



1988 - The Year in Perspective
The Supreme Court of Ohio
Annual Report

THE SUPREME COURT OF OHIO
ANNUAL REPORT

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Thomas J. Moyer, Chief Justice
Justice A. William Sweeney
Justice Robert E. Holmes
Justice Andy Douglas
Justice Craig Wright
Justice Herbert R. Brown
Justice Alice Robie Resnick

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Stephan W. Stover, Administrative Director
Keith T. Bartlett, Assistant Administrative Director
Robert L. Edington, Assistant Administrative Director
Ruth Ann Elmer, Administrative Assistant
Harry Franken, Communications Director
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Marcia J. Mengel, Clerk
Edward J. Nyhan, Computer Services Manager
M. K. Rinehart, Fiscal Officer

1988 - THE YEAR IN PERSPECTIVE

I. Introduction

The year 1988 was very productive for the Supreme Court. The year included: (1) the retirement of one justice, the reelection of another, and the election of the first woman justice in sixty years; (2) the disposition of a record 3,528 matters by the Court; (3) the adoption or amendment of eleven Supreme Court rules and amendment of the civil and appellate rules; (4) the continuation of off-site court; (5) a major staff initiative to provide additional services to the trial and appellate courts; and (6) the completion and implementation of programs initiated during 1987. This report will attempt to outline the most important programs and changes in 1988.

II. The Supreme Court

A. Membership

Justice Ralph S. Locher retired from the Court in 1988 after serving his second full term.

Justice A. William Sweeney was elected to a third term; he has served on the Court since 1977.

Judge Alice Robie Resnick of the Sixth District Court of Appeals in Toledo was elected to the Supreme Court for a term beginning in January, 1989.

B. Statistics

In 1988, the Supreme Court disposed of a record total of 3,528 matters by decision or journal entry, including merit decisions, dismissals, jurisdictional and miscellaneous motions, and disciplinary cases (see Appendix B).

A total of 2,273 cases were filed in 1988, including 205 original actions, 3 federal court certification of state law questions, 54 disciplinary, 3 character and fitness, and 2,008 appeals, as follows: 1,100 motions to certify the record, 670 motions for leave to appeal, 106 direct appeals, 39 certified conflicts, 46 appeals from the Board of Tax Appeals, 34 appeals from the Public Utilities Commission, and 13 capital cases (see Appendices A and E).

On January 1, 1988, there were 916 cases pending; on January 1, 1989, there were 998 cases pending.

The Court published 415 decisions in 1988, as follows: 311 merit decisions with full opinions, 47 merit decisions with entries only, and 57 miscellaneous matters. The Court also published 307 1987 decisions in 1988, including 246 merit decisions with full opinions, 38 merit decisions with entries only, and 23 miscellaneous matters.

C. Rules

1. Attorney Continuing Legal Education

On February 16, 1988, the Supreme Court adopted a program of attorney continuing legal education "to maintain and improve the quality of legal services in Ohio," according to Chief Justice Thomas J. Moyer.

Rule X of the Rules for the Government of the Bar requires each of the approximately 36,000 lawyers in the state to complete 24 hours of continuing legal education every two years beginning in 1989.

The Rule establishes a 19-member Supreme Court Commission on Continuing Legal Education to administer the requirements and accredit continuing legal education programs and activities.

The Rule makes provisions for publications, self-study, teaching, and limited exemptions. The Rule also requires at least two hours related to legal ethics and professional responsibility, which must include instruction on substance abuse, including causes, prevention, detection, and treatment alternatives. The Rule includes a \$15 filing fee, which will be used to fund the Commission's administration of the Rule. Finally, the Rule establishes procedures for enforcement of the requirement.

"With continuing new developments in the various fields of law, attorneys must constantly update themselves to effectively represent their clients," Chief Justice Moyer said.

2. Admissions

The Court adopted substantial changes in Rule I of the Rules for the Government of the Bar, Admission to the Practice of Law, effective

January 1, 1989. According to Chief Justice Moyer, the changes "are aimed at providing better legal services to the public and placing greater emphasis on the process of reviewing bar applicants' character, fitness, and moral qualifications to practice law."

The amended Rule clarifies the requirement that every applicant for the Ohio bar examination be approved as to character before the examination. It provides specific standards and factors for bar association admissions committees to consider when conducting character and fitness reviews of applicants. Every person seeking admission without examination must undergo the same character and fitness review, and must have engaged in the practice of law in another jurisdiction for at least three of the preceding five years. Practice of law is defined to include teaching of law at a law school approved by the American Bar Association.

3. Certification of Questions of State Law

The Supreme Court adopted Rule XVI of the Supreme Court Rules of Practice, which allows federal courts to certify questions of state law to the Court for determination. The Rule was effective July 15, 1988. Ohio is the 35th state to provide for certification of questions of state law.

Federal courts must apply state law in determining many issues. Since the state supreme court is the final arbiter of state law, a federal judge often is placed in the position of attempting to determine how the state supreme court would rule on an issue of law. Under the Rule, the federal judge may certify the question to the Supreme Court of Ohio for determination of the issue, and then proceed in accordance with that determination. The certifying court may invoke the Rule if it finds that there are questions of state law that may be determinative of a cause in the federal court and there is no controlling precedent in decisions of the state supreme court. Federal judges in the Sixth Circuit supported the adoption of the Rule.

4. Private Judging

The Court adopted Rule VI of the Rules for the Government of the Judiciary, which provides for private judging of civil actions in Ohio courts. Effective January 1, 1989, the Rule implements Section 2701.10 of the Revised Code, enacted in 1984, which permits a voluntarily retired judge to receive referrals for adjudication of civil actions or proceedings. Retired judges willing to serve as private judges must register with the Supreme Court and the clerk of courts in any county in which they are willing to serve as a private judge. Parties wishing to use a private judge must agree on the selection and compensation of the judge, either on an hourly or per diem basis. The parties must also furnish facilities, equipment, and personnel.

The Rule, prepared by a committee chaired by Judge James McMonagle of the Cuyahoga County Court of Common Pleas, provides a mechanism for settling disputes that is designed to reduce regular court dockets and allow parties to bring their cases to trial without delay, with no additional expenditure of tax dollars. Parties may also select retired judges with expertise in the area of law involved in the dispute.

5. Foreign Legal Consultants

Rule XI of the Rules for the Government of the Bar, effective January 1, 1989, allows attorneys from other countries to engage in the limited practice of law in Ohio as foreign legal consultants. It is anticipated that foreign legal consultants will give advice to Ohio companies interested in dealings with the consultants' home country. The Rule is expected to open opportunities for Ohio attorneys in other countries and improve Ohio's position in international trade.

To be registered as a foreign legal consultant in Ohio, a person must be admitted to the practice of law, have been in good standing as an attorney for at least four of the preceding six years, and meet the character and fitness requirements of the Ohio bar. In addition, the applicant must be in compliance with immigration

laws, intend to practice as a foreign legal consultant in Ohio, and maintain an office for that purpose. However, the foreign legal consultant may not appear in Ohio courts on behalf of others, do legal work involving the law of Ohio or the United States, or represent himself or herself as a member of the bar of Ohio. There is an initial registration fee of \$500; registration is renewable for \$100 per year.

6. Disciplinary Rules

The Court also approved three important changes to the Disciplinary Rules.

a. Probationary Procedures

Rule V of the Rules for the Government of the Bar, Disciplinary Procedures, was amended to provide a formal mechanism for placing lawyers subject to disciplinary actions on probation. The amendment provides that definite suspension may be stayed in whole or in part by probation.

"We are seeing an increasing number of cases in which attorney misconduct is the result of alcohol or drug use," said Chief Justice Moyer. "Supervised probation has been used to help those who want to help themselves, and, fortunately, we have found attorneys willing to assist these lawyers by supervising and monitoring their probation."

The bar association bringing the charges or the Disciplinary Counsel supervises the terms and conditions of probation and maintains a probation file. A monitoring attorney is appointed to monitor compliance with the terms of probation and make quarterly reports based on monthly or quarterly meetings with the attorney on probation.

If the terms of probation are violated, the Supreme Court may reinstate the period of suspension. Charges of violation of probation are heard by a panel of the Board

of Commissioners on Grievances and Discipline that reports directly to the Supreme Court.

b. Default Judgment

Sections 13 and 32 of Rule V of the Rules for the Government of the Bar were amended to provide for default judgments in certain disciplinary actions. The amendments were effective July 27, 1988.

c. Enhancement

Section 8 of Rule V of the Rules for the Government of the Bar was amended to give the Court greater flexibility in considering prior disciplinary offenses before imposing sanctions for subsequent misconduct. The amendment was effective March 16, 1988.

7. Child Support Enforcement Guidelines

In March, the Chief Justice reconvened the Advisory Committee on Child Support Enforcement to consider possible revisions to the federally-mandated Ohio Child Support Guidelines. The Guidelines had been in effect for more than six months, and the Committee was asked to evaluate them in light of public reaction and comment and the experience in implementing the Guidelines. The Committee met several times and held a public hearing prior to recommending amendments to the Court. The Court revised the Guidelines in response to public comment and the recommendations of the Advisory Committee, effective October 1, 1988.

The amendments encourage trial judges to use discretion in setting child support payments, and to consider each case individually. The amendments also identify a number of specific circumstances the trial court may consider in deviating from the Guidelines in cases in which strict application would be inequitable.

8. Unauthorized Practice of Law

Rule VII of the Rules for the Government of the Bar, Unauthorized Practice of Law, was amended,

effective June 6, 1988, to permit the Ohio State Bar Association, as well as local bar associations and the Disciplinary Counsel, to prosecute complaints of the unauthorized practice of law.

9. Traffic Rules

The Court amended Traffic Rule 22 to make the Chairman of the Traffic Law Committee of the Ohio State Bar Association a member of the Traffic Rules Commission. The amendment was effective July 27, 1988.

10. Civil and Appellate Rules

Section 5(B) of Article IV of the Ohio Constitution provides that changes in certain rules by the Supreme Court must be approved by the Ohio General Assembly. In 1988, the Supreme Court Rules Advisory Committee recommended amendments to Civil Rules 33, 52, 54, and 58; Appellate Rule 4; and Common Pleas Superintendence Rule 26. The Court approved amendments to the civil and appellate rules, which were forwarded to the General Assembly; if no action is taken by July 1, 1989, the Rules become effective automatically. Common Pleas Superintendence Rule 26 was referred to the Probate and Trust Committee of the Ohio State Bar Association for study and report.

Civil Rule 33 limits to 40 the number of interrogatories that may be propounded by each party without leave of court.

Civil Rule 58 implements the notice requirements for final appealable orders set forth in Atkinson v. Grumman Ohio Corp. (1988), 37 Ohio St. 3d 80, and changes the time at which a judgment becomes effective from the time of filing with the clerk to the time the entry is journalized. Civil Rules 52 and 54 were amended to reflect these proposed revisions.

Appellate Rule 4 incorporates into the appellate rules the Supreme Court decision in Walker v. Doup (1988), 36 Ohio St. 3d 229, that the running of appeal time is stayed pending the trial court's decision on a written motion for findings of fact and conclusions of law.

E. Administrative Rules

The Supreme Court adopted amended administrative rules for the Supreme Court and the Court of Claims. The rules establish staff personnel policies, salary schedules, and administrative procedures.

F. Guidelines for the Assignment of Judges

On May 24, 1988, Guidelines for the Assignment of Judges were adopted by Chief Justice Moyer. The purpose of the Guidelines is to clarify issues related to assigned judges and to provide an efficient and effective method for the temporary assignment of judges. The Guidelines, recommended by a committee chaired by Judge Richard M. Markus of the Eighth District Court of Appeals: (1) establish criteria for the assignment of judges; (2) provide a mechanism for making assignments; and (3) provide standards for more efficient allocation and assignment of judges.

In 1987, more than 2,800 assignments were made at a cost to state and local government of more than \$1 million. In 1988, the Chief Justice made 2,235 assignments, a reduction of more than 20 per cent compared to 1987.

G. Off-Site Court

In 1987, the Court held oral arguments in Marietta and Toledo. In 1988, the Court continued the off-site court program, visiting Cincinnati, Cleveland, Warren, Lima, and Youngstown. More than 2,700 students were part of a total attendance of 4,200 at these sessions.

The visits continued the emphasis on the educational aspects of the program, including briefings with student press, teaching of related course work in school classrooms, briefings at the court prior to the oral arguments, and debriefing sessions following the oral arguments.

H. Administrative Changes

The Court added court of appeals case numbers to the official Supreme Court case number in the announcement list.

I. Committees Created by the Chief Justice

Chief Justice Moyer determined that several areas relating to the state judicial system required study, and appointed or requested the appointment of several committees composed of representatives of organizations.

1. Visiting Judge Committee (see page 8)
2. Private Judging Committee (see page 4)
3. Court Statistical Reporting Committee

In April, 1987, Chief Justice Moyer asked the Ohio Judicial Conference to study the judicial statistical reporting system and the judicial awards program, and to make recommendations for improvement. The Committee, chaired by Judge Alice Robie Resnick of the Sixth District Court of Appeals, began work the fall of 1987 and submitted its final report in August, 1988. The recommendations will be reviewed by the Supreme Court in early 1989.

4. Committee on Court Technology

In July, 1988, Chief Justice Moyer announced the appointment of the Supreme Court Committee on Court Technology, and charged the Committee with the preparation of a comprehensive plan for application of technology in the courts, including computers, telecommunications, microfilm, and other media. Judge Thomas A. Swift of the Trumbull County Probate Court is Chairman. The Committee includes representatives of the major judicial, court administrator, and court clerk organizations, as well as county commissioners, the state bar, and other organizations. The Committee held its first meeting in October, 1988.

J. Meetings with Judges and Court Personnel

In 1988, Chief Justice Moyer invited representatives of all the courts in Ohio to Columbus for informal meetings. Five meetings were held with the presiding and administrative judges and court administrators of the courts of common pleas, four with municipal and county court judges, and one with courts of appeals

judges. An orientation meeting held in December for new judges is discussed below. In addition, the Court staff hosts regular meetings with courts of appeals administrators.

The Chief Justice or the Administrative Director attended virtually every meeting of judges, court administrators, and court clerks in Ohio during the past two years, and both attended many of the meetings. In an effort to build and maintain communications with other branches of government, the Chief Justice and the Administrative Director have spoken to or scheduled speeches with county commissioners, mayors, and other groups.

K. State of the Judiciary

In his "State of the Judiciary" speech to the Ohio Judicial Conference on September 9, 1988, Chief Justice Moyer told the judges that the state of the judiciary in Ohio is strong, with most courts reducing backlogs and terminating cases promptly. The Chief Justice stated that "We are doing a better job this year than we did last year, and we are required to dispose of more legal disputes per judge than the judicial systems in most comparable states." The Chief Justice said that new filings per judge in Ohio were higher than in Michigan, Pennsylvania, Kentucky, New York, California, or Texas.

Chief Justice Moyer also discussed the progress of the courts:

1. Common pleas courts in Ohio increased their percentage of terminations over filings from three per cent in 1986 to five per cent in 1987.
2. County courts terminated six per cent more cases than were filed, and municipal courts terminated three per cent more than were filed.
3. The Supreme Court decided 23 per cent more cases in 1987 than in 1986.
4. In the Court of Claims, the number of cases determined by judges increased 110 per cent from the previous fiscal year, and those determined by administrative action increased 75 per cent.

L. Court Delay and Cost Reduction - Alternative Dispute Resolution

Chief Justice Moyer indicated in his "State of the Judiciary" speech and in a statement issued in November the need for a program for alternative dispute resolution tailored to the specific needs of Ohio's courts. The Chief Justice and the Court staff are studying various mechanisms for alternative dispute resolution. In November, Chief Justice Moyer participated as a panelist at the National Conference on Dispute Resolution and the State Courts in Baltimore, and staff members have attended alternative dispute resolution conferences.

"Alternative dispute resolution is being used to achieve faster and less costly resolution of disputes," Chief Justice Moyer said.

On April 4, 1988, Chief Justice Moyer and the Ohio State Bar Association held a joint news conference to announce a statewide effort to encourage "Settlement Weeks." There were 10 "Settlement Week" programs in Ohio in 1988, during which more than 36 per cent of 2,294 cases were settled.

Mandatory mediation and voluntary arbitration of disputes are also being considered, as well as neighborhood justice centers, established to settle local disputes before they reach the courts. Court staff also visited the night prosecutor program in Columbus.

M. Other

1. To foster educational programs on the judicial system for students, the Supreme Court authorized support for the Ohio Mock Trial Program and the Ohio Center for Law-Related Education.
2. During 1988, nearly 7,800 individuals visited the Court. Of these, 6,220 were students, and 1,531 were adults. This is in addition to the more than 2,700 persons who attended off-site court in 1988.
3. Chief Justice Moyer and Supreme Court staff attended two meetings sponsored by the Ohio

State Bar Association: a Bench-Bar-Deans meeting to discuss legal education and admission to the practice of law, and a Bench-Bar-Media Conference to discuss common issues and concerns.

4. The Court also hosted the Youth in Government Model Supreme Court Program on April 14 and 15, 1988, with 70 student participants.
5. In 1988, the Supreme Court formalized a law student intern program with the Capital University Law and Graduate Center and The Ohio State University College of Law.
6. Chief Justice Moyer invited students from all Ohio law schools to attend a session of the Supreme Court.
7. On February 9, 1988, the Court hosted a reception for members of the General Assembly.

III. Administrative Matters - Stephan W. Stover, Administrative Director

A. Personnel

In 1988, the Court continued its reorganization of court staffing, with emphasis on professionalism, service and responsiveness, effective use of technology, and fiscal responsibility. At the end of 1988, the staff consisted of 97 employees.

B. Court Services Initiative

In 1988, the Supreme Court and staff placed emphasis on enhancing services to trial and appellate courts.

1. Technical Assistance Program

During the last two years, courts have indicated that their efforts to improve administration needed additional support due to insufficient budget or lack of expertise. As a result, the Supreme Court and the National Center for State Courts began a cooperative effort to provide financial support and expertise as a catalyst to stimulate improvements in the administration of Ohio's courts, and to foster innovation -- new programs and ideas that have broad applicability to all the courts in Ohio.

In April, the Administrative Director announced the establishment of the Supreme Court Technical Assistance Program. Of the 32 applications received, 26 received some measure of support. Of these, 13 were completed at no cost, and the remaining 13 cost a total of \$17,501, with individual project costs ranging from \$101 to \$3,300. The Northeastern Regional Office of the National Center for State Courts spent an additional \$18,665 on related projects, including support for the House Select Committee on Court Reorganization. The total expenditure in 1988 for the Technical Assistance Program was \$36,166.

2. Court Visitation Program

In 1988, the Supreme Court staff made 70 visits to 55 different courts throughout the state and a number of clerks' offices. The staff gained a greater appreciation for the quality and the efforts of judges and support staff and a better understanding of the issues facing the courts.

C. Affidavits of Disqualification

In 1987, the Chief Justice expressed concern that the constitutional and statutory process of affidavits of disqualification was being used to secure delays in trials and for purposes of "judge shopping."

In 1988, the Chief Justice and the Court staff made a concerted effort to improve the administration and disposition of affidavits of disqualification. The backlog of cases was eliminated and the time of disposition was reduced from more than three months to as little as two weeks, with an average of approximately one month. For the first time, 10 opinions in chambers of the Chief Justice in disqualification cases were published, which will begin to establish a body of case law in this area.

The number of affidavits of disqualification filed in 1988 was 201, down from 290 in 1987, a reduction of 31 per cent.

D. Legislation

1. House Select Committee on Court Reorganization

In 1987, House Speaker Vernal G. Riffe, Jr. appointed a 12-member House Select Committee on Court Reorganization, chaired by Representative Michael Verich of Warren, to study the structure and function of Ohio's courts. The Administrative Director has worked closely with the Chairman and the Committee.

2. The Court's staff monitored more than 100 bills pending in the 117th General Assembly.

E. Other

1. The Administrative Director and Court staff gave more than 60 speeches throughout the state to judges, court administrators, clerks, service clubs, and other organizations.

2. The staff responded to nearly 400 inquiries with individually drafted and researched letters, and responded to more than 1,200 telephone inquiries.

IV. Law Library - Paul S. Fu, Librarian

The Supreme Court Law Library is the largest state supreme court law library in the nation, with more than 265,000 volumes. The law library is an outstanding resource, providing essential service to the Supreme Court and staff, the General Assembly, state administrative agencies, members of the bar, and the general public.

In 1988, a total of 49,475 patrons visited the law library, an increase of 3,189 persons, or 6.9 per cent, over the previous year. The library added 7,912 volumes to its collection, and the library staff answered 27,412 reference questions. In addition, the library provided reference assistance and sent photocopies of legal material to judges, lawyers, students, and citizens throughout the state.

In November, 1987, the Court approved the installation of a totally integrated online library system (NOTIS) for the Supreme Court Law Library. The installation began in 1988, and the first phase is expected to be completed in mid-1989, when the cataloging, online public access catalog, and acquisition modules become operational. The project will be completed in 1990 with the installation of

the serials and circulation modules. Upon completion, the Supreme Court of Ohio will have the first fully computerized state supreme court law library in the country.

V. Clerk's Office - Marcia J. Mengel, Clerk

A. Case Tracking

In 1988, the Clerk's Office, in conjunction with the Computer Services Department, made substantial improvements to the Court's case tracking system, including: (1) reduction of the time required to search by business type/party name; (2) provision for a complete description of the Court's decisions; and (3) allowance for more sophisticated features within the docket program.

Modifications were also made to the format of information reported on the computerized docket, and an updated users' guide was prepared. It is hoped that the use of the docket system will be expanded in 1989.

B. Administrative Matters

The Clerk's Office also began generating daily reports to: (1) check the accuracy of processing Supreme Court pleadings, and (2) verify data entered each day in the computerized case tracking system. In 1989, the Court will begin computerized docketing of disciplinary cases.

VI. Admissions Office - Marcia J. Mengel, Clerk

In 1988, the Admissions Office assisted the Court in developing the amendments to Rule I, relating to admission to the bar. The Admissions Office worked with the Board of Commissioners on Character and Fitness to develop new registration forms for law students. The new forms provide clear instructions and expand areas of background inquiry.

The Admissions Office also assisted the Board of Bar Examiners in adopting a policy to provide standards and procedures for providing handicapped applicants with special accommodations during the bar examination.

VII. Attorney Registration - Marcia J. Mengel, Clerk

The Attorney Registration Office continued the administration of the attorney registration requirement during the 1987-89 registration period. At the end of 1988, 36,264 attorneys had registered: 31,605 active; 4,437 inactive; and 222 corporate.

The Attorney Registration Office continued to make the list of attorneys registered in Ohio available on microfiche for distribution at no charge to county law libraries, law school libraries, courts, and bar associations throughout the state.

VIII. Reporter's Office - Walter S. Kobalka, Reporter

During the 1988 term, the Reporter's Office published 311 full Supreme Court opinions, in addition to 47 abbreviated entries and 57 miscellaneous orders and orders in chambers, for a total of 415 edited works of the Court.

In order to make the Ohio Official Reports comparable to the reports of the United States Supreme Court, the Court began publishing the announcement list for inclusion in the bound volumes. Beginning with Volume 37 of Ohio State 3d series, a printed record of all actions taken by the Court, with the justices' votes on each action, will be part of the permanent printed reports of the Court. This will permit persons conducting research to follow the history of a case during the entire period the case is before the Supreme Court.

In order to improve accountability and emphasize the importance of rendering decisions expeditiously, the Court changed the format of its opinions by inserting the date a case was submitted to the Court on oral arguments or on briefs in the printed opinion next to the date the case was decided. Also, the case number of the court of appeals or administrative board or commission is included with the printed opinion for ease of indexing and clarity.

The Court added an additional Assistant Reporter to the Reporter's staff, bringing the total to six, in order to publish more court of appeals opinions.

IX. Computer Services Department - Edward J. Nyhan, Manager

The Supreme Court has manifested a strong commitment to appropriate, cost-effective use of technology. In 1987 and 1988, the Computer Services Department conducted an

assessment of existing hardware and software equipment, capabilities, and needs, and applied the information to streamline the Court's computer operations.

- A. Committee on Court Technology (see page 9)
- B. Court of Appeals Pilot Computer Project

In 1988, the Court staff began to test existing technology as part of the Court of Appeals Pilot Computer Project. Each of the twelve courts of appeals received a personal computer, printer, modem, and word processing software, and case management software is being developed. In addition, the pilot project includes electronic mail, which will permit the courts of appeals to communicate among themselves and with the Supreme Court, and provide the first test of the Supreme Court electronic bulletin board. The project will also permit the appellate courts to access services such as Lexis and Westlaw. The total cost for the project in the first year was \$89,000.

- C. Computer Hardware Reorganization

In 1988, the Computer Services Department completed the reorganization of Supreme Court computer hardware, producing a net benefit of more than \$165,000 to the Court's budget. A survey conducted in 1987 indicated the Court had excess computer capacity. The Division of Computer and Information Services of the Department of Administrative Services assisted the Court in identifying two state agencies to whom the transfer of hardware would be appropriate. A Wang VS85 computer was moved to the State Library of Ohio and a Wang VS100 was moved to the Bureau of Disability Determination of the Rehabilitation Services Commission. The Court will receive \$80,000 in credits for the hardware that can be applied to the purchase of goods or services from the Department of Administrative Services. A portion of this credit will be used to pay the operational expense of the Supreme Court Law Library automation project, discussed above. In addition, the Court will save approximately \$50,000 in annual maintenance fees.

A third system, not fully utilized by the Clients' Security Fund in Cleveland, was moved to the Seventh District Court of Appeals, and a smaller, more appropriate system was purchased for the Clients'

Security Fund office. Finally, the purchase of a Wang VS6 system for the Board of Commissioners on Grievances and Discipline in Columbus was renegotiated to reduce the total cost from nearly \$75,000 to approximately \$40,000. According to Administrative Director Stephan W. Stover, "The Court has disposed of excess equipment without the necessity of going to state salvage, and has helped other state agencies secure needed computer systems at an excellent price."

D. Lexis and Westlaw Master Contracts

The Computer Services Department participated in negotiations with both Mead Data Central and Westlaw of master contracts for computerized research services that will permit all courts in Ohio to have access to these services without additional subscription fees or other service costs. The master agreement also includes free training for all court personnel and permits the use of these research services at a significantly reduced cost. It is believed that this program could save a typical court up to 35 per cent on the cost of these services.

E. Other

The Computer Services Department was an integral part of the Supreme Court Technical Assistance Program, assisted in revising a case tracking system in the Clerk's Office, and expanded the use of office automation to include electronic mail within the Supreme Court.

X. Fiscal Office - M. K. Rinehart, Fiscal Officer

The Fiscal Office continued its reorganization and instituted or expanded several programs, including implementation of new personnel procedures; improvement of formal purchasing procedures, including competitive bidding on all major purchases; an enhanced inventory system; and development of comprehensive personnel files.

The office processed six payrolls each month, and distributed 16,988 paychecks in 1988. During 1988, the Court added municipal judges to the payroll, as required by recent legislation.

XI. Public Information Office - Harry Franken, Communications Director

The Public Information Office maintained a substantial program of public information and education, including weekly announcements of Court decisions, publication of summaries of 331 opinions and other actions of the Supreme Court, 66 news releases and memos to the news media, and three news conferences. In addition, the Public Information Office responded to nearly 1,200 requests for information or opinions that required mailing material to the public and news media, and answered numerous telephone inquiries.

The Supreme Court brochure was expanded and republished. The Public Information Office is also responsible for the publication of "For the Record," a newsletter for all judges in the state.

The Communications Director also initiated an intern program with Ohio University and a program for public affairs and journalism classes with The Ohio State University.

XII. Master Commissioners - James R. Jump, Counsel to the Court

In 1987 and 1988, the Master Commissioners Office was reorganized, and Commissioners were assigned to specific areas of responsibility. Productivity increased markedly over 1987; the staff more than doubled the number of cases researched. Also in 1988, the Court added an additional Master Commissioner to the staff, bringing the total to seven.

XIII. Court of Claims - Miles C. Durfey, Clerk

A. Personnel

After the death of former Supreme Court Justice Leonard Stern, who served with the Court of Claims for three years, the Chief Justice assigned retired Judges Fred Shoemaker and Russell Leach as the duty judges for the Court of Claims.

B. Civil Case Management

A record 706 cases were decided by the judges of the Court of Claims in 1988, 200 more dispositions than in any previous year. Of special note are two cases filed as a result of the failure of Home State Savings and Loan that were settled for a total recovery by the state of approximately \$90 million.

The year 1988 also produced a record number of dispositions of small claims against the state (\$1,000 and less). A total of 1,170 cases were decided, nearly twice the record number of dispositions in 1987. A record 1,068 new cases were filed in 1988, about 400 more than in 1987.

C. Legislation

Amended Substitute Senate Bill 308, effective March 14, 1989, doubled the maximum amount of victims compensation to \$50,000 and doubled the maximum funeral expense to \$2,500. The Act also extended the filing deadline to two years, and made victims of drunk drivers eligible for state-paid reparations.

D. Victims of Crime Case Management

During 1988, a record 4,064 cases were decided, 783 more than in any previous year. A record 3,597 crime victim cases were filed in 1988, 287 more than in 1987.

E. Victims of Crime Public Awareness Program

During 1988, Chief Justice Moyer appointed a new Victims of Crime Advisory Council to assist the Court of Claims in informing the public of resources that may be available to crime victims. The Council is one of only two such groups in the nation.

The Court of Claims also continued its public information and education activities, which included: (1) making 100 public appearances through a speakers' bureau; (2) reaching more than 3,500 people with a videotape lending library; (3) distributing more than 24,000 copies of the quarterly "Victims Hotline" newsletter; (4) operating a booth at the Ohio State Fair in conjunction with the Ohio Crime Prevention Association and distributing 160,000 promotional and educational items; and (5) hosting two statewide training conferences attended by 200 police and other law enforcement professionals.

XIV. Supreme Court Agencies Funded by Attorney Registration Funds

A. Commission on Continuing Legal Education - Elbert J. Kram, Chairman

As noted above, the Supreme Court adopted Gov. Bar R. X in February, 1988. In May, the Court appointed the

19-member Commission on Continuing Legal Education. The Commission elected Elbert J. Kram of Columbus as Chair and Dean John Stoepler of the University of Toledo College of Law as Vice Chair. In August, Diane Lahm was named the first Secretary of the Commission and the Commission opened its office. The Commission also developed both interim and permanent procedures for implementing the Rule, and operating procedures were adopted, effective January 1, 1989.

B. Board of Commissioners on Grievances and Discipline - John Mattimoe, Chairman

The year 1988 was productive for the Board of Commissioners on Grievances and Discipline of the Supreme Court, but it was also a year of transition. In 1988, the Board operated under Disciplinary Rules that were substantially amended by the Court in 1987. In addition, two amendments to the Disciplinary Rules, recommended by the Board, were approved by the Court. The Board moved its offices from the 21st floor of the Huntington Center to smaller quarters on the 33rd floor. Board Secretary James Mason left the agency after two years of service.

The Board had 62 new cases filed in 1988, and 42 cases were certified to the Supreme Court, up slightly from 1987. The Board also issued 36 advisory opinions in 1988, up from 32 in 1987.

C. Office of Disciplinary Counsel - J. Warren Bettis, Disciplinary Counsel

The Office of Disciplinary Counsel received 1,694 complaints, down 19 per cent from the 2,079 complaints received in 1987. Disciplinary Counsel dismissed 1,645 cases in 1988, and took formal action before the Board of Commissioners on Grievances and Discipline in 31 cases. The office also handled 235 appeals from decisions of certified grievance committees of bar associations and investigated eight allegations of unauthorized practice of law.

In order to maintain an efficient operation, the Disciplinary Counsel closed its Cleveland office and consolidated all of its operations in the Columbus office.

In addition, Disciplinary Counsel and staff made dozens of speeches and presentations throughout the state. The Office of Disciplinary Counsel, in conjunction with the Ohio Ethics Commission and the Columbus Bar Association, is planning a series of ethics and substance abuse seminars for government attorneys; the seminars have been approved for continuing legal education credit.

D. Clients' Security Fund - Judge Richard Koehler, Chairman

During 1988, more than 1,500 inquiries were received, 272 claim forms were received and reviewed, and 130 claims were administratively resolved. Of the 79 claims presented to the Board, 42 were granted, 27 were found ineligible, and 10 were held for further investigation. In 1988, the Fund paid \$220,339, with four claimants receiving the maximum \$25,000.

Late in 1988, Clients' Security Fund Administrator Walter Savage was appointed as a municipal judge in Parma. Subsequently, the Court voted to move the offices of the Clients' Security Fund to Columbus as required in Rule VIII of the Rules for the Government of the Bar. The offices will be moved to the 23rd floor of the Rhodes State Office Tower in Columbus, saving the Fund \$23,094 in rent during 1989.

XV. Supreme Court Boards and Commissions

A. Rules Advisory Committee - James L. Young, Chairman

The Committee continued its review of Court rules. As discussed above, the Court recommended changes in both the Civil and Appellate Rules, and plans a review of the Rules of Evidence in 1989.

B. Board of Commissioners on the Unauthorized Practice of Law - Kenneth M. Seibel, Chairman

The year 1988 saw the appointment of several new members of the Board of Commissioners and new legislation, including bills on prepaid legal plans, which will present important challenges in 1989.

C. Board of Commissioners on Character and Fitness - Judge David Tobin, Chairman

The Board of Commissioners met several times in 1988, provided assistance to the Court in revising Rule I

of the Supreme Court Rules for the Government of the Bar, Admissions, and resolved other character and fitness issues presented to it.

D. Board of Bar Examiners - Joseph W. Shea III, Chairman

The Board prepared and administered bar examinations in February and July, 1988, and also developed a new policy on handicapped applicants for the bar examination.

E. Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases - Judge Everett Burton, Chairman

In 1987, the Supreme Court adopted Rule 65 of the Rules of Superintendence for the Courts of Common Pleas, which establishes a continuing legal education requirement and experience standards for the appointment of counsel for indigent clients in capital cases.

In 1988, the Committee developed procedures and registered 761 attorneys as counsel for indigent defendants in capital cases. In addition, the committee sponsored or co-sponsored several educational seminars during the year.

F. Traffic Rules Review Commission - Kirwin M. Elmers, Chairman

The Commission continued its efforts to develop uniform traffic tickets during 1988.

XVI. Ohio Judicial Conference

The Judicial Conference is an organization of Ohio judges, created under Section 105.91 of the Revised Code. The Supreme Court worked with the Judicial Conference on two programs in 1988.

A. Orientation for New Judges

In the past, new judges have not received orientation on administrative or substantive matters until the Judicial College Basic Review for Judges in March.

On December 9, 1988, the Supreme Court and the Judicial Conference hosted a special orientation for new judges. More than 40 new judges attended. The agenda included a meeting with the Chief Justice,

discussions of administrative matters by the staff of the Supreme Court, and an orientation on the Judicial Conference.

B. Mentor Program

At the suggestion of Chief Justice Moyer, the Judicial Conference has undertaken the development of a mentor program to provide assistance and advice to both new and experienced judges.

CASES FILED

	<u>1988</u>	<u>1987</u>	<u>1986</u>
Jurisdictional Motions			
Motions to Certify	1,100	1,159	1,057
Motions for Leave	670	687	676
Original Actions	205	212	174
Direct Appeals	106	76	91
Certified Conflicts	39	32	23
Appeals from Board of Tax Appeals	46	25	47
Appeals from Public Utilities Commission .	34	13	15
Capital Cases	13	13	18
Certified State Law Questions	<u>3</u>	<u>N/A</u>	<u>N/A</u>
TOTAL	2,216	2,217	2,101

MATTERS DECIDED

<u>JURISDICTIONAL MOTIONS</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>
Motions to Certify	966	944	869
Motions for Leave	<u>655</u>	<u>657</u>	<u>663</u>
TOTAL	1,621	1,601	1,532

MERIT DOCKET

Original Actions	187	248	152
Direct Actions	104	57	91
Certified Conflicts	39	13	27
Appeals from Board of Tax Appeals	47	11	35
Appeals from Public Utilities Comm....	9	7	19
Capital Cases	18	9	8
Merit Cases Pursuant to Allowance	<u>151</u>	<u>180</u>	<u>225</u>
TOTAL	555	525	557

ALL ACTIONS

Gross Number of Matters Decided in 1988 *3528

*This number includes any Court action for which an announcement was made, such as merit decisions, dismissals, decisions in jurisdictional and miscellaneous motions, and disciplinary cases.

CASES ALLOWED

	<u>1988</u>	<u>1987</u>	<u>1986</u>
Motions To Certify	165	171	174
Motions for Leave	<u>38</u>	<u>24</u>	<u>28</u>
TOTAL	203	195	202

COMPARISON OF CASES PENDING

<u>CASE TYPE</u>	<u>PENDING AS OF 1/1/89</u>	<u>PENDING AS OF 1/1/88</u>	<u>PENDING AS OF 1/1/87</u>
Motions to Certify and Motions for Leave	680*	653	1,063
Direct Appeals	88	79	94
Appeals from Board of Tax Appeals	53	51	38
Appeals from Public Utilities Commission	38	12	12
Certified Conflicts	37	38	21
Capital Cases	18	23	22
Habeas Corpus	17	11	23
Other Original Actions	64	49	106
State Law Questions	<u>3</u>	<u>N/A</u>	<u>N/A</u>
TOTAL	998	916	1,379

*181 of these are motions that were allowed in and were pending on the merits as of 1/1/89.

DISCIPLINARY AND CHARACTER AND FITNESS CASES

FILED

DISCIPLINARY DOCKET

Regular disciplinary cases	35
Automatic suspensions for felony conviction	9
Resignations	10
Miscellaneous disciplinary matters	0
Disciplinary cases involving judges	<u>0</u>
TOTAL	54

CHARACTER AND FITNESS DOCKET

Character and Fitness	3
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DECIDED

DISCIPLINARY DOCKET

Reprimands	8
Definite suspensions	11
Definite suspensions with probation	5
Indefinite suspensions	13
Disbarments	3
Automatic suspensions for felony conviction	9
Resignations	9
Miscellaneous disciplinary matters	0
Disciplinary cases involving judges	<u>0</u>
TOTAL	58

CHARACTER AND FITNESS DOCKET

Character and Fitness	2
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