at personal risk. Breaux secured


hundreds of telephone voice lines and more than 100 data lines to support the relocation effort. As a result, downtime of people and equipment was minimized and service to the public was restored quickly.

Senior Deputies Jereldine Curtis and James Hochstadt ensured that there was no disruption to the court's oral argument calendars scheduled for San Francisco. Since the existing courtrooms could not be used for arguments, Curtis worked diligently to secure substitutes. Hochstadt worked side-by-side with procurement staff coordinating moves and mail service; the latter task was particularly difficult, since the post office serving the court was also displaced from the Seventh and Mission Street Courthouse.

Franco Mancini, Robert Lindell, Carol Cummings, and Walter Heinecke, of the facilities staff, were

tireless in their efforts to get the court operational after the earthquake. Cummings has the distinction of being hired by the court just hours before the earthquake hit. The four employees located rental space, initiated GSA review of the courthouse, managed GSA requirements on all temporary rental space, and handled the myriad tasks associated with the move. They worked evenings and weekends for the duration of the operation.

Administrative Office Director L. Ralph Mecham praised the court staff for their "courage, determination and selfless dedication during these two horrible disasters.

"In times of tragedy it is comforting to know that the Judiciary can count on its employees to do whatever is necessary and possible to keep the courthouse doors open to the public," Mecham said. 

JUSTICE SPENDING UP

Federal, state and local governments spent \$61 billion for civil and criminal justice in 1988, a 34 percent increase since 1985, according to the Bureau of Justice Statistics. The Bureau, a component of the Office of Justice Programs in the U.S. Department of Justice, said spending on justice activities during 1988 amounted to three cents for every dollar of all federal, state and local government expenditures that year.

The federal government spent 12 percent of all civil and criminal justice expenditures. State and local governments expended the remaining 88 percent.

The data come from a Bureau bulletin on justice expenditures and employment that also noted that:

- The federal government spent less than one cent of every federal dollar for justice; states spent six

cents; and local governments almost seven cents.

- Federal, state, and local governments spent \$248 per capita—\$114 for police, \$78 for corrections, \$54 for judicial and legal services, and \$2 for other justice activities, such as state coordinating councils.

- Compared with the justice expenditures, federal, state and local governments spent six times as much on social insurance payments, five times as much on national defense and international relations, four times as much on education, three times as much on interest on debt, 2.5 times as much on housing and the environment, and twice as much on public welfare.

- In October 1988, the nation's civil and criminal justice system em-

JUDICIAL BOXSCORE

As of July 30, 1990

Courts of Appeals Vacancies	11
Nominees Pending	6
District Courts Vacancies	37
Nominees Pending	8
Courts with "judicial emergencies"	13

ployed 1.6 million persons, and the total October payroll for them was almost \$3.7 billion.

For more information call or write: National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850, (301) 251-5000.

New Federal Judicial Center Director Looks Ahead

*Judge William W. Schwarzer became the Federal Judicial Center's sixth director on March 24, 1990. A judge on the U.S. District Court for the Northern District of California since 1976, he now serves as head of the federal courts' agency for research, systems development and continuing education. Schwarzer was interviewed recently for **The Third Branch**.*

TTB: For more than 14 years, you served on a court that is particularly noted for its innovative case management techniques, as are you personally. What part will the Center play in this important area, and what role will automation play?

JUDGE SCHWARZER: I think it is fair to say that now more than ever, case management is vital to the courts. It needs to be at the heart of the Center's work simply because the federal courts cannot cope with their daily burdens unless they employ effective case management.

Case management means a lot of things. It means that judges manage their cases effectively, but it also means that the supporting personnel do their work effectively and that the most is made of automation. Good case management, for example, means that the clerks offices maintain the necessary information and are able to have it available when it's needed, and in the form in which it's needed, to enable judges to keep track of their docket. It also includes bringing magistrates into the process to the fullest extent possible to enable them to be the most help they can. Case management is a broad concept. The bottom line is that in order to cope with the burdens the courts face today, case management is essential.

TTB: Has the FJC taken any particular steps to address this growing concern with case management?

JUDGE SCHWARZER: One of the things we have done is to begin to focus judicial training programs on management skills. Conventional lectures on substantive law are somewhat deemphasized in favor of presentations aimed at helping judges do a better job. For example, at the recent seminar for newly appointed district judges, panels of experienced district judges discussed various aspects of civil and criminal case management and the different ways in which a judge might deal with specific problems.

We have also held the first pilot seminar for judges three to five years on the bench. It was devoted entirely to management skills—how the judge can deal more effectively with the various problems that he or she confronts as a civil and criminal case works its way through the system. The seminar was based on case scenarios, including videos, and experienced judges led the discussion.

Similar training will be offered at workshops for Article III judges, Bankruptcy judges, and Magistrates.

TTB: Given your work as a judge, you surely bring some special insight into determining the educational needs of judicial officers. In addition to case management, are there particular areas in which you think the FJC should concentrate its training efforts?

JUDGE SCHWARZER: As I have indicated, the concept of case management really encompasses most of the activity of the Judicial Branch.

Some of the particular areas of interest to us, aside from pretrial management, include improving trial processes, particularly the trial of cases to juries so that they will not take an undue amount of time, will not involve an unreasonable amount of evidence, and will not raise other obstacles to jury comprehension.

I have an interest in the quality of writing by judges and others. We will shortly publish a manual on opinion writing that should be helpful to judges and law clerks as they prepare judicial opinions. We are also interested in preparing judges to handle cases that raise issues of science and technology, to make them more comfortable when they confront these kinds of issues.

I have an interest in helping judicial officers get the most out of the automation capability that is now available. Some judges are slow in grasping the opportunity and overcoming the fear of computers.

Also, training in people skills is always important, such as making the most of supporting staff, and eliminating any vestiges of bias in the courts.

TTB: The Center has general responsibility for the educational training of Judicial Branch personnel. What does the Center have planned in this area?

JUDGE SCHWARZER: We think that training of supporting personnel is as important as training of judicial officers. You can't expect clerks offices to run well if the employees up and down the line don't understand their mission and appreciate how it fits into the courts' operations. In addition, the trend toward decentralization puts a premium

on training in the field so that employees will be able to perform their new responsibilities. The growth in automation also requires additional training for supporting personnel.

With all that in mind, the FJC and Administrative Office have established a joint task force that is in the process of defining the training needs for all personnel in the Judicial Branch and determining how those needs can best be met. The results will be reflected in budget proposals later this year. We hope that this will enable us to develop an approach to training that will make the best use of all available resources and result in an effective cooperative effort to bring the training that's needed to the 24,000 people in the Judicial Branch.

TTB: Over the years the FJC has performed much valuable research for the courts. Are there any projects currently in the works that you wish to highlight?

JUDGE SCHWARZER:

One of the major projects that has been underway for a while is the time study. This will serve several important purposes. First, it will enable the Judicial Conference to adopt more realistic case weights and therefore determine more accurately the need for new judgeships. Secondly, we hope it will give us much better insight into the civil litigation process and enable us to determine the points at which cases

are terminated and with how much judicial intervention. We also are studying the operation of Rule 11 and Rule 56 in the courts.

Another major project is the creation of a desk book for case management, which will specifically describe methods, procedures and techniques judges have developed for dealing with problems at various stages of a case. It also will include material on alternative dispute resolution techniques that have been used successfully in courts. The book will be an ongoing project that will be continually augmented and



Judge William W. Schwarzer

should give judges ready access to various management techniques.

We also stand ready to provide research support to Judicial Conference committees in areas of their concern.

TTB: Many people feel that the

Judicial Branch support agencies, the FJC and the AO, suffer from a certain lack of identity and that many are not aware of the full range of services available to them. Do you have any particular plans to address this perception?

JUDGE SCHWARZER: The AO has been bringing new chief judges in for a briefing, which I think helps them understand the functions of the AO and the services it provides. The judges also visit the Center when they are in town, and we try to inform them about the services that

are available to them. Nevertheless, it's clear that not everybody in the field understands what's going on here and what is available to help. I attend as many circuit judicial conferences as possible to discuss the Center's work, answer questions and respond to requests. I know that [AO Director] Ralph Mecham does the same. We are glad to have judges visit us at any time or to call with their questions or requests.

The Third Branch helps to get the word out. In addition, judges receive considerable correspondence from the

AO and a lesser amount from the FJC. Unfortunately everyone receives so much paper that their capacity to absorb all the information conveyed is limited. But we will do whatever we can, in the best way we can, to keep our public informed without unduly burdening them. ↗

PART III OF COURTS STUDY REPORT AVAILABLE

When the Federal Courts Study Committee published its report on April 2, it announced that the final product would consist of three parts. The Committee released Part I, an overview of recommendations, and

Part II, greater detail regarding the proposals.

Part III of the Committee's report is now available. The two-volume set contains the working papers and three subcommittee reports. This

background material is available in limited quantities from the *Federal Courts Study Committee*, 22716 U.S. Courthouse, Independence Mall West, Philadelphia, Pa. 19106, (215) 597-3320.

JUDICIAL CONFERENCE TO MEET WITH JUDGES' GROUPS

Next month's Judicial Conference will include two firsts. Monday, September 10, the members of the Conference will hold a joint meeting with the Conference of Chief Justices. Among the issues to be discussed will be federalism and the crisis in the courts, and the formation of a national state-federal council to promote cooperation between the two court systems. This is the first time the representative bodies for the federal and state courts will conduct a joint meeting.

On September 11-14, the International Appellate Judges Conference will convene in Washington. It is anticipated that in addition to the 50 members and committee members of the Judicial Conference, and the 57 chief justices of the state and territories, delegations from

approximately 100 countries will attend the meetings.

The Judicial Conference will hold its regularly scheduled meeting September 12 and will meet with the international judges group on the other days they are in Washington.

Although this is the fifth meeting of the international judges group, it is the first to be held on this continent. The international conference has previously been held in the Phillipines, India, Australia and Malaysia.

Among the topics on this year's agenda are comparative constitutionalism, technology in judicial administration, judicial training, and court security.

The conference schedule also will enable participants and their spouses to visit area courts and historic sites

throughout Washington.

In 1987 Judge James Browning (9th Cir.), acting on behalf of the Judicial Conference, invited the international conference to convene in the United States in 1989 or 1990. A five-judge committee, chaired by Judge Cynthia Holcomb Hall (9th Cir.), was formed to arrange all aspects of the meeting. Also serving on the committee are Chief Judge William J. Bauer (7th Cir.), Judge H. Robert Mayer (Fed. Cir.), Browning, and Wisconsin State Supreme Court Justice Shirley Abrahamson. In addition, the Committee on the Bicentennial of the Constitution, chaired by Judge Damon J. Keith (6th Cir.), provided significant support.

THE THIRD BRANCH

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