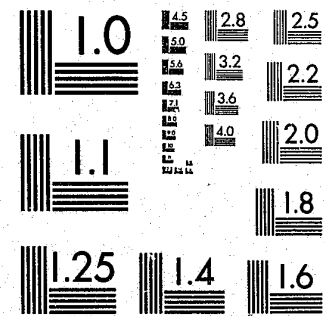


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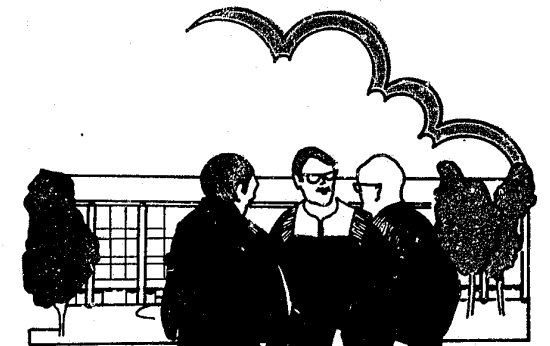
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**ANNUAL REPORT
of the
MARYLAND
JUDICIARY**

1980-1981



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Annual Report of the Maryland Judiciary

1980-1981

Report prepared by the
Judicial Special Projects, Research and Planning Services Unit
Editor-Deborah A. Unitus

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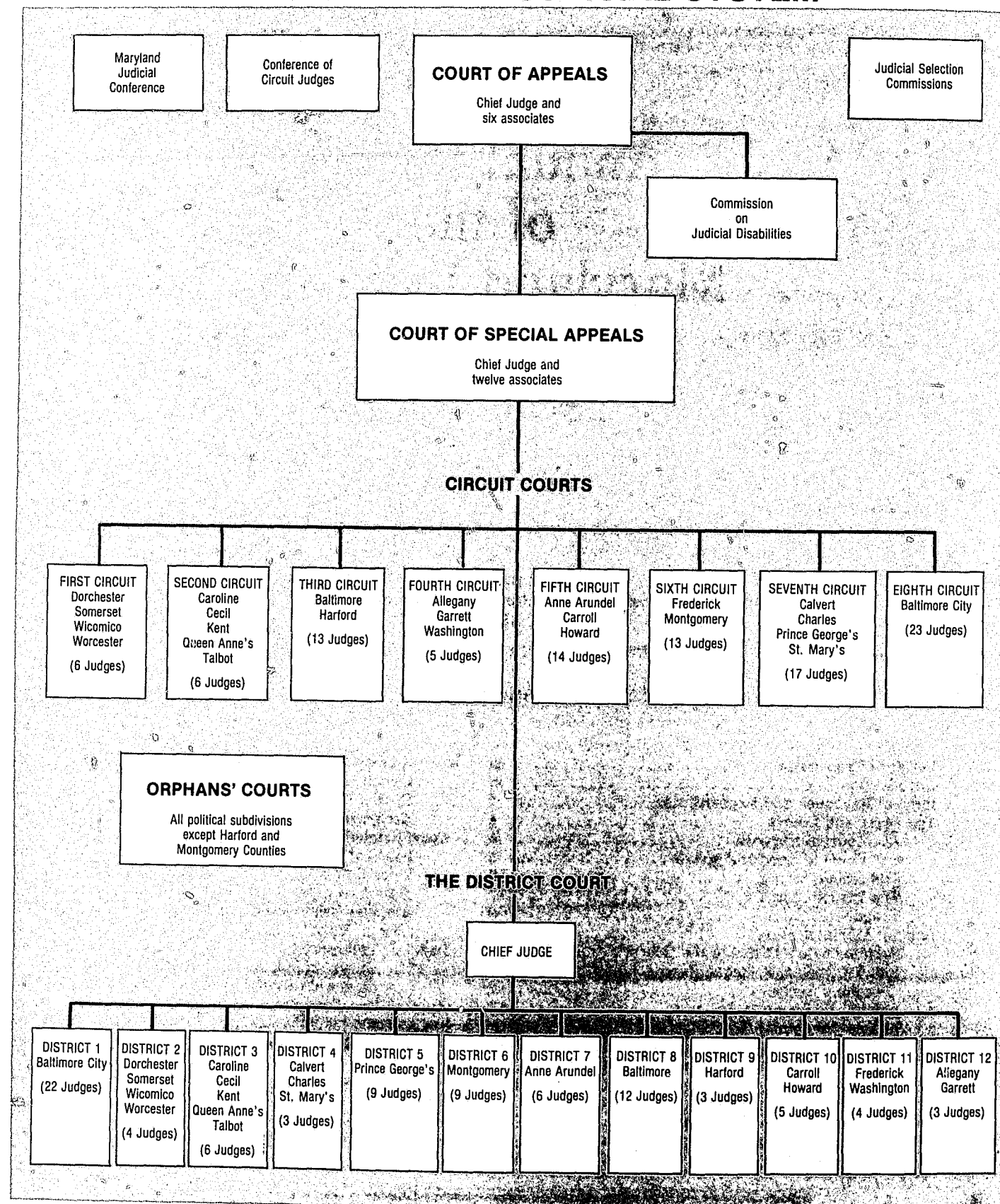
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MD Admin. Office of the Courts

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THE MARYLAND JUDICIAL SYSTEM



Letter of Transmittal

It is a pleasure to present the fifth *Annual Report of the Maryland Judiciary*, which includes the twenty-sixth Annual Report of the Administrative Office of the Courts, as required by section 13-101(b)(9) of the Courts Article. The Report covers Fiscal 1981, beginning July 1, 1980, and ending June 30, 1981.

The Report is in two volumes. Volume 1 treats the funding, functions, workload, and programs of the court system in overview fashion, highlighted by graphics. It is intended for broad general circulation to judiciary and other governmental officials and employees and also to citizens of the State interested in Maryland's judicial system.

Volume 2 is a statistical abstract designed more for the analyst, student, or court administrator. This volume contains data providing detailed support for much of the material in Volume 1.

Although the Report has been prepared in the Judicial Special Projects, Research and Planning Services Unit of the Administrative Office of the Courts, and edited by a member of that unit, many individuals have contributed to and participated in its preparation. These include the Chief Judge of the Court of Appeals, the Chairman of the Conference of Circuit Judges, the Chief Judge of the District Court, the Deputy State Court Administrator, all unit direc-

tors and deputy directors in the Administrative Office, project directors, the clerks of the two appellate courts, the chief clerk and other staff of the District Court Headquarters, circuit and local administrators, and other staff members of the Administrative Office.

The statistics on which much of the Report is based have been provided through the efforts of the clerks of the circuit courts for the counties and of the courts of the Supreme Bench of Baltimore City through the Judicial Information Systems Unit. The quality of these statistics and the value of the information supplied is continually increasing thanks to the cooperative efforts of the Information Systems Unit, the Statistical Auditing Project, and the clerks themselves.

I take this opportunity of publicly acknowledging the invaluable assistance of all who have contributed to the preparation of this Report. I hope it will provide enhanced understanding of the operations and role of the judicial department of Maryland.

William H. Adkins, II

William H. Adkins, II
State Court Administrator

Introduction

Workload of the Courts

A review of the operations of the judicial branch of government during Fiscal 1981 reveals one predominant fact: the unending increase in the number of cases brought before our courts at every level. Maryland, of course, is not unique in this regard, but the Maryland data deserve careful study, for it is the Maryland system that concerns us, and which we seek continually to improve.

The District Court, for example, was the recipient of almost 1,256,000 cases in Fiscal 1981. While over half of these cases were motor vehicle matters, many of which were not contested, by any accounting this volume of business is a staggering one. Despite such aids as the Automated Traffic Adjudication System, now operating in an increasing number of jurisdictions, and the incipient development of a new Automated Criminal System, the management of such a caseload requires—and is given—highly dedicated efforts by both judicial and nonjudicial personnel.

At the circuit court level, Fiscal 1981 filings amounted to almost 147,000 statewide. During the decade ending with Fiscal 1981, criminal filings in these courts increased 106 percent and equity filings 93 percent, the latter largely by virtue of a huge increase in divorce and other domestic relations cases. And, in all categories—law, equity, and criminal—the rate of increase during the latter part of the decade was greater than that during the earlier part. These statistics contain ominous portents for the future.

Management measures at both court levels, such as the extensive temporary use of retired judges, the exchange of judges between court levels, and the assignment of active judges to sit in areas where the workload is heaviest, all help to cope with this litigation. Some relief at the circuit court level will occur when the six new judgeships created by the 1981 General Assembly are filled.

The Supreme Bench consolidation, approved by the voters last November, will help the operations of the Baltimore courts when it becomes effective in 1983. And the limitation on the right to demand a jury trial in the District Court, as proposed by the Maryland Judicial Conference and as enacted by Chapter 608, Acts of 1981, seems to be having its intended effect. In July, 1981, the number of cases coming to the circuit courts by demands for jury trial was reduced by approximately 51 percent, as com-

pared to the figures for July, 1980. The effect on the circuit courts on the increase in District Court jurisdiction provided by Chapter 758, Acts of 1981, has yet to be determined, but should provide some relief. But despite these measures, the circuit court workload remains of alarming proportions, demanding unremitting efforts of judges and supporting staff.

In the Court of Special Appeals, the picture remains bleak. Although the statistical report as to appeals docketed there during Fiscal 1981 indicates a slight decrease as compared to Fiscal 1980, these statistics do not tell the full story. That is because of the initiation of the prehearing conference procedure in that court in the fall of 1980. Several hundred civil appeals were involved in this process during Fiscal 1981. Some of them were removed from the appellate process by the effective action of the prehearing conference procedures, but others, not docketed as formal appeals during the fiscal year, will appear on the regular appellate docket in the future. And the prehearing procedure, while involving less judicial time than the full appellate procedure, nevertheless makes substantial demands on the over-burdened judges and hardworking employees of the Court of Special Appeals.

In the Court of Appeals, the number of cases docketed remains relatively stable. However, the increasing difficulty of these cases, together with the other responsibilities of the Court, such as rule making, attorney discipline, and bar admissions, are time consuming and place its judges under a heavy workload burden, with no signs of remission.

The Commission to Study the Judicial Branch of Government

The workload problems I have briefly outlined are not new to the courts, although their magnitude is continually increasing. But it is gratifying to report that the General Assembly has wisely decided to take a fresh look at these issues by the adoption of Joint Resolution 25 of 1981, creating a Commission to Study the Judicial Branch of Government. This Commission, which is directed to report to the 1983 General Assembly, is instructed to review all the operations of the judicial branch of government, including, among other matters, consolidation and funding of the circuit courts, the allocation of civil, juvenile and criminal jurisdiction between the trial

courts, the use of six-person juries at both trial court levels, decriminalization of certain offenses and alternative methods of dispute resolution, the problems of de novo appeals, and the structure of and allocation of jurisdiction among the appellate courts.

The Commission has begun its work, and its distinguished and able members have already expressed particular concern about the problems of the appellate courts and the congestion in the trial courts. It is not too much to hope that the Commission's recommendations as to structural, organization, and procedural changes together with jurisdictional reallocations, if any, will chart the course to a more effective and efficient court system greatly to the benefit of the citizens of the State.

The Maryland Judicial Conference

The Commission to Study the Judicial Branch of Government, consisting, as it does, of members from both within and without the Judiciary, can bring special insights and expertise to bear on the problems of our court system. Since 1945, the Maryland Judicial Conference has been performing a similar function from the perspective of the judges themselves. Over the years, Conference recommendations have resulted in many improvements in the administration of justice in Maryland. However, the full membership of the Conference now encompasses some 210 judges from throughout the State, who meet in plenary session only once a year. It is difficult for such a large and seldom-meeting body to conduct ongoing studies and deliberations in any depth. Recognizing this problem, the 1981 Conference proposed and the Court of Appeals implemented a restructuring of the Conference's Executive Committee. That Committee now consists of seventeen judges from all court levels and all parts of the State, elected by their peers, and the Chief Judge of the Court of Appeals who serves *ex officio*.

This representative body brings to its work extensive knowledge and experience respecting the operations of the entire court system. It will act for the full Conference between the annual plenary sessions, and will coordinate the work of the Conference's several committees. No doubt it will consider many of the issues before the Commission to Study the Judicial Branch and its views should provide a valuable complement to the work of that Commission, as well as ongoing planning for improvements within the Judiciary.

Another aspect of the Conference's work deserves mention here. It has long recognized the importance of training for newly appointed judges and continuing education for more experienced judges. The Conference-sponsored educational activities have in the past been supplemented by out-of-State education given by such organizations as the National Judicial College, the American Academy of

Judicial Education and the Institute of Judicial Administration. Fiscal constraints have caused reduction of some of these activities and the 1981 Judicial Conference recognized the need for both improved and more cost-effective education for Maryland judges. It, therefore, recommended a revised orientation program for new judges, tailored to the individual needs of the appointee, using modern audiovisual techniques, and requiring less working time for training purposes. In addition, it proposed a much enhanced program of in-state education for veteran judges. Both of these recommendations are in the process of implementation, and should result in continued high competence of the members of the bench.

The Public and the Courts

The Maryland courts exist to serve the people of the State and we have been mindful of the relations between the courts and the public. Effective in January, 1981, and pursuant to recommendation of the Judicial Conference's Public Awareness Committee, the Court of Appeals promulgated a rule which permitted, under careful restrictions, extended media coverage of court proceedings. The rule allowed, among other things, television coverage of trials and appellate arguments, under controlled conditions. The purpose of the rule was to increase public understanding of the actual workings of the courts, and thus to enhance public confidence in the court system. The rule was adopted on an experimental basis, and would have been fully evaluated after a reasonable period of operation. The General Assembly saw the matter otherwise as to trial courts, and by the enactment of Chapter 748, Acts of 1981, put an effective end to this experiment in public information.

On a happier note, I can report substantial progress in another area involving the relations between the public and the courts. Juries are vital to the operations of the American legal system. Our system could not function well without juries, and the summons to jury service gives the citizen his or her most important opportunity to participate directly in the administration of justice in our courts. But this opportunity often imposes substantial burdens on the juror, both from the viewpoint of inconvenience and the viewpoint of expense. It is incumbent upon the judicial system to do what it can to make this service less onerous.

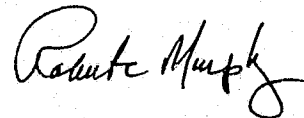
One way of doing this is to use the so-called one day/one trial system of jury management, under which a citizen called for jury service serves for only a single day if not actually empaneled for trial duty and only for a single trial, if so empaneled. As I noted in last year's Report, this system has been pioneered in Maryland with great success by the Circuit Court for Montgomery County. I am now happy

to advise that during Fiscal 1982, the same system will be adopted in the Supreme Bench of Baltimore City, thereby extending its benefits to the largest single general jurisdiction trial court operation in the State, and thus to the largest group of jurors. The Maryland Judicial Conference has recommended that other jurisdictions give serious study to the implementation of one day/one trial.

Conclusion

Examination of the Annual Report of the Maryland Judiciary will reveal in more detail both the problems and the progress I have sketched so briefly in

this Introduction. I hope that a reading of the report will encourage members of the other branches of government as well as the public in general to join with us in the Judiciary in our continuing efforts to provide expeditious, effective, and less expensive justice to the citizens of the State.



Robert C. Murphy
Chief Judge of the Court
of Appeals of Maryland

Judicial Revenues and Expenditures

The State and local costs of the judicial branch of government in Maryland were approximately \$65 million in Fiscal 1981. The judicial branch consists of the Court of Appeals; the Court of Special Appeals; the circuit courts for the counties and the six courts comprising the Supreme Bench of Baltimore City; the District Court of Maryland; the clerks' offices or headquarters of these several courts; the Administrative Office of the Courts, including the Juvenile Court Clerk's Office in Baltimore City; the State Board of Law Examiners; the Standing Committee on Rules of Practice and Procedure of the Court of Appeals; the Maryland State Law Library; the Commission on Judicial Disabilities; the Clients' Security Trust Fund; and the Attorney Grievance Commission. There are 204 judicial positions and approximately 2,700 nonjudicial positions in the judicial branch.

The State-funded (as opposed to locally funded) Judiciary budget, operating on a program budget concept, expended \$31,493,455 in the twelve-month period ending June 30, 1981. Two programs fund the two appellate courts and their clerks' offices. One provides funds to pay the salaries and official travel costs of the circuit court judges. The largest program is the State-funded District Court which expended \$19,373,351 in Fiscal 1981, 62 percent of the total. The Maryland Judicial Conference program includes funds for continuing judicial education programs and Conference committee activities. The Administrative Office of the Courts expended \$1,087,903, which includes funds to operate the Clerk's Office of the Juvenile Court in Baltimore City. The judicial data processing program, which reflects expenditures for all State level supported electronic data processing and related services, spent \$2,585,424.

The remaining programs provide funds to support the activities of the State Board of Law Examiners, Standing Committee on Rules of Practice and Procedure of the Court of Appeals, the State Reporter, the Commission on Judicial Disabilities, and the Maryland State Law Library. The Attorney Grievance Commission and the Clients' Security Trust Fund are supported by assessments against lawyers authorized to practice law in Maryland. Funds supporting these agencies are not included in the Judiciary budget. The figures reflected in the table on the following page show that the State-funded judicial budget for Fiscal Years 1979-1981 rose an average of nine percent each year. The

court-related revenues shown generally are remitted to the State's general fund and cannot be used to offset expenditures. In this same period, the entire State budget rose from approximately \$4.4 billion in Fiscal 1979 to approximately \$5.4 billion in Fiscal 1981, for an average growth of 10.5 percent in each year.

The illustrations reflect that the State-funded judicial budget consumes only a tiny fraction of the State's whole budget, approximating six-tenths of one percent.

Costs to operate the clerks' offices of the circuit courts of the counties and those of the Supreme Bench of Baltimore City are paid from filing fees, court costs, and commissions collected by these offices with any deficiency paid by the State from a fund maintained by the State Comptroller. Hit hard by inflation and a declining revenue base of non-court-related income, expenses for Fiscal 1981 approximated \$16.3 million while the fees, costs, and commissions collected and retained approximated \$13.4 million, with the result that a net deficiency of approximately \$2.9 million was paid by the Comptroller from State funds. Only four clerks' offices ended the year with a surplus which reverts to the general fund and cannot be used to offset deficits occurring in the other offices, resulting in a deficiency that is much larger than is reported. The General Assembly authorized a deficiency appropriation of \$1 million to supplement the other sources of funds from which the Comptroller is able to pay any deficiency incurred by these clerks' offices. The gross deficiency (before subtracting any surplus) exceeded \$3 million in Fiscal 1981.

With the exception of the circuit court judges' salaries, their fringe benefits and official travel expenses, costs to operate the elected circuit court clerks' offices and certain local expenses paid by the State through the Administrative Office of the Courts, all the remaining costs to support the circuit courts/Supreme Bench system are borne by Maryland's twenty-three counties and Baltimore City. In Fiscal 1981, appropriations by the political subdivisions approximated \$17 million. Court-related revenues collected by the circuit courts from sources other than fines, forfeitures, and appearance fees approximated \$900,000. These monies come from sources such as fees and charges in domestic relations matters and incentive payments by the Federal Government from the Aid to Families with Dependent Children program. Fines,

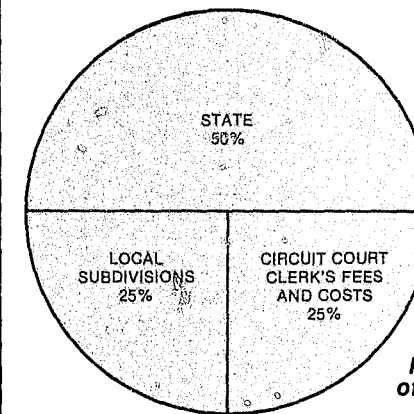
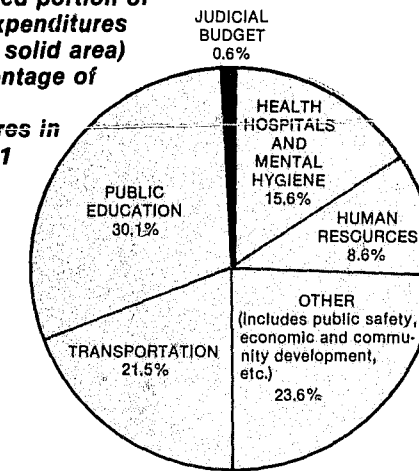
STATE FUNDED JUDICIAL BUDGET			
REVENUES*			
Program	Actual FY 1979	Actual FY 1980	Actual FY 1981
Court of Appeals	\$ 22,871	\$ 25,983	\$ 28,458
Court of Special Appeals	31,478	37,531	39,783
State Board of Law Examiners	131,200	135,555	159,220
District Court	23,223,268	23,173,500	25,397,195 **
TOTAL	\$23,408,317	\$23,372,569	\$25,624,656
*Revenues come from filing fees, fines, bail forfeitures and court costs remitted to the State's general fund and are not available to offset expenditures except for the special procedures concerning the payments to various sheriffs for serving process.			
**This is net revenue. The District Court expended \$1,182,552 in payments to various sheriffs for serving process. No funds were appropriated for this expenditure which was charged directly against revenues.			
EXPENDITURES*			
Program	Actual FY 1979	Actual FY 1980	Actual FY 1981
Court of Appeals	\$ 749,270	\$ 818,569	\$ 918,615
Court of Special Appeals	1,280,820	1,389,199	1,618,136
Circuit Courts & Supreme Bench	3,982,575	4,368,567	5,244,836
District Court	17,042,392	18,049,325	19,373,351
Maryland Judicial Conference	38,448	52,742	53,484
Administrative Office of the Courts	1,733,105	1,091,854	1,087,903
Court Related Agencies	419,156	427,976	396,887
Maryland State Law Library	153,957	171,778	214,819
Judicial Data Processing	—	2,003,818	2,585,424 **
TOTAL	\$25,399,673	\$28,374,828	\$31,493,455
*Expenditures are paid from annual appropriations by the legislature to the judiciary budget.			
**Data Processing expenditures were in the budget of the Administrative Office of the Courts and the District Court in FY 1979.			

forfeitures, appearance fees (remitted for bar library purposes) and some court costs collected by clerks' offices and remitted to the subdivisions approximated \$1.3 million.

The chart illustrating the contribution by the State, the clerks' offices, and the political subdivisions to support the judicial branch of government shows that the State portion accounts for approxi-

mately 50 percent of all costs while the clerks' offices and the local subdivisions account for 25 percent each. Contributing to the growth of the State-funded judicial budget are such factors as inflation, salary adjustments, expansion of important programs, additional nonjudicial personnel and legislation creating additional judgeships.

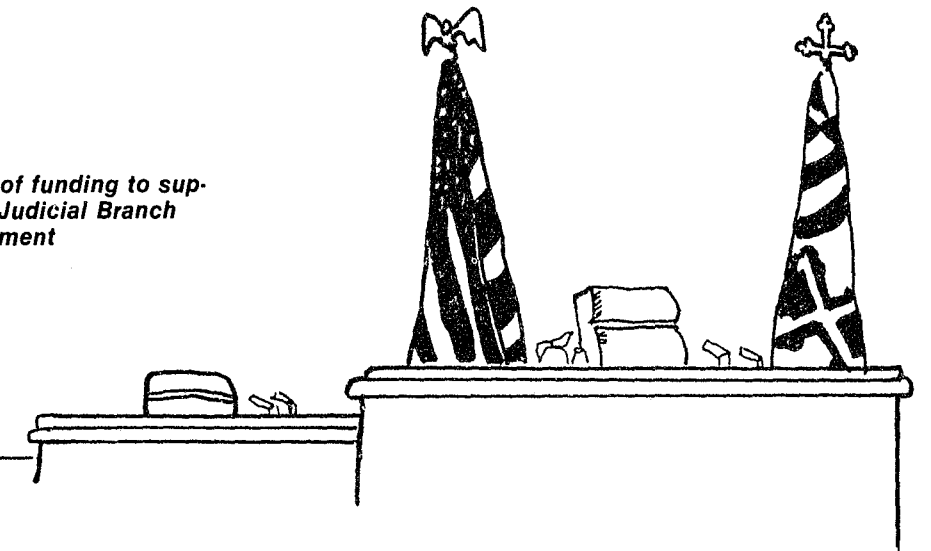
State funded portion of Judicial expenditures (shown as solid area) as a percentage of total state expenditures in Fiscal 1981



Source of funding to support the Judicial Branch of Government

Judicial Branch Personnel in Profile

Judicial Personnel	204
Nonjudicial Personnel	
Appellate Courts	66
District Court	812
Administrative Office of the Courts (27 in Juvenile Court Clerk's Office in Baltimore City)	105
Court Related Agencies (Includes staff to the State Board of Law Examiners, Standing Committee on Rules of Practice and Procedure, State Law Library, Attorney Grievance Commission and State Reporter)	33
Clerks' Offices—Circuit Courts	901
Circuit Courts—Local	812
	2933



The Maryland Courts

The Court of Appeals

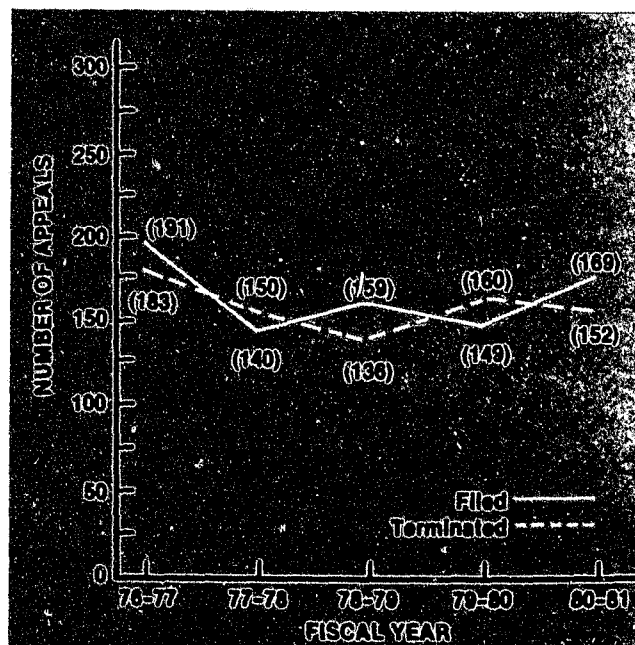
The Court of Appeals of Maryland is the highest tribunal in the State of Maryland and was created by the Constitution of 1776. In the early years of its existence, the Court met at various locations within the State, but since 1851 has sat only in Annapolis.

The Court is presently composed of seven members, one from each of the first five Appellate Judicial Circuits and two from the Sixth Appellate Judicial Circuit (Baltimore City). Members of the Court, after initial appointment by the Governor, and confirmation by the Senate, run for office on their records, without opposition. If the voters reject the retention in office of a judge, or if the vote is tied, that office becomes vacant and must be filled by a new appointment. Otherwise, the incumbent judge is retained in office for a ten-year term. The Chief Judge of the Court of Appeals is designated by the Governor and is the constitutional administrative head of the Maryland judicial system.

By legislation effective January 1, 1975, the Court of Appeals hears cases almost exclusively by way of certiorari. As a result, its formerly excessive caseload has been reduced to a manageable level so as to allow it to devote its efforts to the most important and far-reaching decisions. At present the Court may review a case decided by the Court of Special Appeals or may bring up for review cases filed in that court before they are decided there. The Court of Appeals may also review certain decisions rendered at the circuit court level if those courts have acted in an appellate capacity with respect to an appeal from the District Court. The Court is empowered to adopt rules of judicial administration, practice and procedure, which have the force of law. It also admits persons to the practice of law, reviews recommendations of the State Board of Law Examiners and conducts disciplinary proceedings involving members of the bench and bar.

The Court of Appeals had 203 appeals on its regular docket for consideration during the Fiscal Year, July 1, 1980 through June 30, 1981. Forty-seven of those appeals were matters pending from the 1979 term docket that had been heard by the Court during the 1980 fiscal year, but in which opinions had not been filed as of June 30, 1980. Two appeals were advanced from the 1981 term docket and considered during Fiscal 1981, while the remaining 154 were from the 1980 term docket. All but 51 of the

total 203 appeals were disposed of by the close of the 1981 fiscal year. Of the 152 dispositions, 2 were transferred to the Court of Special Appeals for consideration there, while 5 were dismissed prior to argument. The remaining 145 appeals were considered and decided. A total of 132 majority opinions were filed by the Court during Fiscal 1981, 111 of which were reported. There were also 13 dissenting opinions, 1 concurring opinion, and 4 opinions dissenting in part and concurring in part filed. Appeals on the 1980 term docket averaged 3.8 months from docketing to argument and 3.7 months from argument to decision. The Court also considered 655 petitions for the issuance of Writs of Certiorari and granted 129 of those. In addition to its regular adjudicatory duties, the Court admitted 833 persons to the practice of law, conducted 29 disciplinary proceedings involving members of the bar, and considered issues of the moral character of applicants for admission to the bar. The Court also expended considerable time and effort in exercising its rule-making functions as well as supervising the activities of the Attorney Grievance Commission.



Court of Appeals—Appeals actually filed and terminated within fiscal year

The Maryland Courts

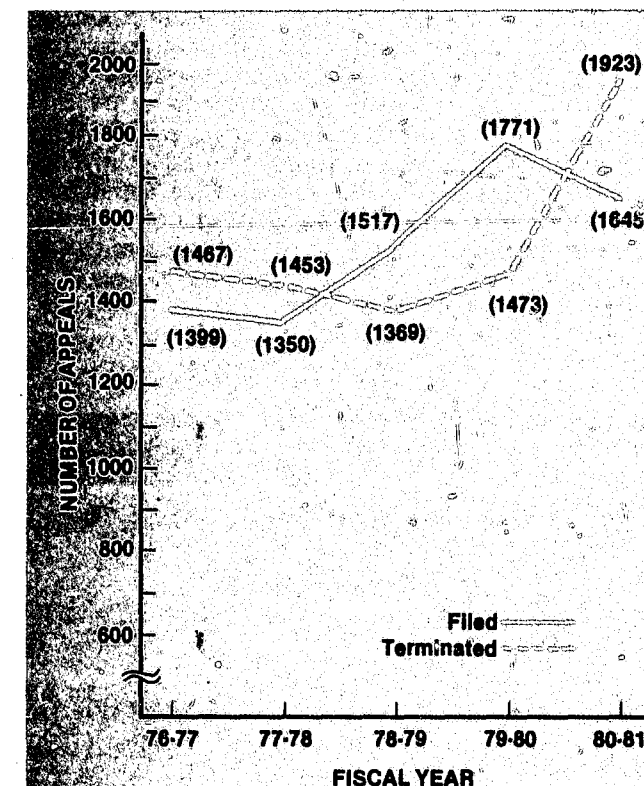
The Court of Special Appeals

The Court of Special Appeals is Maryland's intermediate appellate court and was created in 1966 as the result of an increasingly overwhelming caseload in the Court of Appeals which had caused that court to develop a substantial backlog.

The Court of Special Appeals sits in Annapolis and, although it was originally composed of five judges, now consists of thirteen members. One member of the Court is elected from each of the first five Appellate Judicial Circuits while two members are elected from the Sixth Appellate Judicial Circuit. The remaining six judges are elected from the State at large. Members of the Court of Special Appeals are initially appointed by the Governor, confirmed by the Senate and thereafter run on their records, without formal opposition, and are elected to a ten-year term of office in the same manner as are members of the Court of Appeals. The Chief Judge of the Court of Special Appeals is designated by the Governor.

The Court of Special Appeals, except as otherwise provided by law, has exclusive initial appellate jurisdiction over any reviewable judgment, decree, order or other action of a circuit court and generally hears cases appealed as of right from the circuit courts. Judges of the Court are empowered to sit in panels of three. A hearing or rehearing before the Court en banc may be ordered in any case by a majority of the incumbent judges of the Court. The Court also considers applications for leave to appeal in such areas as post conviction, habeas corpus matters involving denial of or excessive bail, and inmate grievances.

During the Fiscal Year, July 1, 1980 through June 30, 1981, the Court of Special Appeals had 2,082 regular appeals before it for consideration. Three hundred fifty-seven of those were carried over from the previous fiscal year. They had been heard during that year but had not been disposed of due to constraints of time between hearing and the close of that year. Three cases were advanced from the 1981 Docket for argument and disposition in Fiscal 1981. The vast majority of regular appeals, 1,722, were docketed on the 1980 term docket and heard during Fiscal 1981. The 1,722 appeals on the 1980 term docket represented an increase of 3.05 percent in growth from the 1,671 appeals on the 1979 term docket. A major factor in slowing the growth rate of appeals being filed on the regular term docket was the institution of a prehearing conference procedure for virtually all civil cases, except juvenile causes, during Fiscal 1981. As a result of the new procedure, 166 civil appeals were conferenced prior to regular docketing, with 46 of those being dismissed, 3 being settled, and 13 resulting in a limiting of issues on appeal.



Does not include 818 civil notices of appeal which were filed in the Clerk's Office pursuant to Maryland Rules 1022-1024. These appeals were either scheduled for prehearing conference or proceeded through the regular appellate process as stipulated in Maryland Rule 1024 a.1. Cases finally disposed of by prehearing conference are never placed on the regular docket or listed as filings. Cases not finally disposed of by this process will be placed on subsequent dockets and will then be included among filings.

Court of Special Appeals—Appeals actually filed and terminated within fiscal year

By the close of the 1981 fiscal year, the Court of Special Appeals had disposed of 1,923 appeals, leaving only 159 pending. That latter number had been argued before the Court, but had not been disposed of by opinion due to the shortness of time between hearing and close of the fiscal year. Of the 1,923 dispositions, 1,356 were considered by the Court, with the balance being either dismissed prior to argument (491), transferred to the Court of Appeals (71), or stayed (5). The average appeal was argued 5.5 months after docketing and was disposed of by an opinion being filed in an additional 1.2 months.

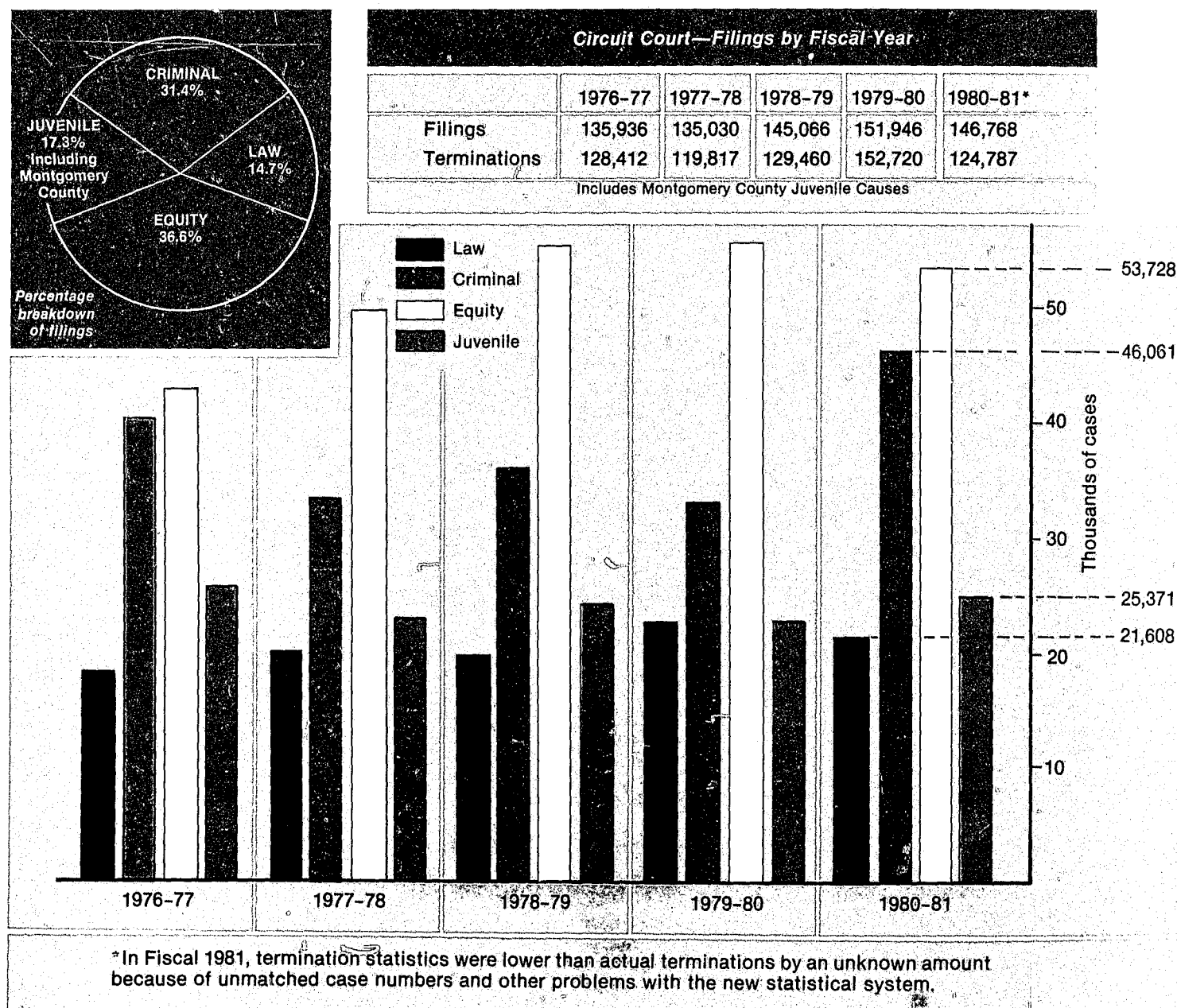
The Court filed a total of 1,346 majority opinions in disposing of its caseload, 235 of which were reported (17.45%). Members of the Court filed 16 dissenting opinions and 7 concurring opinions. The Court also disposed of 136 applications for leave to appeal, 10 of which were granted.

During Fiscal 1981, the Court of Special Appeals performed its duties at an exceptional rate. Its disposition of those regular appeals actually considered and decided averaged more than 104 for each of its members, not counting the consideration of applications for leave to appeal and other miscellaneous matters. While disposing of its mammoth caseload, the Court was actually able to decrease the average time from docketing to argument (5.5 months) as compared to the previous fiscal year (5.7 months) while only slightly increasing its time from argument to disposition.

The Circuit Courts

The circuit courts are the highest common-law and equity courts of record exercising original jurisdiction within the State. Each has full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Constitution and by law, except where by law jurisdiction has been limited or conferred upon another tribunal.

In each county of the State, there is a circuit



Circuit Court—Filings by Fiscal Year

The Maryland Courts

court which is a trial court of general jurisdiction. Its jurisdiction is very broad, but generally it handles the major civil cases and the more serious criminal matters. The circuit courts also decide appeals from the District Court and from certain administrative agencies.

These courts are grouped into eight geographical circuits. Each of the first seven contains two or more counties. The Eighth Judicial Circuit consists of Baltimore City. Judges of that circuit are appointed to the Supreme Bench of Baltimore City. The Supreme Bench is composed of six courts; separately, each of the courts exercises varying degrees of overlapping or separate jurisdiction in relation to the others. Collectively, however, these courts act as one county circuit court.

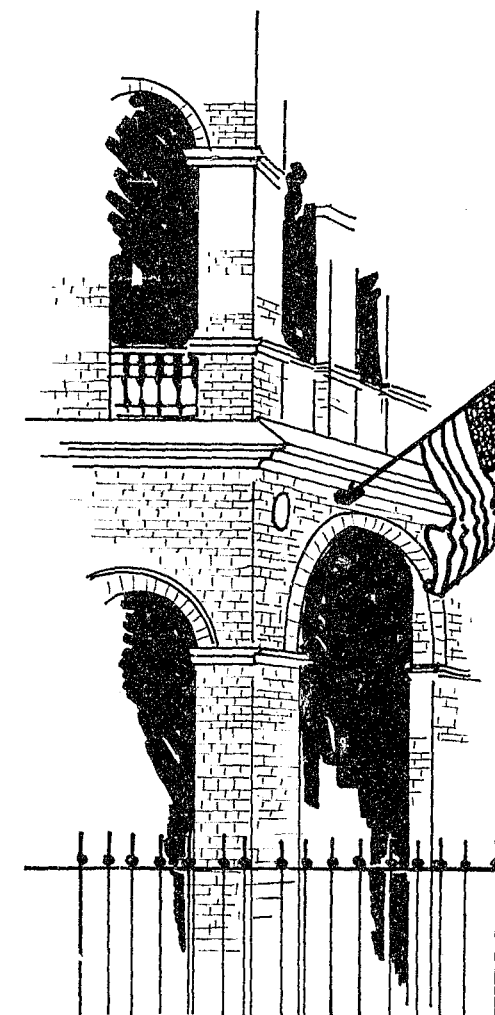
Presently, there are ninety-seven circuit court judges (twenty-three of them on the Supreme Bench), with at least one judge for each county. Unlike the other three levels of courts in Maryland, there is no chief judge for the circuit courts; instead, eight circuit administrative judges appointed by the Chief Judge of the Court of Appeals perform administrative duties in each of their respective circuits, with the aid of county administrative judges.

Each circuit judge is initially appointed to office by the Governor and must stand for election at the next general election following by at least one year the vacancy the judge was appointed to fill. The judge may be opposed by one or more members of the bar, with the successful candidate being elected to a fifteen-year term of office.

Total law, equity, juvenile and criminal case filings numbered 146,768 in Fiscal 1981. This figure also includes 2,410 juvenile causes filed at the District Court level in Montgomery County. The total caseload for the past year consisted of 36.6 percent of the filings in equity, 31.4 percent of the filings in criminal, 17.3 percent of the filings in juvenile and 14.7 percent in the law category.

Overall filings decreased by 3.4 percent over the last fiscal year, mostly as a result of law filings decreasing 14.6 percent and equity filings diminishing 11.8 percent. This, in large part, was due to a new statistical system which counts reopened cases from the hearing stage rather than the petition stage. This change in the reporting method probably does not demonstrate any real decrease in overall case-processing workload, although it may show some diminution of judicial workload. Criminal filings increased substantially over the past year, 18 percent, whereas juvenile increased only 0.2 percent over the previous fiscal year.

Terminations in Fiscal 1980 totaled 152,720 and represented 100.5 percent of the total 151,946 filings. This was due to many unreported terminations reported in Fiscal 1980 so that a new statistical record collection system could be as reflective as possible of the existing balance as of July 1, 1980.



In Fiscal 1981, 124,787 terminations for the four case types were reported statewide, compared to 146,768 filings. The termination statistics were lower than actual terminations by an unknown amount because of unmatched case numbers and other problems with the new statistical system. However, the 85.02 percentage of terminations as compared to filings remains consistent with termination percentages for those years prior to Fiscal 1980.

The District Court

The District Court of Maryland was created as the result of the ratification in 1970 of a constitutional amendment proposed by the legislature in 1969.

The District Court began operating on July 5, 1971, and replaced an existing miscellaneous system of trial magistrates, people's and municipal

courts. It is a court of record, is entirely State funded and has statewide jurisdiction. District Court judges are appointed by the Governor to ten-year terms, subject to Senate confirmation. They do not stand for election. The first Chief Judge of the Court was designated by the Governor, but all subsequent Chief Judges are subject to appointment by the Chief Judge of the Court of Appeals. The District Court is divided into twelve geographical districts, each containing one or more political subdivisions, with at least one judge in each subdivision. Presently, there are eighty-seven judges on the Court, including the Chief Judge. The Chief Judge is the administrative head of the Court and appoints administrative judges for each of the twelve districts, subject to the approval of the Chief Judge of the Court of Appeals. A Chief Clerk of the Court is appointed by the Chief Judge. Administrative Clerks for each district are also appointed as are commissioners who perform such duties as issuing arrest warrants and setting bail or collateral.

The District Court has jurisdiction in both the criminal (including motor vehicle) and civil areas. It has little equity jurisdiction and has jurisdiction over juvenile causes only in Montgomery County. The exclusive jurisdiction of the District Court generally includes all landlord/tenant cases; replevin actions; motor vehicle violations; criminal cases if the penalty is less than three years' imprisonment or does not exceed a fine of \$2,500, or both; and civil cases involving amounts not exceeding \$2,500. It has concurrent jurisdiction with the circuit courts in civil cases over \$2,500 to not exceeding \$10,000 (effective July 1, 1981); and concurrent jurisdiction in misdemeanors and certain enumerated felonies. Since there are no juries provided in the District Court, a person entitled to and electing a jury trial must proceed to the circuit court.

During Fiscal 1981, the District Court processed 644,512 motor vehicle, 482,223 civil and 128,990 criminal cases. The last figure is based upon estimates made by District Court personnel since data were available for all counties for only the last ten months of the year and for only the last nine months of the year in Baltimore City. In addition to the above figures, the District Court for Montgomery County reported 2,410 juvenile filings.

A total of 194,115 motor vehicle cases were tried, statewide, while 450,397 were disposed of by payment or forfeiture without trial. Baltimore County recorded the most trials with 60,321, followed by Baltimore City with 32,468 and Prince George's County with 23,542. Kent County registered the smallest number of motor vehicle trials, with 290.

In the area of civil filings, Baltimore City recorded the highest number, 174,973, followed by Prince George's County with 120,930 and Baltimore County with 70,243. The overall percent of increase

in civil filings was 5.1. Disputes between landlords and tenants accounted for 70.2 percent of the civil caseload.

Trends

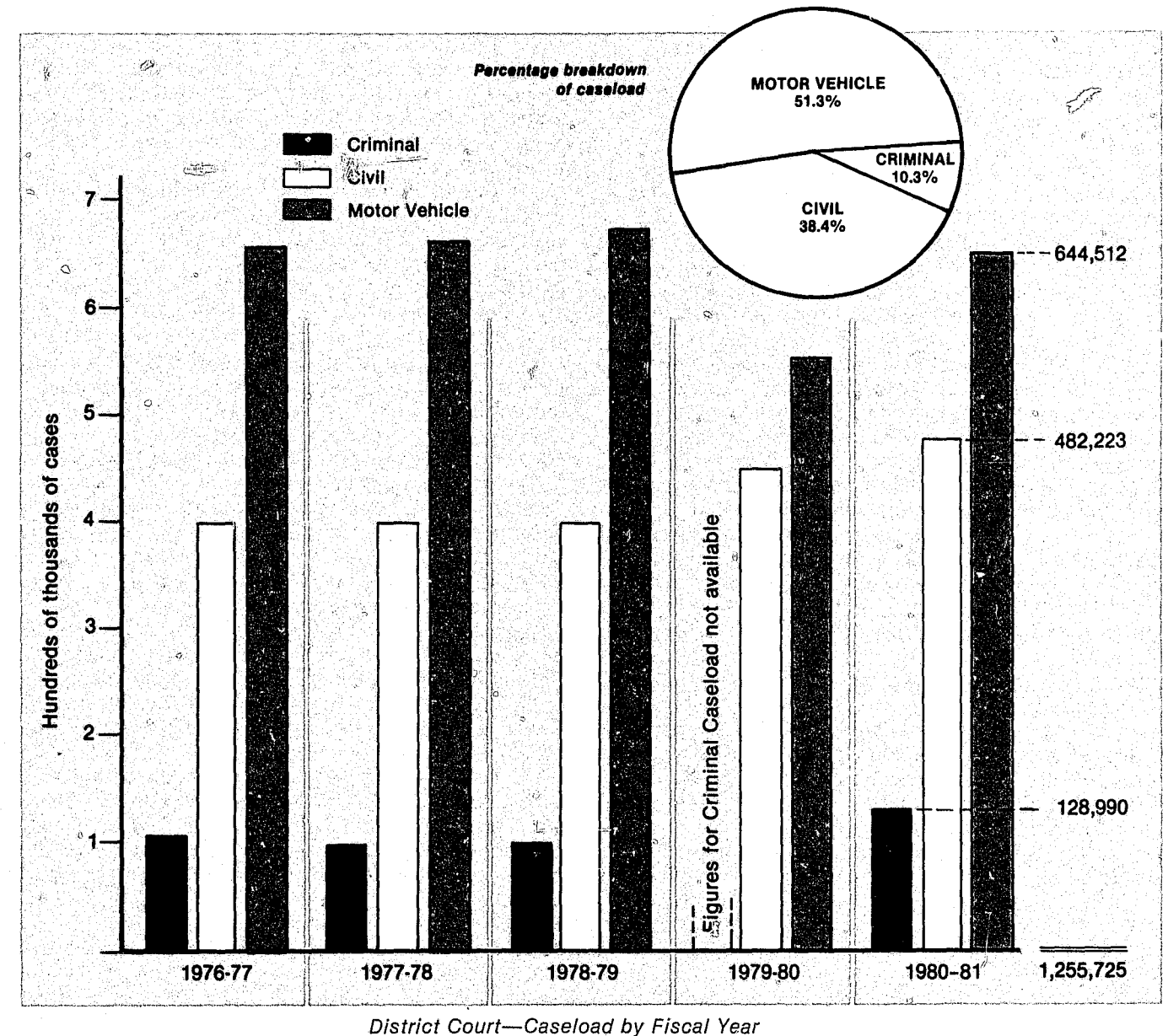
Of the four levels of courts in Maryland described on the preceding pages, the courts which have had the greatest caseload activities within recent years are the Court of Special Appeals and the circuit courts. At the appellate level, the Court of Appeals' regular docket has been holding constant for the last four fiscal years (1978 through 1981) with appeals averaging between 140 and 160 per year.

The Court of Special Appeals noted a significant increase in appeals in Fiscal 1980 and it appears that this volume increase still exists in Fiscal 1981. In Fiscal 1980, the Court recorded 1,771 appeals filed and in Fiscal 1981, the amount filed was 1,645.

Moreover, the 1,645 figure, while accurate, in a sense understates the Court's intake during Fiscal 1981. That figure represents the appeals actually placed on the regular docket during the fiscal year (as distinguished from the September, 1980 term of court). The figure does not include some portion of over 800 civil cases handled through the prehearing conference procedure. Some of these cases have been and others will be finally disposed of at prehearing conferences, and these cases will never be listed on the regular docket. Others not so disposed of will be docketed, many of them appearing in statistics for the next fiscal year. As a consequence, the apparent slight drop in appeals filed as between Fiscal 1980 (when there was no prehearing conference) and Fiscal 1981 actually reflects the fact that as of June 30, 1981, a substantial number of cases were still in the prehearing conference pipeline.

Thus, it appears that the Court is averaging between 1,600 and 1,800 new appeals docketed per fiscal year, compared to a period prior to Fiscal 1980 (Fiscal 1976, 1977, 1978 and 1979) when the Court was experiencing between 1,300 and 1,500 appeals filed annually. If growth rates continue to climb, the Court of Special Appeals may reach over 2,000 new annual filings by Fiscal 1983. Court personnel have looked into the question of why the apparent sudden shift in workload has developed but from all indications the increases appear to be evenly spread from all geographical locations and in all types of cases. It is conceivable that the rise in appeals is related to caseload increases in the circuit courts as well as the general feeling that citizens are more "litigation oriented" than they were several years ago.

As previously mentioned, the circuit courts have also experienced large increases within recent years. In Fiscal 1971, for example, 102,209 total filings were reported. Ten years later, in Fiscal 1981, statewide filings were 146,768—representing an in-



crease of approximately four and one-half percent for each of the ten years. It is also interesting to note that filings climbed generally more towards the end of the ten-year period than in the beginning. In Fiscal 1975, filings totaled 112,266 meaning that over 77 percent of the increase was experienced within the last six years.

Several reasons may be cited as to why circuit court filings have been increasing with such regularity. First, the District Court was established in July, 1971, and with the creation of this new court system, a considerable burden was taken from the circuit courts over the first several years. This seems to be particularly true with law filings and perhaps is one of the reasons why circuit court filings did not in-

crease as much in the early part of the seventies. Second, criminal and equity filings almost doubled in the seventies. In Fiscal 1971, criminal filings totaled 22,308 compared to 46,061 reported in Fiscal 1981 (an increase of over 106 percent). In equity, total filings in Fiscal 1971 were 27,791 as opposed to 53,728 filings in Fiscal 1981 (an increase of 93 percent). While there may be no discernible trend as to why criminal figures increased over the period, a large portion of the equity increase was attributable to a proliferation of divorce and domestic relations cases.

As to specific geographical areas where the increases are occurring, it was stated in last year's Annual Report of the Maryland Judiciary that "the

five major jurisdictions of Anne Arundel County, Baltimore County, Montgomery County, Prince George's County and Baltimore City no longer are responsible for all of the growth rate in circuit court filings." A comparison of Fiscal 1981 and Fiscal 1977 shows that the counties outlining the metropolitan regions and other areas of the State are beginning to indicate sizeable percentage increases in total filings—Harford County, +18.46%; Howard County, +40.64%; Carroll County, +37.92%; Frederick County, +26.97%; Washington County, +21.03%; Charles County, +72.28%; Calvert County, +73.72%; Wicomico County, +19.90%; and Worcester County, +37.87%.

It is apparent that there are a myriad of factors interrelated to circuit court caseload increases. These include but are not limited to: large increases in domestic relations cases, sporadic increases in crime statistics, a spreading caseload increase to outlying counties, an increase in the demand for jury trials for cases which would normally be held at the circuit court (up 61 percent in the past four fiscal years), and society becoming more "litigation oriented." The increase in jury trial prayers may be modified by the enactment of Chapter 608, Acts of 1981, discussed elsewhere in this Report. It is expected that if the caseload continues to increase, the circuit courts could realistically be experiencing 165,000 filings by Fiscal 1983.

The District Court caseload in Fiscal 1981 accelerated at a higher rate than any year of its ten years' existence, resulting in 1,255,725 combined motor vehicle, criminal, and civil cases. The largest portion of the District Court workload in terms of case statistics was the motor vehicle category which represents 51.3 percent of the overall case volume. Civil caseload was next with about 38.4 percent, followed by criminal cases which account for only 10.3 percent of total cases.

Of the three major case categories, civil cases have climbed with the greatest consistency showing

an average annual increase of about 10 percent since the Court was first created. Criminal and motor vehicle case categories have fluctuated over recent years but it is now apparent that the District Court can expect between 600,000 and 650,000 motor vehicle cases a year along with about 110,000 to 120,000 criminal cases.

Within the motor vehicle area, Baltimore County was the highest volume jurisdiction in the State, accounting for approximately 19.9 percent of the overall volume. Prince George's County was next with 17.0 percent followed by Montgomery County, 15.2 percent; Baltimore City, 8.8 percent; and Anne Arundel County with 6.2 percent. However, in terms of cases tried, which place a greater demand upon judicial resources, Baltimore County still ranks first but accounts for almost a third (31.0 percent) of all motor vehicle cases contested in the State in Fiscal 1981. Baltimore City was second with 16.7 percent of the contested motor vehicle cases followed by Prince George's County, 12.1 percent; Anne Arundel County, 8.9 percent; and Montgomery County with 8.6 percent.

Landlord and tenant cases constituted 70.1 percent of the District Court's civil caseload. This category rose in Fiscal 1981 by 15,000 cases statewide but contested civil cases climbed only minimally. Baltimore City and Prince George's County disposed of the greatest volume of landlord/tenant matters accounting for 48.0 percent of the Court's entire civil caseload.

In summary, Fiscal 1981 was one of the highest statistical years for the District Court, reaching over a million and a quarter in total filings. However, the impact upon the Court's time was consistent with previous years' effort. If the Court's overall volume continues to grow in the eighties, greater demands will be placed upon the Court especially in terms of support personnel for processing paper work. The Court could realistically be managing an increase of about 50,000 filings annually.

Judicial Administration

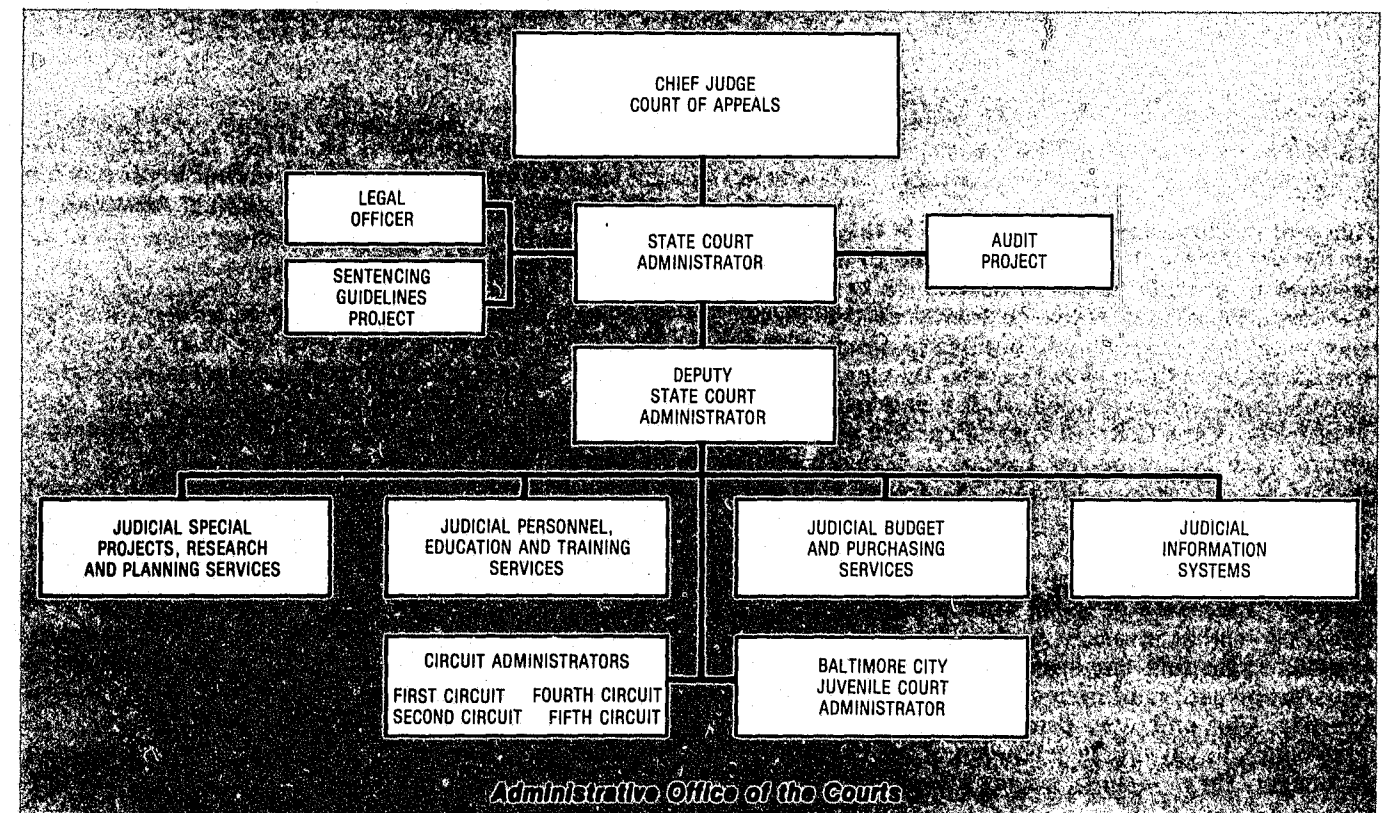
Administrative Office of the Courts

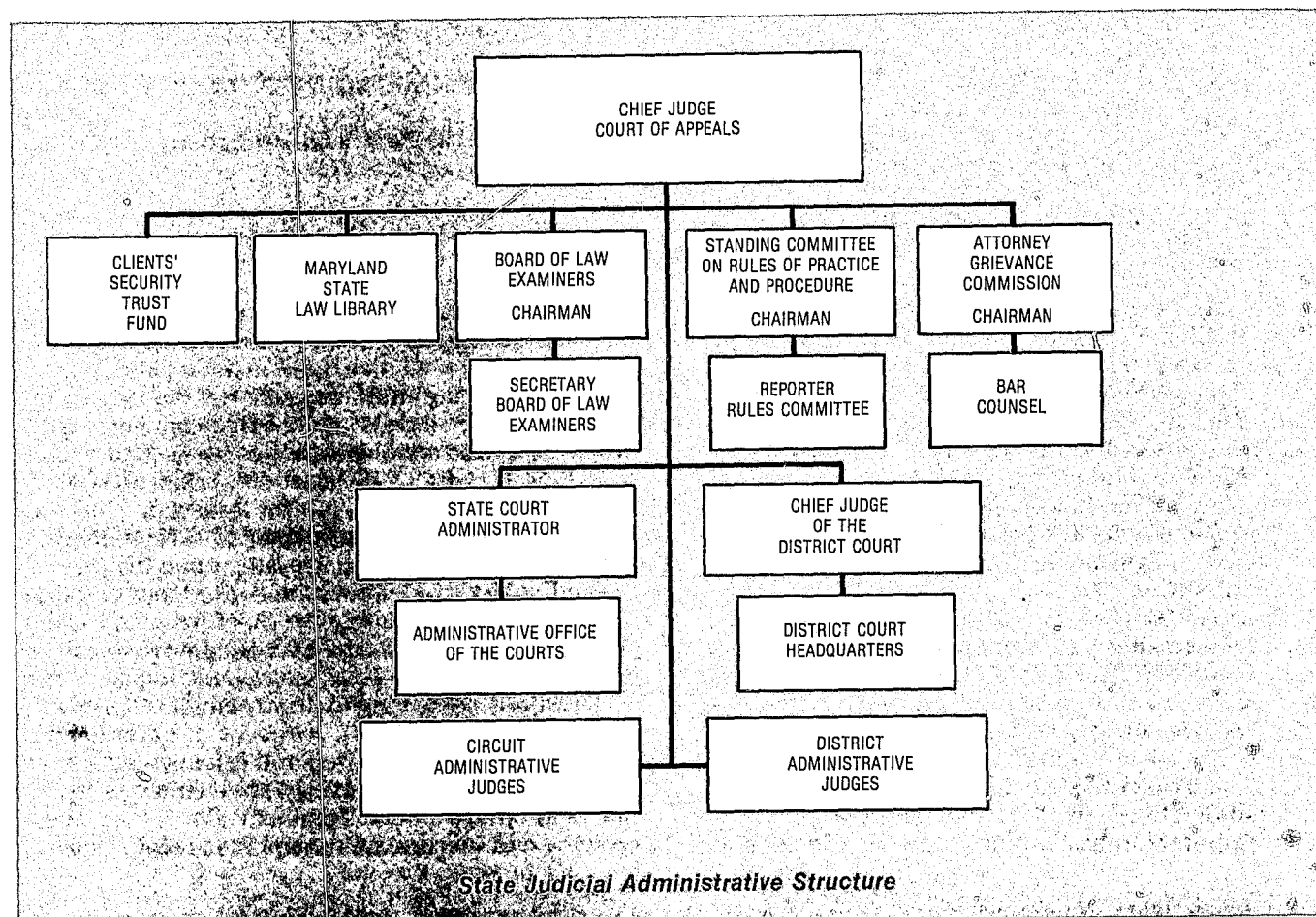
In 1944, the people of Maryland recognized the need for providing for administrative direction of the court system when they ratified what is now Article IV, section 18(b) of the Constitution, providing that the Chief Judge of the Court of Appeals is "the administrative head of the Judicial system of the State." But it was not until 1955 that the General Assembly took the initial steps for the provision of professional administrative staff necessary to assist the Chief Judge in carrying out administrative responsibilities.

In the latter year, the General Assembly created the Administrative Office of the Courts, headed by a State Court Administrator appointed by and serving at the pleasure of the Chief Judge of the Court of Appeals, as provided by section 13-101 of the Courts Article. The basic function of the State Court Administrator and the Administrative Office itself is to provide the Chief Judge with advice, information, facilities, and staff to assist him in the performance of

his administrative duties, and to implement court administration policies established by the Chief Judge, the Court of Appeals, and the General Assembly.

These administrative tasks include planning, research, providing staff support for the education and training of judges and nonjudicial personnel, preparation and administration of the Judiciary budget, liaison with the legislative and executive branches, staff support for the Maryland Judicial Conference and the Conference of Circuit Judges, the operation of information systems and the gathering and analysis of statistics and other management information, and assisting the Chief Judge in the deployment of judges to cope with temporary backlogs or to address shortages of judicial personnel. Some of the details pertaining to these activities appear in this portion of the report. A review of these details demonstrates the dedicated and effective efforts of the personnel of the Administrative Office to assist the Chief Judge in the administration of an ever-growing and increasingly complex judicial system.





Judicial Special Projects, Research and Planning Services

This unit in the Administrative Office is responsible for the development of capabilities and procedures designed to provide technical assistance to support the operational and research needs of the State courts and the research and analytical needs of the Administrative Office of the Courts. Its planning responsibilities are exercised at the request of the Chief Judge of the Court of Appeals and in staff support of such bodies as the Executive Committee of the Judicial Conference and the Commission to Study the Judicial Branch of Government.

Staff members conducted special research assignments and program evaluations throughout the year. Examples of these efforts are the recent extended media coverage project for the Court of Appeals regarding cameras in the courtroom and the preargument conference in the Court of Special Appeals. The unit also prepared several publications which in varying degrees are of importance to the courts. These include, among others, *The Compi-*

lation of Administrative Materials for Judges; The Judicial Ethics Handbook; The Annual Report of the Maryland Judiciary; and the Statistical Abstract.

Judicial Information Systems

During the report year, the Judicial Information Systems Unit, in partnership with the District Court of Maryland, extended the traffic adjudication system to Anne Arundel, Cecil, Harford, Howard, and Prince George's Counties. Also, plans and programs were finalized for the transfer of all the District Court data processing functions from the District Court One location in Baltimore City to Annapolis in an effort to increase processing efficiency and reduce costs. The final modules of this effort should be moved by September 1, 1981.

Programming was completed and some equipment was installed for modest personnel systems for the Administrative Office of the Courts and the District Court of Maryland.

The Maryland Judicial Information System and the data collection module of the circuit court com-

ponent of the Maryland Criminal Justice Information System were redesigned and made operational as well. This effort was done with cooperation from the clerks of court, State's attorneys, and court administrators.

The Supreme Bench systems group completed the major portion of the new one day/one trial jury management system which will commence operation with the first jury panels of 1982. The technical group was given support by the judges of the Jury Procedures Committee and the Jury Commissioner's Office.

The Supreme Bench systems group also completed plans and procurement actions for the installation of a satellite data center to be located within the Courthouse West of Baltimore City. Contracts are pending approval at this time.

The Anne Arundel County system completed its plans for replacement of equipment which will enable the circuit court to add new case processing functions. This technology is being shared with Howard County as well.

Perhaps the most significant accomplishment of Fiscal 1981 was the completion of a thorough evaluation of all EDP activities by the firm of Deloitte, Haskins and Sells. This study has been accepted by a committee appointed by Chief Judge Murphy but actual recommendations for action by the Chief Judge of the Court of Appeals have not been completed. This was a top to bottom look at processing methods, design responsiveness to the courts, personnel structure and future plans. The committee plans to finish its work by late summer 1981.

Judicial Personnel, Education, and Training Services

Significant changes in personnel and educational services were initiated by this unit during Fiscal 1981. The unit provides direct services to judicial and court-support personnel and technical assistance to all members of the judicial branch of Maryland.

Personnel activities revolved around the monitoring of legislation involving State employee personnel changes, assistance in the recruiting and hiring of professional, technical, and administrative staff, and providing technical assistance to the courts. A comprehensive staffing study of the Supreme Bench, in preparation for 1983 consolidation, was undertaken by unit staff persons.

Judicial education is being revamped through the establishment of the Judicial Institute of Maryland, a plan adopted by the 1981 Judicial Conference. The Institute will address individual educational needs of judges at the various trial and appellate levels through an ongoing needs assessment, the use of a variety of professional education techniques, and

the increased use of video technology to provide relevant and timely judicial education.

The new trial judge orientation program was conducted from October 1-4 and November 12-15, 1980, in Easton. Through a resolution adopted by the 1981 Judicial Conference, orientation to the bench will be provided in a more systematic and timely fashion, beginning with judges appointed in calendar 1982.

Continuing legal education in sentencing, evidence, impact decisions, eyewitness identification, and *stare decisis* was provided to all judges through sessions in January, February, and March, 1981. In addition, unit staff assisted the Committee on Judicial Education and Training in the development of the educational program at the 1981 Judicial Conference. The subject matter of those sessions was Supreme Court decisions, the taking of a guilty plea; and pretrial conferences in felony cases.

Increased efforts were also made in court-support education. A staff person assisted the court reporters on the implementation of a computer-aided transcript system (C.A.T.) for the Supreme Bench of Baltimore City. A records management workshop and a personnel management workshop were presented to the Circuit Court Clerks' Association through the instructional and administrative support of the education staff. In addition, the staff developed two seminars on the application of data processing in the courts which were presented by IBM to clerks of court and their staffs.

Finally, the Judicial Personnel, Education, and Training Services Unit initiated an informational service to Maryland judicial and court-support personnel through the introduction of the newsletter *Impact* in December, 1980. This quarterly publication informs court personnel of local, State, and national news that affects the operation of the courts in Maryland.

Judicial Budget and Purchasing Services

The Judicial Budget and Purchasing Services Unit is responsible for the preparation and monitoring of the annual Judiciary budget excluding the District Court. All accounting records for revenues and accounts payable are kept by the unit in cooperation with the General Accounting Department of the State Comptroller's Office. Payroll activities, the working fund account and fiscal grant activities are also the responsibility of the Budget and Purchasing Unit. Records must be maintained in order for the legislative auditor to perform timely audits on the fiscal activities of the Judiciary.

General supplies and equipment are purchased by the unit. Inventory controls are established for all of the furniture and equipment used by the Judiciary. Other responsibilities of the unit include main-

taining lease agreements for all leased property, monitoring the safety and maintenance records of the Judiciary automobile fleet, and performing special projects as directed by the Chief Judge of the Court of Appeals.

Legal Officer

The Legal Officer assists the State Court Administrator with legal research and legislative matters. Other tasks include assistance to the State Court Administrator in preparation of the annual summary of legislation, preparation of *Amicus Curiarum*, the chief feature of which is a monthly summary of important appellate decisions, and maintenance of the *Trial Judges' Benchbook*.

During the year, the Legal Officer conducted research on the subjects of personnel, sheriff's sales, rule-making authority of the Court of Appeals, election of circuit court judges, payment of criminal court costs in the circuit courts, jury selection processes and jurisdiction of state courts of last resort.

The Legal Officer also drafted bills for the Judicial Conference for the 1981 session of the Maryland General Assembly. Liaison was conducted with the legislature for the Judiciary under the guidance of the State Court Administrator.

Statistical Auditing Project

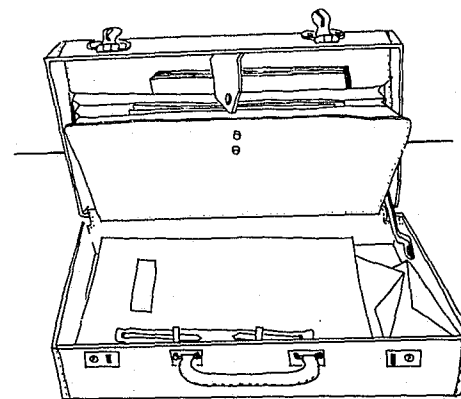
Monitoring the accuracy, timeliness, and consistency of court statistics prepared by the Judicial Information Systems Unit is the responsibility of the separate Statistical Auditing Project. Through field auditing of the circuit courts, sample case data in the computer record is compared with the actual court records for those cases. Auditors review discrepancies with clerks of court and clarify reporting requirements. Reports describe audit findings and recommend improvements.

An audit was conducted of the criminal history records maintained by the Criminal Justice Information System for the Central Repository for Criminal Records. A report entitled "Bugs and Other Battles" describes the audit findings.

Information gained in the auditing activities is contributing to more informed legislative analysis, judge needs assessment, and information system design. The General Assembly recognized these contributions by assuming the grant-funded position of audit project director as a permanent State position.

Sentencing Guidelines Project

The Administrative Office of the Courts has a grant from the National Institute of Justice to develop and implement sentencing guidelines for the circuit court judges in four Maryland jurisdictions: Balti-



more City and Harford, Montgomery, and Prince George's Counties. The project is testing the feasibility of multijurisdictional sentencing guidelines designed to aid judges and reduce unwarranted disparity in sentencing.

Project staff first analyzed past sentencing practices from a random sample of 1,800 sentencing decisions made during 1979. Using this analysis as a starting point, the project's judicial advisory board constructed guidelines for three categories of serious offenses against persons, drug offenses, and property offenses.

The guidelines were put into use in the four test jurisdictions for a one-year period beginning June 1, 1981. Judges are still free to impose whatever sentence they deem appropriate, within statutory limits, but sentences outside the guidelines must be explained in writing. Continuous analysis of these reasons as well as other offender, offense, and sentencing information will provide the basis for evaluation of the guidelines and modification as seems desirable.

Liaison with the Legislative and Executive Branches

The budget is one example of an important area of liaison with both the executive and legislative branches, since Judiciary budget requests pass through both and must be given final approval by the latter. In a number of other areas, including the support of or opposition to legislation, the appointment of judges, and criminal justice and other planning, close contact with one or both of the other branches of government is required. On occasion, liaison with local government is also needed. On a day-to-day working level, this liaison is generally supplied by the State Court Administrator and other members of the Administrative Office staff as well as staff members of District Court Headquarters. With respect to more fundamental policy issues, including presenta-

tion of the State of the Judiciary Message to the General Assembly, the Chief Judge takes an active part. The Chairman of the Conference of Circuit Judges and the Chief Judge of the District Court also participate in liaison activities as appropriate.

Administrative Conference

To address the need for consultation regarding administrative decisions and the need for a mechanism to assure that such matters are kept under consideration until finally resolved, the Chief Judge of the Court of Appeals organized the Administrative Conference in 1977. The Conference consists of the Chief Judge of the Court of Appeals, the Chairman of the Conference of Circuit Judges, the Chief Judge of the District Court, and the State Court Administrator. Thus, the Conference includes judicial representation from the several court levels, as well as a non-judge administrator.

The Conference meets approximately monthly. An agenda for each meeting is distributed in advance and a memorandum of the Conference actions follows each meeting. A docket is maintained listing each matter considered by the Conference and each matter is kept on the docket until the Conference has disposed of it.

This procedure offers a method whereby Judiciary leaders can be kept informed as to systemwide developments and by which the Chief Judge of the Court of Appeals can consult with others as he formulates administrative policy. The procedure has proved to be of substantial benefit for the purpose of administrative decision making.

Circuit Court Administration

Efforts to upgrade circuit court facilities and improve the existing use of space continued in Fiscal 1981. In Prince George's County, construction was completed on the second phase of the courthouse renovation in Upper Marlboro which was reported in the last Annual Report. Construction and renovation are still in various stages in Montgomery, Harford, and Frederick Counties. In addition, efforts began in Fiscal 1981 to provide needed space and facilities in the six counties which have been authorized additional circuit court judgeships by the 1981 General Assembly.

Likewise, improvements in juror selection and management systems continued. In Somerset and Queen Anne's Counties and in Baltimore City, call-in telephone systems have been installed for petit jurors to eliminate the former procedure of individual telephone calls to each juror to notify them whether or not they are to report for duty. While the procedures vary somewhat in each jurisdiction, jurors are instructed to call a designated number and a re-

corded message informs them as to whether they are to report. It saves time for court personnel and, more importantly, makes it convenient for jurors to be informed as to when they will be needed.

In the last Annual Report, it was reported that the Second Judicial Circuit and Washington County had instituted a direct mail automated data processing questionnaire/summonsing procedure for prospective jurors. In the past twelve months this has been expanded to a total of thirteen counties.

The one day/one trial project implemented in Montgomery County two years ago continues to be successful. The Supreme Bench of Baltimore City has taken steps to initiate this same system and expects it to be implemented in January, 1982. As an initial step, it has shortened the period of service for petit jurors from four weeks to one.

With the view to improve circuit court administration generally, the Second Judicial Circuit, has promulgated a policies and procedures manual with the joint cooperation of judges, the clerks, court employees, and officials of other court-related agencies. The manual documents the respective responsibilities and procedures to be followed by personnel in certain situations. It deals with such matters as docketing, case assignments, courtroom and trial procedures, court reporting procedures, along with a section on Second Judicial Circuit forms.

The most significant step forward in the area of circuit court administration was the overwhelming passage by the voters in the November, 1980, election of the constitutional amendment to consolidate the six courts of the Supreme Bench of Baltimore City into one Circuit Court for Baltimore City that will come into existence on January 1, 1983. The Supreme Bench has already taken steps to plan for the eventual consolidation with the formation of a consolidation committee consisting of judges, clerks, and court officials. Assistance is provided on a request basis by the Administrative Office of the Courts and the Comptroller. One of the steps implemented in Fiscal 1981 was the consolidation of the civil, criminal, and juvenile case assignment and scheduling functions into a consolidated assignment office. Though in effect only a few months as of the publication of this report, its effectiveness has been clearly demonstrated. Consolidation has eliminated much duplication of effort that has occurred between the respective assignment offices. For example, previously each office performed a separate duty of court coordination in assessing court status of a particular trial or a proceeding. The information was then used for decision making on a daily assignment basis. Under consolidation this critical function is performed with a unified effort. In addition, consolidation has increased the ability to maximize available judicial personnel, created a general overall reduction in nonjudicial personnel requirements by the consolidation of various duties and

responsibilities, stimulated the implementation of several new techniques in the assignment of civil cases, and has led to a better overall control of juror selection and management. For example, based on information gained through consolidated court coordination, predictions of juror usage and needs are made daily for the following court day. In conjunction with the newly installed telephone call-in system, savings in juror compensation have been achieved.

The Court Consolidation Committee has approved the formation of a special civil court steering committee to study the automation feasibility of the civil assignment and scheduling process. As a result of the 1981 legislative budget authorizing the Supreme Bench to install its own computer facility in Fiscal 1982, this project has taken on added significance and importance.

The Administrative Office of the Courts has been asked to provide technical assistance to the committee to develop organization and staffing requirements that will be needed when the Circuit Court for Baltimore City becomes a reality in the latter half of Fiscal 1983.

District Court Administration

In a "Happy Birthday" editorial on July 5, 1981, the Baltimore Sun took note of the tenth anniversary of the founding of the District Court, and stated, "[The court] has succeeded in bringing competence and integrity to the state's lower courts, an achievement that cannot be understated."

During the decade to which the Sun made reference, more than ten million cases were processed through the Court, a remarkable figure in a state with only four million residents. Seven million of those cases were settled without trial, including four million motor vehicle violations in which the defendant chose to plead guilty by mail by paying a preset fine, and almost three million landlord-tenant cases in which the matter was generally resolved when the tenant paid his overdue rent prior to trial. The three million remaining cases resulted in actual contested trials in court—an average of 4,000 cases per judge per year.

Courts exist solely for the purpose of dispensing justice and the District Court does not, and ought not, operate for the purpose of producing revenues for the State. Nonetheless, it is interesting to note that the total expenditures for the operation of the Court over the first ten years of its existence were \$186 million, while the Court collected and paid over to the State Treasury approximately \$236 million in fines and court costs during that same time span.

Although statistics on caseloads and revenues tell little or nothing of the quality of justice in any

court, there are some figures that have direct bearing on the nature of that justice in the District Court system. For example, year in and year out appeals to the circuit court are taken in less than two percent of the cases tried by District Court judges, which is perhaps as good a barometer as exists for measuring litigant satisfaction with the court.

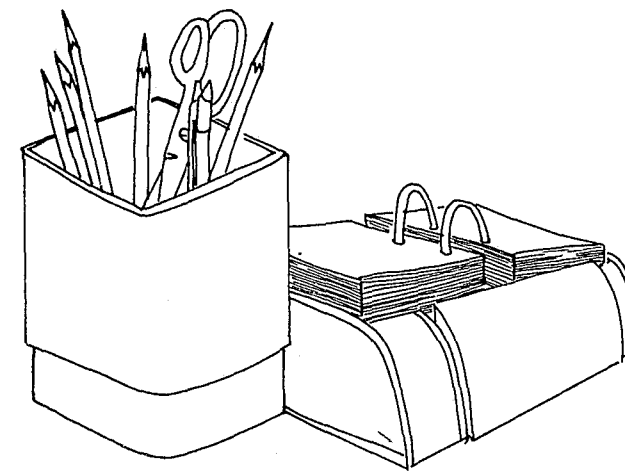
Another objective indication of the success of the Court lies in the fact that each year in the last ten years the legislature has increased the Court's jurisdiction. The two most significant increases occurred at the 1981 session, when the civil jurisdiction of the Court was increased to cases up to \$10,000, and the criminal jurisdiction was raised to include all theft cases regardless of the amount involved. Additionally, and significantly, the legislature in its 1981 session created a broad-based study commission, including judges, legislators, lawyers and citizen representatives to study, among other things, the questions of whether the Court should be empowered to try all juvenile cases in this State, to conduct six-person jury trials, and to have jurisdiction over any criminal offenses punishable by less than ten years in prison.

Over the last ten years legislative satisfaction with the Court may also be inferred from the fact that funding has been appropriated for District Court buildings in almost every part of Maryland. Two such structures are already completed, and eight more are under construction or on the planning board. The legislature did not appropriate money at its last session for the building of a badly needed facility in Baltimore City that would allow the Court to remove itself from the unsuitable police buildings in which the criminal courts are now located, but there is good reason to be optimistic that the funds for this structure will be appropriated next year.

Yet another yardstick for measuring the success of the District Court system arises from the fact that as of its tenth anniversary thirty-eight men and women who had served as judges of the District Court had moved on to serve on the circuit courts of Maryland—almost half of the total complement of circuit court judges in the State.

The District Court now has 86 trial judges, who serve in 81 courtrooms in 48 separate buildings in every part of Maryland. In those buildings 700 clerks, constables and bailiffs, all of whom have merit system protection, play a vital role in the operation of the Court; and 200 District Court commissioners are available on a 24-hour daily basis, in most parts of Maryland, to assist those citizens who wish to place criminal charges against another citizen or to establish conditions of pretrial release for individuals who have been arrested.

In another birthday editorial the Baltimore News American on July 5, 1981, said, "... voters approved an amendment to the state constitution creating the District Court of Maryland to replace the hodge-



podge of courts in the city and the counties, bring uniformity to the lower court system and achieve a higher standard of justice for the people of the state. This the District Court has done, and with outstanding success . . . And a significant reason for that is the caliber and professionalism of the personnel—the judges, the commissioners, the clerks, the office workers."

The editorial concluded:

"Today, the District Court of Maryland is 10 years old. The anniversary takes place with hardly a murmur. But to the cause of justice in this state it is a milestone of heartening significance."

Assignment of Judges

Pursuant to Article IV, section 18(b) of the Maryland Constitution, the authority to make temporary assignments of active judges to any court is vested in the Chief Judge of the Court of Appeals. Pursuant to Article IV, section 3A of the Constitution and section 1-302 of the Courts and Judicial Proceedings Article, the Chief Judge, with approval of a majority of the judges of the Court of Appeals, can recall retired judges to sit in courts throughout the State.

Efforts to maximize the use of active and retired judges by temporary assignments to courts throughout the State continued at a high level in Fiscal 1981. While section 1-302 contains conditions which limit the extent to which a retired judge can be recalled, the ability to do so is most helpful because it provides needed temporary judicial assistance without having to call upon active full-time judges causing a disruption of schedules and a delay in the disposition of cases.

In Fiscal 1981, the Chief Judge executed eight designations assigning four active circuit court

Temporary Judicial Assistance to the Circuit Courts by Active and Retired Circuit Court and Appellate Court Judges July 1, 1980-June 30, 1981 Fiscal 1981

Circuits Assisted	No. of Designations		Judge Days	
	Active Judges	Former Judges	Active	Former
First	0	0	0	0
Second	1	1	5	15
Third	0	1	0	22
Fourth	0	0	0	0
Fifth	0	5	0	37
Sixth	0	2	0	18
Seventh	0	1	0	3
Eighth	7	12	33	85
	8	22	38	180

Temporary Judicial Assistance by Active and Retired District Court Judges July 1, 1980-June 30, 1981 Fiscal 1981

Assistance	No. of Designations		Judge Days	
	Active Judges	Retired Judges	Active	Retired
Intra Court	34	18	174	68
Circuit Court (excl. Supreme Bench)	16	0	133	0
Supreme Bench	4	0	187	0
	54	18	494	68

Includes judges assigned under a "blanket" designation process for one year at a time.

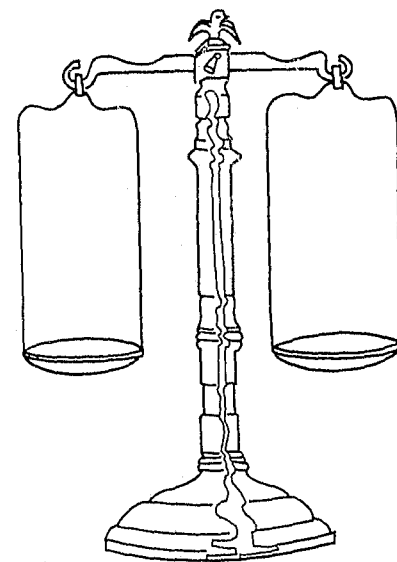
judges for temporary judicial assistance in circuit courts other than their own for a total of thirty-eight judge days. This was according to a predetermined schedule covering a full calendar year. The schedule informs a circuit administrative judge up to a year in advance as to the period(s) for which his circuit may be called upon to provide assistance throughout the State if it is requested.

Retired judges complemented efforts in the circuit courts to maximize the use of available judicial manpower. The Chief Judge of the Court of Appeals, with the approval of the court, executed 22 designations assigning 7 retired circuit court judges and one appellate judge to serve in the circuit courts for 180 judge days, more than one-half of a judge year of 246 days at an approximate cost of \$38,400. Of the total, 85 judge days of assistance by retired circuit court judges were provided to the Supreme Bench of Baltimore City.

Other efforts were undertaken to maximize available judicial manpower in the circuit courts in Fiscal 1981. Exchanges of judges occurred between circuits a number of times when judges were disqualified to preside over certain cases.

Pursuant to their authority under the Maryland Rules, circuit administrative judges shifted judges within their circuits without formal approval by the Chief Judge to address particular concerns and needs. Two appellate judges were designated for periods of time to sit in the circuit courts when their services were required. Last, but most certainly not least, the Chief Judge of the Court of Appeals assigned District Court judges to sit in the circuit courts for 320 judge days of which 187 were in the Criminal Court of the Supreme Bench of Baltimore City.

Pursuant to the constitutional authority vested in him, the Chief Judge of the District Court made assignments within that court to address unfilled vacancies, extended illnesses, and backlogs. In Fiscal 1981, he made 341 assignments within that court that totaled 474 judge days. The Chief Judge of the Court of Appeals, with the approval of the Court of Appeals, made 18 assignments of retired District Court judges to that court totaling 68 judge days for an approximate cost of \$14,200.



At the appellate level, the Chief Judge exercised his authority by designating appellate judges to sit in either appellate court to hear specific cases. In addition, and with the approval of a majority of the Court of Appeals, three retired appellate judges were recalled. Two retired Court of Appeals judges sat in the Court of Appeals to hear a specific matter. One of the retired Court of Appeals judges was designated to the Court of Special Appeals to assist that court in addressing its backlog and sat for a total of twenty-two days. Another appellate judge was recalled to assist that court in its presettlement conference project and sat for a total of six days.

Court Related Units

Board of Law Examiners

Originally in Maryland the various courts were authorized to examine persons seeking to be admitted to the practice of law. The examination of attorneys remained as a function of the courts until 1898 when the State Board of Law Examiners was created (Chapter 139, Laws of 1898). The Board is presently composed of seven lawyers appointed by the Court of Appeals.

The Board and its administrative staff administer bar examinations twice annually during the last weeks of February and July. Each is a two-day examination of not more than twelve hours nor less than nine hours' writing time.

Commencing with the summer 1972 examination, pursuant to rules adopted by the Court of Appeals, the Board adopted, and has used as part of the overall examination, the Multistate Bar Examination. This is the nationally recognized law examination consisting of multiple-choice type questions and answers, prepared and graded under the direction of the National Conference of Bar Examiners. The MBE test now occupies the second day of the examination with the first day devoted to the traditional essay examination, prepared and graded by the Board.

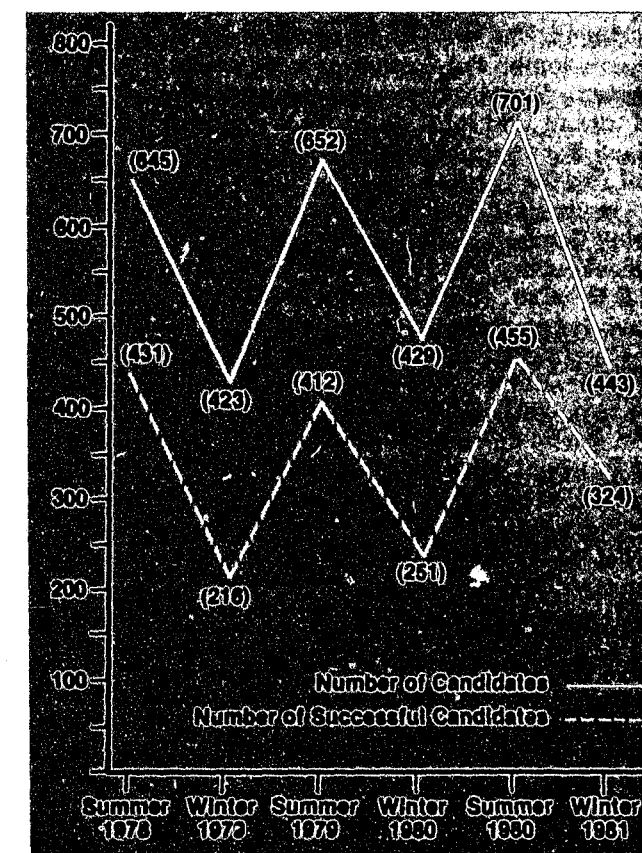
The MBE test has been adopted and is now used in forty-three jurisdictions. It is a six-hour test which had originally covered five subjects: contracts, criminal law, evidence, real property, and torts. Another subject, constitutional law, was added commencing with the February 1976 examination, with the time remaining the same.

Pursuant to the Rules Governing Admission to the Bar, the subjects covered by the Board's test (essay examination) shall be within, but need not include, all of the following subject areas: agency, business associations, commercial transactions, constitutional law, contracts, criminal law and procedure, evidence, Maryland civil procedure, property, and torts. Single questions may encompass more than one subject area and subjects are not specifically labeled on the examination paper.

The results of the examinations given during Fiscal 1981 are as follows: A total of 701 candidates sat for the July 1980 examination with 455 (64.9 percent) obtaining a passing grade while 443 sat for the February 1981 examination with 324 (73.1 percent) being successful. Passing percentages for the two previous fiscal years are as follows: July 1978, 66.8 percent and February 1979, 51.1 percent; July 1979, 63.2 percent and February 1980, 58.5 percent.

In addition to administering two regular bar examinations per year, the Board also processes applications for admission filed under Rule 14 which governs out-of-State attorney applicants who must take and pass an attorney examination. That examination is an essay type test limited in scope and subject matter to the rules in Maryland which govern practice and procedure in civil and criminal cases and also the Code of Professional Responsibility. The test is of three hours' duration and is administered on the first day of the regularly scheduled bar examination.

At the attorney examination administered in July 1980, thirty-one applicants took the examination for the first time along with five who had been unsuccessful on a prior examination for a total of thirty-six applicants. Out of this number thirty passed. This represents a passing rate of 83.3 percent.



Number of candidates and successful candidates taking the bar examination.

In February 1981, forty-nine new applicants took the examination for the first time along with five applicants who had been unsuccessful on a prior examination for a total of fifty-four applicants. Out of this number forty-eight passed. This represents a passing rate of 88.8 percent.

Rules Committee

The Standing Committee on Rules of Practice and Procedure, usually called the Rules Committee, was originally appointed in 1946 by the Court of Appeals to succeed an ad hoc Committee on Rules of Practice and Procedure created in 1940. Its membership consists of judges, lawyers, and a court clerk. The Rules Committee meets regularly to recommend changes in or additions to the rules of the Court of Appeals governing the practice and procedure of law and judicial administration.

The major activity of the Rules Committee continues to be the reorganization of the Maryland Rules of Procedure. In the past year, the Committee tentatively approved the discovery rules and a majority of the trial rules. The judgments subcommittee is currently in the process of preparing a reorganized set of judgment rules for the Committee's consideration in the fall.

During the year under review, the Court of Appeals adopted the Committee's 58th Report and Supplement, thereby approving the rescission of almost all circuit and local rules. This concludes a seven-year effort by the Rules Committee to eliminate circuit and local rules.

In its 71st Report to the Court of Appeals, the Rules Committee recommended adoption of certain housekeeping rule changes. Maryland Rule 628 and M.D.R. 628 (Supplementary Proceedings) were amended to delete the requirement that service be "by a sheriff." The deletion means that service in supplementary proceedings will be governed by the general rules concerning service of process. M.D.R. G52 d was amended to make it consistent with the requirement of Maryland Rule G52 d that a plea of *nulla bona* be contested by the attaching creditor before a garnishee may obtain attorney's fees and costs. Maryland Rule 645 and M.D.R. 645 were amended to clearly permit registered mail service in confessed judgment cases.

In its 72nd Report to the Court, the Committee submitted, at the Court's request, two amendments to the appellate rules. Maryland Rule 833 was amended to authorize a party, under certain circumstances, to file in the Court of Appeals the record extract which was filed in the Court of Special Appeals. Rule 846 was amended to forbid submission on brief without permission of the Court. The Committee also requested in the 72nd Report that Form 722 A/S be amended to clarify that a licensed insu-

rance agent may execute a bail bond and that Form 722 D/T be amended to clarify that a defendant, as well as a surety, may post real estate to secure performance of a bail bond.

The Committee's 73rd Report to the Court was submitted in response to legislation enacted in 1981 at the request of the Rules Committee. Section 7-105 of the Real Property Article was amended to require that the holder of a superior mortgage give notice of a foreclosure sale to the holder of a subordinate interest who has recorded a timely request for notice of sale. The Committee recommended changes in Rule W74 to bring the rule into conformity with the statute.

At the request of the Court of Appeals, the Rules Committee submitted, in its 74th Report, an amendment to Rule S74 which would permit a final decree of divorce, annulment, or alimony to be granted on a motion for summary judgment, but only if there is no dispute as to any claim or defense and if granting the motion will be dispositive of all issues in the action.

State Law Library

The primary function of the Maryland State Law Library is to support the research activities of the State appellate courts and all other court-related units of the Judiciary. Full library services are also extended to the remaining branches of State government for their variety of information needs, and to every class of citizen.

The Library was originally established by an act of the legislature in 1827, and was organizationally structured under the executive branch of State government until the legislative session of 1978, when it was transferred to the Judiciary and had the name altered to include "Law" in the title. The Library is governed by the Library Committee which must be composed of at least three members who are appointed by the Court of Appeals. This committee's powers include appointment of a director of the Library and appropriate rule making.

With a total collection in excess of 168,000 volumes, this public facility offers the researcher access to a unique information resource. The collection, which is basically composed of reference materials in the subject areas of law, social sciences, State and local history and government documents, does not circulate, except to State agency personnel, though interlibrary loan arrangements can be made.

The Law Library's holdings of State and Federal Government publications add tremendous latitude to the research materials found in most law libraries. Having been a select U.S. Government depository for Federal agency and congressional publications for many years, the Library has collected and indexed thousands of reference publications in the areas of

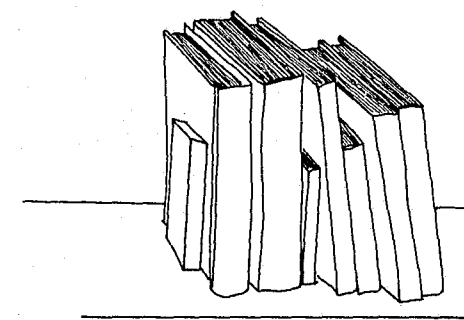
social science, economics, law enforcement, statistics, legislative histories, and numerous other areas.

Since November, 1980, the Court of Appeals has been subscribing to Mead Data's computer-assisted legal research service called LEXIS. This automated data base of appellate court case law and a number of other files of specialized topical libraries, serves the Courts of Appeal and a number of designated legal branches of State government.

An additional research tool worth noting is the *Legal Resource Index*, which has greatly expanded the access to and use of the legal and general periodical literature available in the Library. This new finding aid to the journal literature currently indexes over 650 sources of law articles in periodicals, newspapers, and government documents.

In response to an expressed need on the part of many of the State's circuit court and law school librarians, the Law Library initiated, as of the 1980 September Term, a program to convert all records and briefs of reported decisions handed down by the Court of Appeals and Court of Special Appeals to microfiche. This prospective microreproduction program being filmed by the Records Management Division of the State Department of General Services, is a tremendous aid to the law libraries receiving the briefs because of the dramatic space savings realized in housing these valued legal documents. As of the end of the fiscal year, there were thirteen subscribers. The master negatives are being deposited with the Hall of Records Commission for archival protection.

Located on the first floor of the Courts of Appeal Building, the Library is open to the public Monday-Friday, 8:30 a.m.-4:30 p.m.; Thursday, 8:30 a.m.-9:00 p.m.; Saturday, 9:00 a.m.-4:00 p.m.



SUMMARY OF LIBRARY USE Fiscal 1981

Phone inquiries	6,240
Reference assistance (total)	5,160
Titles circulated to users	2,640
Interlibrary loan requests filled	465
Saturday attendance	1,437

Attorney Grievance Commission

By Rule of the Court of Appeals the Attorney Grievance Commission was created in 1975 to supervise and administer the discipline and inactive status of lawyers. The Commission consists of eight lawyers and two lay persons appointed by the Court of Appeals for four-year terms. No member is eligible for reappointment for a term immediately following the expiration of the member's service for one full term of four years. The chairman of the Commission is designated by the Court. Members of the Commission serve without compensation. The Commission appoints, subject to approval of the Court of Appeals, a lawyer to serve as bar counsel and principal executive officer of the disciplinary system. Duties of the bar counsel and his staff include investigation of all matters involving possible misconduct, prosecution of disciplinary proceedings, and investigation of petitions for reinstatement.

By the same Rule of Court, the Court of Appeals also established a disciplinary fund to cover expenses of the Commission and provided for an Inquiry Committee and a Review Board to act upon disciplinary cases. The fund is composed of annual assessments upon members of the bar as a condition precedent to the practice of law. The Review Board consists of eighteen persons. There are fifteen attorney members and three lay members from the State at large. Members serve three-year terms. Judges are not permitted as members of the board. The Inquiry Committee consists of both attorney and lay members.

The Commission, last year, was confronted with the untimely death of G. Hollingsworth Pittman, bar counsel to the Attorney Grievance Commission. He was replaced by Melvin Hirshman. Despite the de-

SUMMARY OF DISCIPLINARY ACTION

	1976 -77	1977 -78	1978 -79	1979 -80	1980 -81
Inquiries Received			510	627	841
Complaints Received			449	349	295
Complaints					
Concluded	546	479	310	427	395
Disciplinary Action					
Taken					
Disbarment	3	2	0	3	4
Disbarment by					
Consent	5	2	5	7	6
Suspension	4	4	9	4	3
Public Reprimand	1	1	7	1	1
Private Reprimand	12	12	18	13	7
Placed on Inactive					
Status	12	0	1	0	2
Dismissed by Court	0	3	1	0	7
Petitions for					
Reinstatement	0	0	0	3	0
Number of Attorneys	27	24	42	31	28

lays and adjustments required by changes in personnel, the statistics which follow indicate continuation of a reduction in inventoried complaints notwithstanding the increase in overall communications (the combination of complaints and inquiries.)

Overall, communications increased during Fiscal 1981 over Fiscal 1980 by 13 percent. Inquiries increased approximately 29 percent while complaints decreased by 15 percent. The increase in inquiries and decrease in complaints probably reflects more careful and thoughtful initial screening rather than a decrease in the merits of communications received.

With respect to the general operation of the office, the more meaningful figures are the decline of inventories of carried-over complaints. In Fiscal 1979, 411 were carried over to the next fiscal year, declining to 335 in Fiscal 1980 and 279 in Fiscal 1981. Furthermore, of the complaints pending at the end of the fiscal year, those in administrative processing decreased by over 100 percent from 208 to 100 while complaints forwarded to the inquiry panels increased from 39 in Fiscal 1980 to 56 in Fiscal 1981. Moreover, there was a dramatic increase in the number of charges filed but not concluded in comparing the two fiscal years.

Inquiry Committee activity increased substantially during the comparative fiscal years. Fifty-nine complaints were concluded in Fiscal 1980, increasing to one hundred complaints in Fiscal 1981. The Review Board was likewise more active, having concluded fifty-seven complaints in the last fiscal year as compared with forty-eight in Fiscal 1980.

The Commission proposes to study the nature of allegations and complaints to develop more descriptive titles. For instance, the two largest categories are conduct adverse to administration of justice and unprofessional conduct. It is likely that these categorizations can be further refined and more descriptive categories may be provided in the future.

The Commission is considering additional forms of discipline such as the imposition of fines. Other states have inaugurated or are considering such a system. There is still a concern about how to deal with problems left in the wake of an incompetent attorney or disappearance of an attorney; and how to speed the disciplinary process when an attorney faces criminal charges for misappropriation of clients' funds yet continues to practice law while the criminal charges are pending.

While the Commission believes the statistics indicate that the system in general is working well, it does not relent in its efforts to further improve its overall operation. The system has numerous checks and balances to assure due process to respondent

attorneys and a prompt, just and responsible conclusion to all complaints. Complaints proposed for dismissal require the concurrent action of the chairman or a vice-chairman of the Inquiry Committee and bar counsel. There is a proposal to add a lay person to the dismissal conferences which may be incorporated into the BV Rules at a later time.

Clients' Security Trust Fund

The Clients' Security Trust Fund was established by an act of the Maryland legislature in 1965. The statute empowers the Court of Appeals to provide by rule for the operation of the Fund and to require from each lawyer an annual assessment as a condition precedent to the practice of law in the State of Maryland. Rules of the Court of Appeals that are now in effect are codified as Rule 1228, Maryland Rules of Procedure.

The purpose of the Clients' Security Trust Fund is to maintain the integrity and protect the name of the legal profession by reimbursing, to the extent authorized by these rules and deemed proper and reasonable by the trustees, losses caused by defalcations of the members of the Bar of the State of Maryland, acting either as attorneys or as fiduciaries (except to the extent to which they are bonded.)

Seven trustees are appointed by the Court of Appeals from the members of the Maryland Bar. One trustee is appointed from each of the first five Appellate Judicial Circuits and two from the Sixth Appellate Judicial Circuit. One additional trustee is appointed by the Court of Appeals from the State at large. This trustee must be a lay person. Trustees serve on a staggered seven-year basis. As each term expires a new appointment shall be a seven-year term.

The Clients' Security Trust Fund began its fifteenth year on July 1, 1980 with a fund balance of \$758,003.96, as compared to a fund balance of \$730,186.54 for July 1, 1979. The Fund ended its fifteenth year on June 30, 1981, with a fund balance of \$843,579.69 as compared to a fund balance for the year ending June 30, 1980, of \$758,003.96. Total assets amounted to \$860,309.69 with interest income totaling \$92,663.68. The fund derived the sum of \$99,228.00 from assessments, as compared to \$93,795.00 for the preceding fiscal year. There were 11,776 lawyers subject to the annual assessment.

During Fiscal 1981, the trustees approved and paid fourteen claims which amounted to \$38,154.17. There are twelve pending active claims with a current liability exposure of approximately \$102,266.00. These claims are in the process of investigation.

Judicial Conferences

The Maryland Judicial Conference

The Maryland Judicial Conference was organized in 1945 by the Honorable Ogle Marbury, then Chief Judge of the Court of Appeals. It presently exists by virtue of the provisions of Maryland Rule 1226, which direct it "to consider the status of judicial business in the various courts, to devise means for relieving congestion of dockets where it may be necessary, to consider improvements of practice and procedure in the courts, to consider and recommend legislation, and to exchange ideas with respect to the improvement of the administration of justice in Maryland and the judicial system in Maryland."

The Conference consists of the 210 judges (as of Fiscal 1982) of the Court of Appeals, the Court of Special Appeals, the circuit courts for the counties, the Supreme Bench of Baltimore City, and the District Court of Maryland. The Chief Judge of the Court of Appeals is its chairman; the State Court Administrator is its executive secretary. The Conference meets annually in plenary session. Between these sessions, its work is conducted by an Executive Committee and by a number of other committees, the members of which have heretofore generally been appointed by the Chief Judge in his capacity as Conference Chairman. The various committees are provided staff support by personnel of the Administrative Office of the Courts. While it is impossible to detail here all of the important work done by these committees in Fiscal 1981, a few of the most important activities should be mentioned.

Structure and Role of the Executive Committee

At its plenary session on May 7th, 8th, and 9th, 1981, at the Hilton Inn in Pikesville, the Judicial Conference adopted the recommendations of its Committee on Structure and Role of the Executive Committee, and these recommendations were implemented by the Court of Appeals on June 1. These recommendations, the result of two years of study, proceeded on the premise "that all the judges of the State play a part in the formulation of policy recommendations affecting the judicial branch of government" and that "the judges of the several courts have not only an interest in but a duty to work for the improvement of the administration of justice, and that in performing this duty they should share their expertise and their concerns, which often cut across court levels and geographic boundaries." But the committee

recognized that this task could not be effectively handled by a group of over 200 judges meeting only once a year. It pointed out that "there must be an ongoing, adequately staffed mechanism for conducting the work of committee coordination, detailed review of proposals, long- and short-range policy planning, and interim action between plenary sessions."

To achieve these objectives, the full Conference adopted the committee's recommendations that the Executive Committee be enlarged from its former membership of ten to a membership of seventeen democratically elected judges from all court levels and all parts of the State with the Chief Judge of the Court of Appeals serving as an ex-officio nonvoting member. The Executive Committee will elect its own chairman and vice-chairman, and the chairman, in consultation with the Chief Judge, will appoint the chairmen and members of the various Conference committees, which will report to the Executive Committee and to the full Conference through the Executive Committee. The Executive Committee is empowered to submit "recommendations for the improvement of the administration of justice in Maryland to the Chief Judge, the Court of Appeals, and the full Conference as appropriate" and also to "submit recommendations to the Governor, the General Assembly, or both of them," such recommendations to be "transmitted through the Chief Judge of the Court of Appeals" and by them "forwarded to the Governor or General Assembly, or both, with any comments or additional recommendations deemed appropriate by the Chief Judge or the Court."

Organization of the new Executive Committee is now underway. The new structure of the committee should result in an enhanced capability for review of and recommendations as to fundamental judicial branch policy from a perspective of the entire court system.

Committee on Judicial Education and Training

During Fiscal 1981, the Committee on Judicial Education and Training conducted orientation sessions for new judges in the fall of 1980 and a series of three educational sessions in the winter and spring of 1981, one of which was attended by each member of the Conference, unless excused for good cause. In addition, the committee provided an outstanding day and one-half of educational activity during the Conference's plenary session in May, 1981.

The committee also submitted important recom-

mentations bearing on the future of judicial education and training in Maryland. The recommendations were approved by the 1981 Conference. The first of these recommendations involves a reordering of the procedures for orientation of new trial court judges, in order to provide more effective and meaningful training for these judges while at the same time reducing the cost of the training and cutting the number of court days to be used for such training. The new program will involve more individualized information for the new judges and extensive use of videotape and individualized written materials.

The second set of recommendations addresses the issue of continuing education for all judges. It contemplates the establishment of a Maryland Judicial Institute, which would prepare and deliver an ongoing curriculum of courses designed to enhance the career development of judges. This would be a coordinated and continuing process, as opposed to the relatively *ad hoc* selection of education topics that has existed in the past. The proposal also contemplates the recruiting and training of a cadre of Maryland judges and others who would act as instructors at the Institute. This project is seen as both improving the quality of continuing judicial education and providing a viable alternative for a portion of out-of-State judicial education, now performed at the National Judicial College in Reno and elsewhere, since obtaining funding for out-of-State education is becoming increasingly difficult.

Jury Study Committee

In 1979, at the request of the Conference of Circuit Judges, the Executive Committee of the Judicial Conference provided for the appointment of a committee to study all aspects of the jury system in Maryland. That committee reported to the 1981 Judicial Conference, which in substance adopted its recommendations. These included:

1. Adoption of a constitutional amendment to authorize juries of less than twelve persons, with the concept that six-person juries be authorized for misdemeanor and civil trials with twelve-member juries remaining for felony cases and in certain other cases in which a jury of twelve has been requested.
2. Reduction of the number of peremptory challenges in certain cases.
3. Further study of the use of six-person juries in the District Court.
4. Consideration by metropolitan counties of the implementation of the one day/one trial jury system now in existence in Montgomery County and shortly to be operational in the Supreme Bench of Baltimore City.
5. Consideration of the feasibility of merging driver registration lists with voter registra-

tion lists for purposes of expanding the source of jury selection.

Public Awareness Committee

At the 1980 Judicial Conference, the Public Awareness Committee proposed that there be a carefully controlled experiment in the use of extended media coverage in the trial and appellate courts. After extended public hearings and comment, the Court of Appeals on November 10, 1980, adopted a new Maryland Rule 1209, which implemented these recommendations. The rule became effective January 1, 1981. However, apparently because of the consent requirements included in the rule, there were few actual instances of extended media coverage in the courts. And for all practical purposes, the experiment was brought to an end when the legislature enacted Chapter 748, Acts of 1981, effective June 1, 1981. This act, although not affecting extended media coverage in the appellate courts or in civil cases in the trial courts, bans extended media coverage of criminal proceedings in the trial courts.

Bench/Bar Committee—Polls of Lawyers and Judges

The Bench/Bar Committee is a joint committee of the Judicial Conference and the Maryland State Bar Association. In 1979 it conducted a poll of the then 190 judges of the State, with respect to their views as to the attractiveness or lack of attractiveness of judicial office. One hundred three judges responded, for a response rate of 54 percent. In 1980, the committee surveyed a random sample of 1,900 attorneys in Maryland, aged thirty years old and older. Again, the emphasis was on views of the Judiciary and judicial office. Responses were received from 323 attorneys, producing a return rate of 17 percent. The results of the 1979 poll were analyzed by Fred Russillo, statistician for the Circuit Court for Montgomery County. The results of the 1980 poll were analyzed by Dr. Laura Murlock of Johns Hopkins University.

These polls shed interesting light on the views of Maryland lawyers and judges with respect to judicial office. Although it is often assumed that judicial office is a goal sought by most lawyers, the lawyers' survey reveals that only 47 percent of the respondents had judicial aspirations, whereas 43 percent did not, with 5 percent undecided. This rather modest expression of interest in judicial office may in part be explained by perceptions as to the prestige of judicial positions. Although approximately 90 percent of the respondents rate the prestige of a judicial position as greater than that of a businessman, politician, lawyer, architect, or government employee, 57 percent of the sample thought that the prestige of judicial office has diminished during the last ten years. This reflects an attitude not

dissimilar to that of the judges themselves, 63 percent of whom reported that the prestige of the judiciary had declined since they assumed office.

The two most important reasons assigned for this diminution of prestige were the assumed caliber of individuals serving as judges and the alleged degree of political favoritism involved in the selection of the judiciary. Interestingly enough, the judges differed somewhat in their ranking of factors causing decline of prestige. Inefficiency of the total system and image of judges in the press, etc. (factors largely discounted by lawyers) were thought to be the two most important factors, and they were followed by the caliber of individuals serving as judges and political favoritism in the selection process.

The lawyers were also asked how they felt prestige of judicial office could be improved. By far the greatest proportion of responses here (over 80 percent) called for improving the system of judicial selection, including a better system of merit selection, freedom from political considerations, and elimination of elections at the circuit court level. These concerns were followed by perceived need for increased judicial compensation. The largest proportion of the judge respondents (37 percent) also thought that improved systems of merit selection and elimination of elections at the circuit court level would enhance the prestige of the judiciary. As might be anticipated, the judges also placed considerably greater emphasis on the need for better judicial compensation than did the lawyers.

This is not to say that the lawyer respondents were unconcerned about adequate judicial compensation. Two-thirds of the lawyer respondents thought that fewer competent lawyers than in the past are now interested in becoming judges. When asked to assign reasons for this, the greatest importance was attributed to inadequate judicial compensation, followed by the feeling that judgeships frequently go to political cronies, and the need for campaigning at the circuit court level. And although over half of the lawyer respondents thought the current levels of judicial compensation were adequate, two-thirds of those responding that judicial salaries were inadequate thought the positions underpaid by \$20,000 per year or more. The compensation issue also surfaced when lawyers were asked about the sacrifices they felt they would have to make in order to be a judge. The two areas of greatest concern here were loss of independence in personal life and loss of income. This is a pattern similar to the responses of the judges in the 1979 poll. It is also of interest to note that in ranking the factors that would attract them to seek a judgeship, the lawyers, like the sitting judges, found most attractive opportunities provided by judicial position for service to the judicial system and/or the community, and a sense of personal or professional accomplishment. In both surveys, compensation ranked well below

these factors as elements contributing to the attractiveness of a judicial position.

The perceptions outlined above shed further light on the profile of the lawyer with judicial ambitions that emerges from the survey. Such a lawyer is most likely to be one under forty years of age, earning less than \$40,000 per year from his or her practice, and with ten years or less experience in the practice of law. In addition, such a lawyer is more likely to work in a small firm, in solo practice, or in a government agency. The opposite side of this coin is that lawyers without judicial ambitions are three times more likely as those with judicial aspirations to earn more than \$60,000 per year and are also likely to be older, have more experience in the practice, and to be employed in large or moderate-sized law firms.

The survey does not say whether the views of both lawyers and judges as to the decline in prestige of the judiciary, the increased reluctance of more competent lawyers to seek judicial office, and the perceived lower caliber of individuals serving as judges, are produced by the type of lawyer who seeks judicial office, as revealed by the above profile. But it may be that all of these factors contributed to another finding of the lawyers' survey. Ninety-four percent of the lawyer respondents thought that judges should be evaluated—a view shared by 74 percent of the respondents to the 1979 survey of judges. Consistent with recent efforts by the Maryland State Bar Association in the area of polling lawyers with respect to judges, the respondents to the lawyers' survey favored evaluation of judges by lawyers and in addition favored making the evaluation information available to the public.

Committee on Sentencing and Corrections

During Fiscal 1981, this committee pressed on with the Sentencing Guidelines Project endorsed by the 1979 Judicial Conference. This project is discussed in more detail in other portions of this report. In addition, the committee now has under review "A Study of Sentencing Disparity in Maryland" prepared in March, 1981, by Inslaw, Inc., for the Governor's Commission on Law Enforcement and the Administration of Justice.

Legislative Committee; Criminal Law Committee; Committee on Juvenile and Family Law and Procedure

Any discussion of the work of the Judicial Conference should not omit mention of these three committees, all of which deal in large part with legislative matters. They contributed uncounted hours of time to the preparation and review of legislative proposals. Some of the fruits of their labors appear in the section of this report dealing with 1981 Legislation Affecting the Courts.



Conference of Circuit Judges

Established pursuant to Maryland Rule 1207, the Conference of Circuit Judges has sixteen members comprised of the eight circuit administrative judges and one judge from each of the eight circuits elected every two years by the judges of that circuit. The chairman is elected by the Conference, likewise for a two-year period. Because it includes members elected by their colleagues, it is deemed representative of the circuit court bench and is in a position to give the circuit courts a voice in the administration of the judicial system. During Fiscal 1981, the Conference met five times and addressed issues of concern to the circuit court segment of the judiciary.

State Funding of the Circuit Courts

In Fiscal 1981, the Governor's Task Force to Study State/Local Fiscal Relationships introduced legislation to provide for State funding of the circuit courts—the only segment of the Judiciary presently not supported by full State funding. Though supported by the Chief Judge of the Court of Appeals, the Conference, through its Planning Committee, expressed the strong position that the matter is a complex one deserving an exhaustive study which it felt had not been undertaken. In opposing the legislation, the Conference requested it be given additional opportunity to provide more input so that the advantages can be weighed against the disadvantages. The legislation was unsuccessful.

Fiscal Problems of the Circuit Court Clerks' Offices

Faced with substantially reduced revenues from commissions, costs and fees plus double-digit inflation, the deficiency of the operations of the circuit court clerks' offices reached an alarming level in

Fiscal 1981. The Conference met with the Comptroller of the State of Maryland to discuss the rising cost of operations against the backdrop of a reduced revenue base in an effort to identify both short- and long-term solutions. Though not resolved at the time of the publication of this report, the Conference has formed a joint committee with clerks and the Office of the Comptroller to address a series of proposals. Increasing the revenue base, introduction of cost reduction measures and the possibility of full State funding of these offices have been placed on the agenda for further discussion.

Approval of a Procedure for Handling an Alleged Violation of a Court-Approved Conditional Release of Individuals Found Not Guilty by Reason of Insanity

In Fiscal 1980, the Conference referred to the Maryland Judicial Conference a project to develop a procedure for handling an alleged violation of a court-approved conditional release of an incarcerated individual found not guilty by reason of insanity under Article 59, section 27B. In Fiscal 1981, the Committee on Mental Health, Alcoholism and Addiction of the Maryland Judicial Conference presented to the Conference of Circuit Judges a proposed procedure that outlines the various steps to take in an effort to bring an individual placed on a conditional release back to court when an alleged violation of one or more of the conditions is brought to the court's attention. After extensive review, the Conference recommended adoption of a proposed procedure for use in the circuit courts. The District Court's Administrative Judges' Committee reviewed the proposed procedure and also approved it.

Weekly Time, Leave and Monthly Sub Curia Reports

After extensive deliberations, the Conference recommended to the Chief Judge of the Court of Appeals the adoption of a procedure for reporting certain activities by circuit court and Supreme Bench judges. The information contained on the revised weekly report form is intended to be of assistance to administrative judges to record annual and other types of leave, and to provide data relating to time spent on judicial, educational, and other noncase-related activities. Together with other information gathered by the Administrative Office of the Courts, it is further intended to assist the Chief Judge of the Court of Appeals in assigning active and retired judges, responding to legislative inquiries about court activities and making recommendations regarding needs for additional judgeships. The Chief Judge of the Court of Appeals has requested that the Maryland Judicial Conference Committee on Information and Statistics undertake an ongoing evaluation of the new procedure.

Supporting Legislation to Expedite the Exchange of Presentence Reports Between Federal and State Authorities

The Conference received reports about difficulties experienced by Federal parole and probation officers in obtaining presentence reports from State parole and probation officers. Apparently Federal authorities were willing to provide their reports but State officials could not do so without first obtaining a court order authorizing release pursuant to the provisions of Article 41, section 124(b) of the Annotated Code of Maryland. This section makes the reports confidential and not available for public inspection except upon court order or for use by a correctional institution. Upon the request of the Division of Parole and Probation and the State/Federal Judicial Council to alleviate this problem, the Conference voted to support legislation to address this matter of exchange of presentence reports and make them available for use by Federal parole and probation authorities without the necessity of a court order. The Conference also voted to support legislation to make these reports available for use upon request by mental health facilities to which an individual has been committed for treatment as a condition of probation. The General Assembly saw merit in the Conference's concern and enacted the legislation amending the statute.

Responsibility for Transporting Defendants to and from Courts by Sheriffs

The Conference recommended a policy to assign responsibility for transporting a defendant to court when he is in the custody of a sheriff from another jurisdiction. When it is anticipated that a defendant will be at a location for no more than one day, the defendant should be transported to and from the court by the sheriff in whose custody the defendant has been placed. However, when it is anticipated that the defendant will be at the court location for more than one day, the sheriff in whose jurisdiction the defendant is in custody will transport the defendant to the court. But the sheriff of the requesting jurisdiction should house and return the defendant to the holding jurisdiction when the defendant's appearance is no longer required.

Meeting with Members of the Bureau of Child Support Enforcement, Foster Care Review Board, and the Community-Based Forensic Screening Program

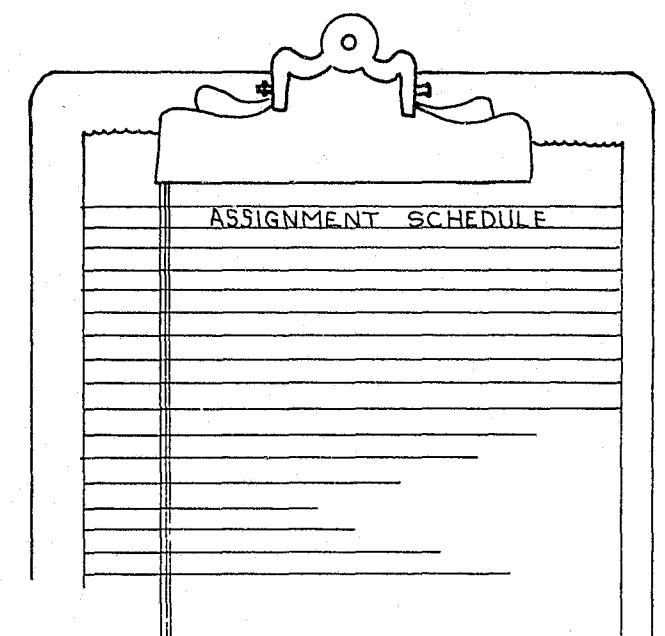
The Conference met with the director of the Bureau of Child Support Enforcement who presented some of the problems that the Bureau was having with the courts in the area of support enforcement. The director asked for the Conference's cooperation in the Bureau's efforts to administer Maryland's non-

support enforcement program. Members also met with the executive director of the Foster Care Review Board which directs a program of citizen involvement relating to foster care and permanent placement of children. Likewise, the director urged the courts' cooperation in considering the recommendations of the respective boards throughout the State, particularly in cases that might involve conflicts with State agencies handling foster care and placement of children.

Also, the Conference met with the director of the Statewide Community-Based Forensic Screening program that was implemented in the District Court in Fiscal 1981 to determine competency to stand trial and criminal responsibility. There is a need to develop local screening services for these purposes rather than use State facilities in all instances. The project apparently is operating successfully in the District Court and it is anticipated that it will be implemented in the circuit courts in Fiscal 1982. The objective of the project is to screen individuals who do not warrant further evaluation and examination in State facilities. In case of the slightest doubt, there will be a recommendation of referral for more in-depth examination.

Topics Considered for Further Study

While not referred to any specific forum, the Conference expressed the need for study of a number of major topics affecting the administration of the judicial system both at the circuit court and District Court level. The topics are holding jury trials at the District Court level, increasing felony jurisdiction in the District Court and transferring juvenile jurisdiction to the District Court.



Appointment, Discipline, and Removal of Judges

Under the Maryland Constitution, when a vacancy in a judicial office occurs, or when a new judgeship is created, the Governor normally is entitled to appoint an individual to fill the office.

The Constitution also provides certain basic qualifications for judicial office. These include: Maryland citizenship; residence in Maryland for at least five years and in the appropriate circuit, district, or county for at least six months; registration as a qualified voter; admission to practice law in Maryland; and minimum age of thirty. In addition, a judicial appointee must be selected from among those lawyers "who are most distinguished for integrity, wisdom, and sound legal knowledge."

Although the Constitution sets forth these basic qualifications, it provides the Governor with no guidance as to how he is to go about exercising his discretion in making judicial appointments. Maryland governors have themselves filled that gap, however, by establishing judicial nominating commissions.

Judicial Nominating Commissions

Before 1971, Maryland governors exercised their power to appoint judges subject only to such advice as a particular governor might wish to obtain from bar associations, legislators, lawyers, influential politicians, or others. Because of dissatisfaction with this process, as well as concern with other aspects of judicial selection and retention procedures in Maryland, the Maryland State Bar Association for many years pressed for the adoption of some form of what is generally known as "merit selection" procedures.

These efforts bore fruit in 1970 when former Governor Marvin Mandel, by Executive Order, established a Statewide judicial nominating commission to propose nominees for appointment to the appellate courts, and eight regional trial court nominating commissions to perform the same function with respect to vacancies on the trial courts. These nine commissions began operations in 1971, and since then, each judicial vacancy filled pursuant to the Governor's appointing power has been filled from a list of nominees submitted by a nominating commission.

As presently structured under an Executive Order issued by Governor Harry Hughes on June 8, 1979, each of the nine commissions consists of six lawyer members elected by other lawyers within designated geographical areas; six lay members ap-

pointed by the Governor; and a chairperson, who may be either a lawyer or a lay person, appointed by the Governor. The State Court Administrator acts as a nonvoting secretary to all commissions and the Administrative Office of the Courts provides all commissions with staff and logistical support.

When a judicial vacancy occurs or is about to occur, the State Court Administrator notifies the appropriate commission, places announcements in the press, and through interested bar associations, seeks applications which are distributed to the commission members.

After the filing deadline for the particular vacancy has passed, the commission meets and considers the applications and other relevant information, such as recommendations from bar associations or individual citizens. Each candidate is interviewed either by the full commission or by commission panels. After discussion of the candidates, the commission prepares a list of those it deems to be "legally and professionally most fully qualified" for judicial office. This list is prepared by secret written ballot; no commission may vote unless at least nine of its thirteen members are present; the name of no applicant may be included on the list unless that applicant has the affirmative vote of not less than seven members of the commission. The list is forwarded to the Governor, who is bound by the Executive Order to make his appointment from the commission list.

During Fiscal 1981, only thirteen vacancies both occurred and were filled, as contrasted to twenty-five in Fiscal 1980. As a consequence, the commissions were required to meet less frequently than they had during the previous fiscal year. The Appellate Judicial Nominating Commission did not meet during Fiscal 1981, and this was also true with respect to the Trial Court Commissions for the First and Second Judicial Circuits. The remaining commissions held a total of fourteen meetings, including three meetings held by the Third Circuit Commission with respect to filling a single District Court vacancy that occurred in Fiscal 1980 but was not filled until Fiscal 1981. The commission had before it forty-nine candidates for this particular vacancy. Other commissions that met with some frequency during Fiscal 1981 included the Sixth Circuit Commission with three meetings and the Eighth Circuit Commission with five.

The accompanying table gives comparative statistics pertaining to vacancies, number of appli-

JUDICIAL NOMINATING COMMISSION STATISTICS

Judicial Vacancies and Nominees from Fiscal 1976 to Fiscal 1981

		Court of Appeals	Court of Special Appeals	Circuit Courts/Supreme Bench	District Court	TOTAL
FY 1976	Vacancies	1	1	14	8	24 ^a
	Applicants	10	7	106	85	208
	Nominees	5	3	45	27	80
FY 1977	Vacancies	0	0	6	15	21 ^b
	Applicants	0	0	36	94	130
	Nominees	0	0	15	32	47
FY 1978	Vacancies	1	3	17	9	30 ^c
	Applicants	13	25	130	150	318
	Nominees	5	12	47	40	104
FY 1979	Vacancies	1	1	7	11	20 ^d
	Applicants	4	25	38	67	134
	Nominees	4	6	18	31	59
FY 1980	Vacancies	1	0	13	11	25 ^e
	Applicants	5	0	87	135	227
	Nominees	3	0	27	28	58
FY 1981	Vacancies	0	0	3	10	13 ^f
	Applicants	0	0	30 ^g	69 ^g	99 ^g
	Nominees	0	0	6 ^g	24 ^g	30 ^g

^a In Fiscal 1976, four new vacancies occurred but were not filled until FY 77.

^b In Fiscal 1977, three new vacancies occurred but were not filled until FY 78. Four additional vacancies that occurred in FY 76 were filled.

^c In Fiscal 1978, all vacancies that occurred during the year were filled. Three additional vacancies that occurred in FY 77 were filled.

^d In Fiscal 1979, two additional vacancies occurred during the fiscal year, but were not filled until FY 80.

^e In Fiscal 1980, three new vacancies occurred during the fiscal year but were not filled during that year. Two vacancies that occurred in FY 79 were filled.

^f In Fiscal 1981, three vacancies were filled that had occurred in Fiscal 1980.

^g Because of the pooling arrangements under the Executive Order, the number of applicants and nominees may be somewhat understated. Thus, with respect to the circuit courts/Supreme Bench, in connection with three vacancies, there were five individuals in the pool for that court level (previously nominated for circuit court/Supreme Bench positions) whose names went to the Governor in addition to the six new nominees. At the District Court level, there were 28 individuals in the pool whose names went to the Governor in addition to the 24 new nominees.

cants, and number of nominees, over the past six fiscal years. In reviewing the number of applicants and the number of nominees, it should be kept in mind that under the current Executive Order, a pooling system exists. Under this system, persons nominated as fully qualified for appointment to a particular court level are automatically submitted to the Governor for further consideration, along with any additional nominees, with respect to any new va-

cancy on that particular court level that occurs within twelve months from the date of initial nomination. Thus, although only thirty new applicants were considered for the vacancies at the circuit court level and only six of these were nominated, there were in addition five individuals in the circuit court/Supreme Bench pool whose names also were submitted to the Governor. And in addition to the sixty-nine new District Court applicants and the twenty-

four nominees, there were twenty-eight individuals in the District Court pool whose names were likewise submitted to the Governor. There is a clear continuation of earlier trends showing in general a greater number of applicants for each District Court vacancy than for each circuit court vacancy. It also continues to be the case that Baltimore County tends to produce more applicants per vacancy for any trial court level than does any other jurisdiction.

With respect to the three circuit court vacancies that occurred and were filled in Fiscal 1981, two were filled by appointment from the private bar and one from the District Court. With respect to categories of applicants themselves, although the picture is not entirely clear, there seems to be an increasing tendency for a larger proportion of applicants for both the District and circuit courts to come from the public as opposed to the private sector. However, the figures for the next several years will have to be reviewed before any real pattern in this respect can be identified.

The conscientious and enthusiastic manner in which commission members perform their important functions, and the high attendance rate at commission meetings, testify to their dedication and help explain the high quality of the nominations submitted to the Governor.

Removal and Discipline of Judges

Every Maryland judge is subject to mandatory retirement at age seventy. In addition, judges of the appellate courts run periodically in noncompetitive elections. A judge who does not receive the majority of the votes cast in such an election is removed from office. Judges of the circuit courts of the counties and the Supreme Bench of Baltimore City must run periodically in regular elections. If a judge is challenged in such an election and the challenger wins, the judge is removed from office. District Court judges face periodic Senate reconfirmation. Such a judge who is not reconfirmed by the Senate is removed from office. In addition, there are from six to seven other methods that may be employed to remove a judge from office:

1. The Governor may remove a judge "on conviction in a court of law for incompetency, willful neglect of duty, misbehavior in office, or any other crime. . . ."
2. The Governor may remove a judge on the "address of the General Assembly" if two-thirds of each House concur in the address and if the accused has been notified of the charges against him and has had an opportunity to make his defense.
3. The General Assembly may remove a judge by two-thirds vote of each House, and with the Governor's concurrence, by reason of "physical or mental infirmity. . . ."
4. The General Assembly may remove a judge

through the process of impeachment.

5. The Court of Appeals may remove a judge upon recommendation of the Commission on Judicial Disabilities.

6. Upon conviction of receiving a bribe in order to influence a judge in the performance of official duties, the judge is "forever . . . disqualified for holding any office of trust or profit in this State" and thus presumably removed from office.

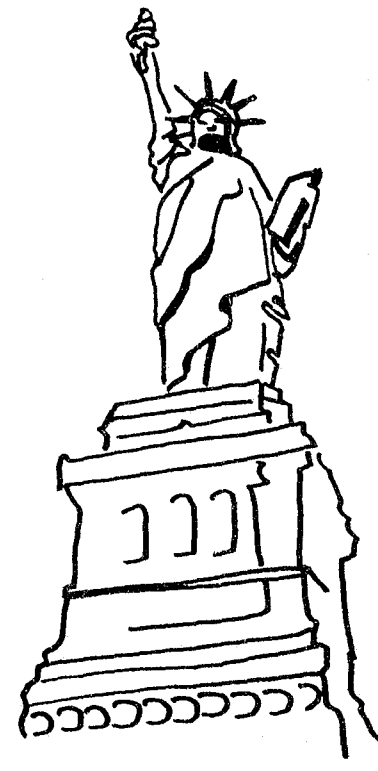
7. Article XV, section 2 of the Constitution, as adopted in 1974, may provide an eighth method, as to elected judges. It provides for automatic suspension of an "elected official of the State" who is convicted or enters a *nolo* plea for a crime which is a felony or which is a misdemeanor related to his public duties and involves moral turpitude. If the conviction becomes final, the officer is automatically removed from office.

Despite the availability of other methods, only the fifth one has actually been used within recent memory. Since the use of this method involves the Commission on Judicial Disabilities, which also has the power to recommend discipline less severe than removal, it is useful to examine that commission.

The Commission on Judicial Disabilities

The Commission on Judicial Disabilities was established by constitutional amendment in 1966 and strengthened in 1970; its powers were further clarified in a 1974 constitutional amendment. The Commission is empowered to investigate complaints, conduct hearings, or take informal action as it deems necessary, provided that the judge involved has been properly notified. Its operating procedures are as follows: The Commission conducts a preliminary investigation to determine whether to initiate formal proceedings, after which a hearing may be held regarding the judge's alleged misconduct or disability. If, as a result of these hearings, the Commission, by a majority vote, decides that a judge should be retired, removed, censured or publicly reprimanded, it recommends that course of action to the Court of Appeals. The Court of Appeals may order a more severe discipline of the judge than that which the Commission recommended. In addition, the Commission has the power in limited situations to issue a private reprimand.

The Commission on Judicial Disabilities serves the public in a variety of ways. Its primary function is to receive, investigate and hear complaints against members of the Maryland judiciary. Formal complaints must be in writing and notarized, but no particular form is required. In addition, numerous individuals either write or call expressing dissatisfaction concerning the outcome of a case, or some judicial ruling. While some of these complaints may not fall technically within the Commission's jurisdic-



tion, the complainants are afforded an opportunity to express their feelings and frequently are informed, for the very first time, of their right of appeal. Thus the Commission in an informal fashion, offers an ancillary, though vital, service to members of the public.

During the past year, the Commission considered thirty-three formal complaints—of which two were initiated by the Commission itself, four by practicing attorneys and the remainder by members of the public. This is close to the number of complaints (32) handled last year. Some complaints were directed against more than one judge and sometimes a single judge was the subject of more than a single complaint. In all, seven judges sitting at the District

Court level, twenty-eight circuit court judges, and four members of the Court of Special Appeals were the subjects of complaints.

As in previous years, litigation over some domestic matter (divorce, alimony, custody) precipitated the most complaints (15), criminal cases accounted for ten and the remainder resulted from some civil litigation or the alleged improper demeanor of some jurist.

The Commission deals with formal complaints in a variety of ways. Tapes or transcripts of judicial hearings are often obtained. When pertinent, attorneys and other disinterested parties who participated in the hearings are interviewed. Sometimes, as part of its preliminary investigation, the Commission will request a judge to appear before it.

During the past year, two complaints were dismissed because the particular judges had resigned their positions. Four judges were requested to appear before the Commission to defend charges against them. In one case a complainant was invited to air his grievance at a regular Commission meeting. In most instances the complaints were dismissed either because the charges leveled were not substantiated or because they did not amount to a breach of judicial ethics. Matters were likewise disposed of by way of discussion with the jurist involved or by informal private reprimand.

Presently, the Commission is a defendant in a Federal court action initiated by a disgruntled complainant. A similar suit instituted by another complainant in State court was heard and dismissed during the year.

Finally, pursuant to Rule 1227 of the Maryland Rules, the Commission serves yet another function. It now supplies judicial nominating commissions with confidential information concerning reprimands to or pending charges against those judges seeking nomination to judicial offices.

The Commission meets as a body irregularly, depending upon the press of business. Its seven members are appointed by the Governor and include four judges presently serving on the bench, two members of the bar for at least fifteen years, and one lay person representing the general public.

**State of the Judiciary Message Delivered by Chief Judge
Robert C. Murphy to a Joint Session of the General
Assembly of Maryland—January 28, 1981**

This is my fifth appearance before this distinguished body over the last eight years to apprise you of the State of the Maryland Judiciary. **For myself, but far more importantly, on behalf of the 204 judges of our State and the many hundreds of other members of the judicial department, permit me to express our deep appreciation for your kind invitation today.** The occasion affords us a very special opportunity to thank each of you for your past support and to acquaint you with ongoing judicial plans and projects. It also enables us to spread before you some of our major concerns—to identify pressing problems which are as much yours as they are ours, since they vitally affect the capability of the judiciary to discharge its constitutional responsibility to the people of Maryland, fairly and efficiently to administer the justice system in our State. Of some of these matters I have spoken to you before, and do so again today, steeped as I am in the philosophy so well expressed by the immortal Michelangelo: "Lord, grant that I may always desire more than I may be able to achieve."

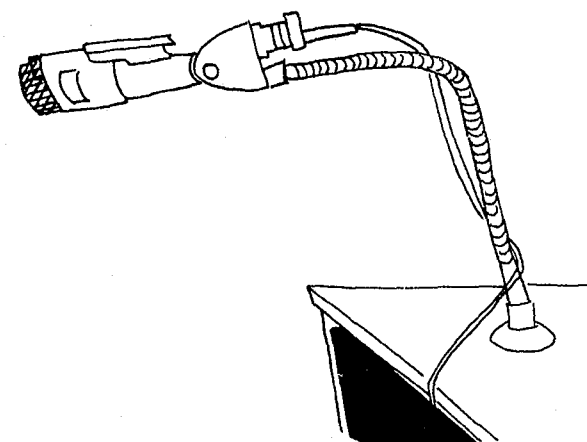
As in past years, the Judiciary has published and widely disseminated an Annual Report in painstaking detail covering all phases of the work of the Maryland courts and their adjunct agencies. The report is, I think, a tribute in itself to the vision of this body when, over twenty-five years ago, you created the Administrative Office of the Courts and made it responsible for compiling the crucially important statistical data which forms the core of the report. The report is also reflective of the superb work done by the staff of the Administrative Office, which is so well directed by the State Court Administrator, William H. Adkins, II, who by common acceptance is the Judiciary's one and only indispensable member. Needless to say, a copy of the Annual Report is available to each of you upon request.

Under the Constitution of Maryland, the Chief Judge of the Court of Appeals is the administrative head of the judicial branch of government, with the responsibility for promulgating rules to govern the administration of the court system being committed to the seven judges of that Court. Pursuant to this authority, the Maryland judiciary—entirely apart from the adjudicatory responsibilities of the individual judges—functions through a network of conferences and committees to achieve one common goal, namely, to improve our court system by attempting to resolve the multitude of complex issues which

seem eternally to plague our operations. The Maryland Judicial Conference, for example, consists of all judges of the State and is the basic organ through which we collectively strive to accomplish our common purpose. While the full Conference meets but once annually, it functions throughout the year through committees, such as the Executive Committee; the Committee on Criminal Law; the Committee on Mental Health, Alcoholism and Addiction; the Committee on Juvenile and Family Law, to name but several. In addition, there is a Conference of Circuit Judges consisting of the circuit administrative judge for each of the eight judicial circuits, together with eight other circuit judges—one from each circuit—elected by their colleagues. The Conference meets periodically to consider problems affecting the operations of the circuit courts, whatever their origin. A similarly structured Conference of District Court Judges also exists to address problems in the administration of the District Court. Through these vehicles, the judges debate the merits of various proposals, frequently disagreeing with one another, but almost always forging a consensus position on important issues affecting the judiciary and the well-being of our citizens. The work done by these conferences and committees frequently involves problems with which you also must grapple in the course of your legislative duties, and you should know that we stand ready to be of assistance to you at all times.

Last year, the Maryland Judicial Conference vigorously supported the then proposed constitutional amendments and related statutes calling for the consolidation of the six courts comprising the Supreme Bench of Baltimore City—a major reform in Maryland court structure sought for almost a century. Because of the strong leadership of Governor Hughes, and the support of the members of this body, that reform will shortly become a reality. It is gratifying to note that the citizens of Maryland endorsed your action at the polls by the largest vote given any of the constitutional amendments on the ballot in November.

I am hopeful that this notable accomplishment will give heightened vitality to the long-standing proposal to remove circuit court judges from the contested election process. While I know of the strong feelings held by many of you in opposition to this proposal, I do not advocate change on the ground that we cannot otherwise obtain qualified circuit court judges. I know, as you know, that some very capable



judges have come into the system through the competitive election process. But the reasons for change to the side of noncompetitive—run-on-your-record—retention elections, all of which you have heard many times before, so far outweigh the present process that **the Maryland Judicial Conference strenuously urges once again that you let the people of Maryland vote on the Administration's proffered constitutional amendment to do away with contested elections for circuit court judges, thereby treating them equally with all other judges in our State.**

For almost two years, the Maryland Judicial Conference, acting through its Committee on Public Awareness, debated the pros and cons of amending the Judicial Ethics Rules to permit extended media coverage—television, radio, and still photography—in the courts of Maryland on an experimental basis. The committee ultimately determined that the widespread dissatisfaction with the administration of justice was fostered in part by lack of understanding of how the court system actually works and of the limits and constraints upon its operation. Without harm to the administration of justice itself, would extended and better media coverage of the courts improve this deplorable situation by informing and educating the public? That essentially was the question before the committee, before the Maryland Judicial Conference, and ultimately before the Court of Appeals, at a public hearing conducted to obtain the views of interested persons. It was worth a try, a majority of the Court concluded, under tightly controlled conditions, including a requirement that the parties consent to the coverage. Consistent with similar action taken by thirty-five of our sister states, we will conduct and closely monitor such an experimental project to last until July 1, 1982, after which the experiment will be carefully evaluated and a determination then made as to whether extended media coverage in the courts of Maryland should be

permanently permitted in the public interest. We will be pleased to share our evaluating data with you at the conclusion of the experiment, and the Judiciary requests the indulgence of this body until that time.

However uncertain it may be that extended media coverage will actually produce better public understanding of the court system, **there is virtually unanimous agreement that the public perceives the existence of unfairness or unwarranted disparities in the imposition of sentences by judges in criminal cases.** For their part, judges find the sentencing process extremely difficult, largely because of the many elements which must be taken into account, affecting the defendant, the victim, the gravity of the offense, and the public interest and safety. In the past, there has been very little information available to a judge to assist him in deciding whether a given sentence is consistent with the sentences imposed by other judges for a similar offense by a like offender under similar circumstances. **The Maryland Judicial Conference, acting through its Committee on Sentencing and Corrections, is now well into a federally funded judicial sentencing guidelines project designed to end disparate sentences.** The project entails an analysis of past sentencing practices based on a sample of several thousand cases in four different circuit court jurisdictions. The data will be used to construct models which will give an appropriate range of sentences for a particular offense in the light of the various circumstances, such as the accused's criminal history, the use of a weapon, the employment of violence, to cite several factors. While a judge will have discretion to depart from the guidelines if particular circumstances warrant a harsher or more lenient punishment than the guidelines suggest, the guidelines are expected to be applied in the usual case. They should prove an invaluable tool to assist judges in sentencing and should most certainly result in more uniform, more scientific sentencing practices. The project will be evaluated at the end of 1981 and if its promise is realized, we will ask that it be continued on a regular basis by State appropriation, and expanded to all circuit courts, and ultimately to the District Court. But however well the guidelines work, they will not assuage public concern about sentencing unless a clear legislative policy on sentencing is established.

Permit me briefly to explain. In the first place, it would appear to make little sense to pour time, effort and money into developing such judicial sentencing guidelines if the parole authorities are authorized to effect early releases wholly out of kilter with the length of the sentence imposed by the judge, acting under the sentencing guidelines. Under existing law, a person sentenced to three years' imprisonment or less is eligible for immediate parole. One sentenced to ten years may be released after eleven months. The actual period of incarceration is, therefore, not

determined by the sentencing judge. The judges of Maryland seek clarification of their responsibility for fixing the length of imprisonment because nothing frustrates them more than the barrage of public criticism leveled at them for allegedly too lenient treatment of criminal offenders, with its concomitant effect of undermining public confidence in judges and in the courts. In seeking such clarification, we make no plea for a determinate sentencing law or for the elimination of parole. Perhaps, the law should provide that judges impose only indeterminate sentences, with the Parole Commission making the actual decision as to length, using its own well-developed parole release criteria in conjunction with the judicial sentencing guidelines; or, perhaps the discretion of the Parole Commission should be limited, giving judges clearer responsibility. We ask only that you consider establishing a clear, coherent policy so that the public, as well as the judges themselves, the prosecutors, police, and defendants, will be aware of where the authority and responsibility actually resides for determining the length of criminal sentences.

Turning to other matters, the Maryland Judicial Conference, acting through its Legislative Committee, will again propose legislation to help alleviate the single most pressing problem which now confronts us in the scheduling of criminal cases for trial. As you know, under existing law a defendant in a criminal case in the District Court is entitled to a jury trial if the offense is punishable by incarceration for more than ninety days. **Where, on the day of the trial in the District Court, the defendant demands his right to a jury trial, a postponement must automatically be granted, despite the fact that the prosecution, the victim, the witnesses, and police officers are all there assembled and ready to proceed with the trial.** Instead, the case must be transferred to the circuit court and rescheduled for trial, usually weeks, even months, afterwards. If the defendant genuinely wants a trial by jury, no one rightfully can complain about the inconvenience and added public expense involved in removing the case. But jury trial demands in the District Court, with rare exceptions, are not made because the defendant really wants a jury trial; rather, they are made for purposes having absolutely nothing to do with the desire for trial by jury. What is actually sought by the jury trial demand is, in most cases, a postponement for purposes of delay, or to avoid a particular judge, or to get a more favorable plea bargain, to cite but several motivations. **In 1978, there were 12,000 demands Statewide for jury trials in the District Court; the figure increased to 17,000 in Fiscal 1980, and continues to skyrocket.** In Baltimore City, for example, there were 6,774 such jury trial demands last year, swamping the dockets of the Criminal Court of Baltimore, and seriously affecting the ability of the judges timely to try serious felony cases—the rapes,

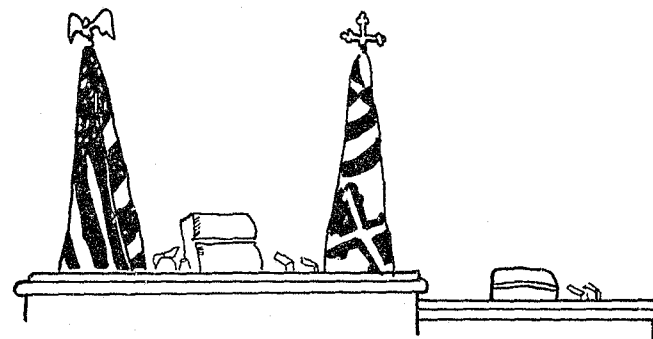
robberies and murders which inundate our criminal courts. These petty cases comprised 62 percent of the entire criminal docket of the Supreme Bench of Baltimore City. Only one percent of jury trial demands resulted in actual jury trials. In the vernacular, we, you, the people of Maryland, are being had—abused, badly abused by a prostitution of the time-honored right of jury trial to advance interests destructive of the criminal justice system itself. Not to belabor the point, but in Baltimore County, for example, there were 1,128 jury trial demands last year in District Court cases; all but seven were waived once the case had been removed from the District Court—.05 percent. State's Attorney Marshall of Prince George's County—the State's largest county, with a huge volume of criminal cases—characterized the problem as "nightmarish," stating in a recent letter that the required transfer of cases to the circuit court, upon a jury trial demand in the District Court, "is completely destroying our criminal assignment . . . and if something is not done to rectify this problem, I have fears that serious offenders may be freed, as a result of our inability to bring them to trial within the mandated 180 days."

As a first step, the Judicial Conference supports legislation under which the right to demand a jury trial in the District Court would be eliminated in any case in which the prosecutor recommends, and the judge agrees, that a sentence in excess of ninety days' incarceration will not be imposed in the event of conviction. In such cases, there will be no right to demand a jury trial in the District Court and the case will proceed to trial, subject to the usual right of de novo appeal, including trial by jury in the circuit court. This legislation, if enacted, will assist materially in resolving an enormous problem, while at the same time not compromising the right to jury trial when a jury trial is truly desired.

Another area which has been the subject of a great deal of public concern is that of the drinking driver. There are no doubt cases when a probation before judgment disposition is appropriate on an initial charge of driving under the influence or driving impaired. The problem faced by District Court judges is the difficulty of identifying the subsequent offender who has already been the beneficiary of one or more probation before judgment dispositions. As you know, a probation before judgment disposition is not presently entered on the Motor Vehicle Administration computer, and thus is not available to the District Court judge when he is considering sentencing. **For several sessions now, the Judicial Conference and the Motor Vehicle Administration have supported legislation to require the placing of these dispositions in the MVA computer, at least with respect to incarcerable motor vehicle offenses.** This legislation has passed the Senate on at least two occasions. **This year, we are hopeful that you will enact legislation requiring all such dispositions**

to be placed in the MVA computer, thereby giving District Court judges, in the interest of improved highway safety, an effective way of determining an appropriate disposition on a subsequent offense.

Considering next the Court of Special Appeals, that court was created in 1967 to help alleviate the problem caused by the then impossibly heavy workload in the Court of Appeals. By January, 1975, the law had been so amended that virtually all appeals from the circuit courts went to the Court of Special Appeals. That reform accomplished precisely what its designers intended: it made the caseload of the Court of Appeals manageable and left to that court decisions in cases generally of far-reaching public importance involving development of the law. The continuing increase in the workload of the Court of Special Appeals was accommodated by an increase in its judges from the original five to the present thirteen.



From 1976 through 1978, the caseload in the Court of Special Appeals remained rather stable, but since Fiscal 1978, when there were 1,350 appeals, there has been a dramatic increase to 1,771 appeals in Fiscal 1980. This parallels the trend observable in intermediate appellate courts throughout the country, and it is likely that close to 2,000 appeals will be filed in the current year. To meet this avalanche of cases, the Court of Special Appeals has tried a number of administrative solutions, such as limiting oral argument, use of central professional staff, judges from lower courts, retired judges, and adoption of a prehearing conference procedure in selected civil cases. These measures have helped but additional remedies are needed, one of which is to limit the number of appeals filed in the Court of Special Appeals as of right. **Without impinging on the important principle that litigants should have one appeal as a matter of right, the Legislative Committee of the Judicial Conference has proposed that administrative agency appeals,**

which are now filed in the circuit courts, with the right of a second appeal to the Court of Special Appeals, be modified by eliminating the right of appeal to the Court of Special Appeals in favor of review by the Court of Appeals upon petition for certiorari. This change would reduce the workload of the Court of Special Appeals by 6 percent or more—the rough equivalent of one judge's work, assuming 2,000 appeals. Since the Court of Appeals would grant certiorari in administrative agency cases involving questions of major public importance and development of the law, there would be adequate review of administrative law issues. Such a change would eliminate the possibility of the triple appellate review that now occurs when a case goes from an administrative agency or orphans' court to the circuit court to the Court of Special Appeals and is then considered by the Court of Appeals on certiorari.

Our excessive workload problems are not limited to the Court of Special Appeals. Our trial courts, too, are faced with a continuing onslaught of cases, many of which are highly complex and of great importance. In Fiscal 1980, almost 152,000 cases of all types were instituted in our circuit courts, as compared with less than 146,000 in Fiscal 1979. In the District Court in Fiscal 1980, well over one million cases of all varieties were instituted.

I see no signs of decrease in the future; quite the contrary, since all responsible sources indicate that the ever-increasing caseload in our trial courts will continue without abatement in the years to come. As Tocqueville pointed out many years ago, every issue in this country seems ultimately to become a question for the judiciary. **The judges of Maryland are dedicated, hardworking men and women, and although cases filed over the past five years in the circuit courts have increased over 22 percent, circuit court judgeships have increased by only 14 percent.**

Last year, we requested four additional circuit court judgeships, but none were approved. **This year, I have certified to the President and Speaker a need for six additional circuit court judges, two in Baltimore County and one each in Harford, Howard, Montgomery and Washington Counties.** I am well aware of the fiscal implications, both to the State and to the political subdivisions, but these judgeships are sorely needed for the reasons set forth at length in my certification submission.

In the past five years annual filings in civil cases in Maryland circuit courts have increased from 62,000 to 86,000—a 32 percent increase. As a result we are experiencing delays of serious proportions. In Baltimore County, for example, the average law case disposed of last year had been pending 481 days; in Howard County the average was 460 days; in Montgomery 359. Such undue delays in the circuit courts are not restricted to the more populated areas of the State, as the time lapse was 429 days in Allegany County and 313 days in Wicomico. Indeed,

it is not extraordinary for two or more years to elapse in some jurisdictions between the date on which a case is filed and the date on which a decision is rendered.

Specially assigned District Court and retired judges have materially assisted in alleviating the crushing burden on the circuit courts. In particular, District Court judges have been extensively utilized in the trial of cases in the circuit courts and in disposing of backlogged pretrial motions filed in those courts. Since there has been a decline in the number of motor vehicle cases filed in the District Court, the judges of that court have indicated willingness to provide even greater assistance to the circuit courts. They have advocated, and the Legislative Committee of the Judicial Conference agrees, that the jurisdiction of the District Court should be expanded in civil law cases. **Throughout its ten-year history, the District Court has been vested with exclusive jurisdiction in all law cases where the amount in controversy is less than \$2,500 and has had concurrent jurisdiction with circuit courts where the amount is between \$2,500 and \$5,000. Considering, among other things, the inflated trend of our economy, we support legislation that would double these monetary levels, thereby reducing the number of such cases tried in the circuit courts.**

Also before you for consideration is proposed legislation to further expand the criminal jurisdiction of the District Court to encompass all nonjury criminal prosecutions where the authorized period of imprisonment does not exceed ten years. It is suggested that approval of such increased jurisdiction would significantly reduce the circuit courts' criminal caseload, without the need at this time to add additional District Court judges. Whether that would actually occur, or would simply exacerbate the horrendous jury trial demand problem now existing in the District Court, is subject to differing opinions. While the proposal has the backing of the Judicial Conference's Legislative Committee, the Conference of Circuit Judges has expressed concern that closer study of the ramifications of such a measure is needed. Of similar concern to that Conference is the matter of transferring juvenile jurisdiction to the District Court without full study and appreciation of the logistical and other problems associated with such a transfer. But none of these proposals, even if all were enacted, would lessen the critical present need for the six additional circuit court judges which we seek to obtain this session.

Solutions to fundamental judicial branch problems are anything but simple, nor are they exclusively a matter for judges and judicial administrators. To achieve the effective administration of justice under the conditions of the 1980's, within the finite limits of available fiscal resources, requires a thorough study to determine whether modifications of our existing judicial system are needed to make it work more efficiently.

In 1972—as an outgrowth of action taken by the General Assembly—the Commission on Judicial Reform was created to perform just such a study. Four members of the General Assembly, two judges and three public members comprised the Commission. It worked for well over a year and made numerous recommendations in a report to the Governor filed in 1974. Some of the Commission's suggested improvements to the judicial system have since been implemented, but I do not believe that the full promise of the Commission was ever realized. In addition, many changes have occurred since the Commission terminated its activity and the need for a new and fresh study of the courts—their staffing, their administration, their funding, their workload, and their jurisdiction—is imperative if we are to avoid piecemeal, patchwork, crisis-dictated solutions to our problems. **I propose to you the creation, by joint resolution, of such a commission, with broad-based representation from the three branches of government and from the private sector of people truly knowledgeable—I repeat—truly knowledgeable—in the ways and workings of our existing judicial system. So much misunderstanding presently exists about court operations and long- and short-range judicial plans that an educated, objective review would clearly serve the public interest.** The new commission's agenda would be a full one, and could include such far-reaching items as whether to consolidate all circuit courts into a single circuit court of Maryland, funded entirely by the State, with its own Chief Judge, thereby relieving the political subdivisions of all circuit court related expenses—a proposal most recently advocated by the Governor's Task Force on State/Local Fiscal Relations, but upon which the Conference of Circuit Judges has resolved that no action be taken until its views are heard. The commission could study the systemwide problems associated with expanding District Court jurisdiction to embrace juvenile causes and felonies beyond those now tried in that court. Concern is expressed by some that any expansion of District Court jurisdiction must be carefully evaluated lest it inevitably lead to the consolidation, into a single trial court, of the circuit and District Courts—a subject on which circuit court judges in particular hold very strong views. The commission could consider the expanded use of salaried equity masters to relieve judges of largely mechanical judicial tasks, particularly in family law matters. The commission could consider the wisdom of various suggestions calling for the merger of the Court of Special Appeals and the Court of Appeals, or a reallocation of jurisdiction between them, to relieve what is perceived by some to be an imbalance in the respective workloads of these courts. Of course, the jury trial prayer crisis, of which I spoke earlier, is in dire need of a long-range solution. The commission could consider the merits of arguments for and against the use of six-person juries in the District Court in criminal cases,

assessing in the process whether the system in Massachusetts—which is the role model in this area—actually works or not. The decriminalization of nonincarcerable motor vehicle offenses, and the initial use of hearing officers operating within the District Court to try these cases, would free judges to apply themselves to more important judicial tasks. These alternatives would, I think, merit study by the commission. The commission could take a new look at the long-held desire of district and circuit judges alike to inhibit the untrammelled right of *de novo* appeal, which is so wasteful of public money, and so very demeaning to the highly qualified judges of the District Court.

I could go on, with other matters meriting in-depth study but time is fleeting and I best quickly conclude, leaving with you several final thoughts. First, I suggest that the proposed study commission should obtain the views of the organized bar, police agencies, public prosecutors and public defenders, correctional, probation and parole officials, judicial administrators, clerks of court, and juvenile experts, to name several affected groups. Of course, experienced judges are a particularly fertile source of valuable information, whether they speak solely for themselves, or as a representative of a judicial committee or conference. Secondly, highly competent

staff support for such a study commission presently exists within the Governor's Commission on Law Enforcement and the Administration of Justice. Although originally conceived of as a criminal justice planning agency, that Commission's role has now been considerably broadened with the virtual elimination of LEAA funds and its staff could be of immense assistance in any broad-based study of the operating problems of the Maryland Judiciary.

If you will permit me a personal note, my distinguished and greatly revered colleague, J. Dudley Digges, will have retired from the bench after almost thirty-three years of dedicated service before this body assembles again in January of 1982. If the General Assembly could legislate into existence the perfect judge—one that all other judges should strive to emulate—you would settle unanimously on J. Dudley Digges. He has been an inspiration to us all and his retirement will leave a void in our ranks for many years to come.

On behalf of all members of the judicial department, I express our appreciation for your consideration of the serious problems about which I have just spoken, and for your courteous invitation to share our thoughts with you.

Thank you very much.

1981 Legislation Affecting the Courts

At every session of the General Assembly, much legislation is considered that affects the courts in one way or another. Space limitations preclude review of all these bills in this report. This summary is restricted to a few of the more important items. A more detailed summary of 1981 legislation is available through the Administrative Office of the Courts.

1. COURT ORGANIZATION AND STRUCTURE

Commission to Study the Judicial Branch of Government. Resolution No. 25 establishes a commission "to study all aspects of the operations of the Judicial Branch of government. . . ." The commission members have been appointed and include Senators Victor L. Crawford, J. Joseph Curran and Clarence M. Mitchell, III; Delegates William S. Horne, Joseph E. Owens, and Thomas A. Rymers; Judges James F. Couch, Jr., J. William Hinkel, and Robert L. Karwacki; M. Albert Figinski, Esquire, Charles O. Fisher, Sr., Esquire, and Mary Ann Willin, Esquire; Mr. Richard N. Dixon, Ms. Lois Stoner, and Mr. Francis X. Wells; and the State Court Administrator, who is an ex-officio nonvoting member.

Governor Hughes has named Mr. Fisher, immediate past-president of the Maryland State Bar Association, as commission chairman.

Additional Judgeships. Pursuant to Chief Judge Murphy's certification, Chapters 532 and 634 establish two additional circuit court judgeships in Baltimore County, and one each in Harford, Howard, Montgomery, and Washington Counties.

Supreme Bench Consolidation—Pretrial Release Services. Chapter 408 supplements the 1980 Supreme Bench consolidation package by transferring to the personnel merit system of the clerk's office of the forthcoming Circuit Court for Baltimore City certain personnel of the existing Pretrial Release Services Division of the Supreme Bench. The transfer will take effect January 1, 1983.

Selection of Judges. SB 586 and HB 891, Administration bills, supported by the Judicial Conference and the Maryland State Bar Association, which would have eliminated contested elections for circuit court judges, were unsuccessful at the 1981 session.

2. COURT ADMINISTRATION

Recall of Former Judges. Chapter 173, a Judicial Conference bill, eliminates the provision of section 1-302(c) of the Courts Article that prohibits recall of a former judge for temporary service if he has been in former judge status for more than five consecutive years. It permits recall of any former judge who is

under age seventy-five, regardless of the length of time he has been in former judge status.

Appointment of Attorneys in Protective Proceedings. Chapter 397 amends section 13-211 of the Estates and Trusts Article to require appointment of counsel to represent an alleged disabled person in guardianship of the property proceedings. Unlike section 13-705(d), dealing with appointment of counsel to represent an alleged disabled person in guardianship of the person proceedings, Chapter 397 contains no provision for payment of reasonable attorneys' fees by the State. The concept apparently is that any fee should be produced out of the property that would be the subject of the guardianship.

Payment for Court-Ordered Examinations—Mental Retardation. Chapter 148 requires that the State rather than a county pay for court-ordered examinations in mental retardation cases. Such payments are to come from the Department of Health and Mental Hygiene budget, not the Judiciary budget.

Cameras in the Courts. Chapter 748 abrogates those provisions of Maryland Rule 1209 that permit, under certain circumstances, extended media coverage of criminal proceedings in all trial courts. The act does not affect the rule provisions that permit extended media coverage of civil proceedings in trial courts or of proceedings in the appellate courts.

3. CIVIL LAW AND PROCEDURE

Sovereign Immunity. Chapter 250 amends section 17-107 of the Transportation Article to bar the assertion of the defense of sovereign immunity in certain cases involving the negligent use of a motor vehicle. It took effect July 1, 1981.

Chapter 298 is a much broader Maryland Tort Claims Act which waives sovereign immunity in six different specified areas, subject to various limitations. This act takes effect July 1, 1982, and applies only to causes of action arising on or after that date.

District Court Civil Jurisdiction. Chapter 758, supported by the Judicial Conference, increases District Court concurrent civil jurisdiction from \$5,000 to \$10,000.

Small Claims. Chapters 656 and 657, also supported by the Judicial Conference, establish statutory small claims jurisdiction in the District Court for claims up to \$1,000. Chapter 707 provides that the prohibition of the appearance of a corporation without counsel does not apply in a civil suit in the District Court involving a claim not exceeding \$1,000.

Ground Rent—Ejectment. Chapter 111, a Judicial

Conference proposal, amends section 8-402(c) of the Real Property Article to make it clear that the circuit courts have jurisdiction in ground rent ejectment cases.

Best Evidence Rule. Chapter 720, a Judicial Conference bill, adds a new section 10-103 to the Courts Article, providing that a duplicate document (as defined) is admissible to the same extent as an original, unless a genuine question is raised as to the authenticity of the original, or unless under the circumstances, it would be unfair to admit the duplicate in lieu of the original.

Zoning—Municipal Infractions—Civil Penalties. Chapters 544 and 639 provide that a municipal corporation may declare any provision of land use or zoning ordinances to be municipal infractions, and thus within District Court jurisdiction. Chapter 798, applicable to St. Mary's County, gives the District Court jurisdiction over civil penalties for zoning violation if any county establishes such penalties pursuant to Article 66B, section 701(a).

Exemptions from Execution. Chapter 765 is basically designed to limit Federal exemptions for those who declare bankruptcy in Maryland. In the course of doing this, the act rewrites section 11-504 of the Courts Article and makes substantial changes in the provisions dealing with exemptions from execution issued by the Maryland courts.

4. JUVENILE AND FAMILY LAW AND PROCEDURE

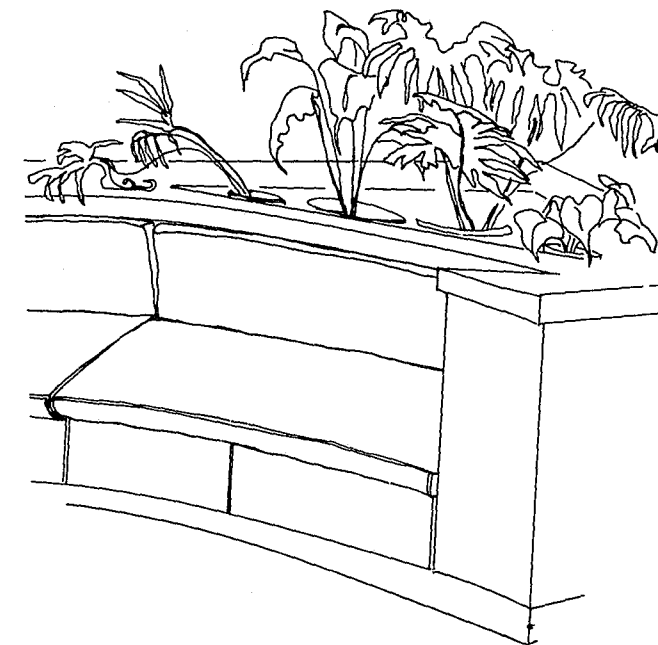
Minors—Mental Health Facilities. Chapter 535 amends Article 59, section 37(a)(1), involving placement of minors in mental health facilities. There appears to be some inconsistency between this act and section 3-823 of the Courts Article.

Commitment of Child to Mental Retardation Facility. Chapter 795 amends section 3-820 of the Courts Article to spell out certain findings that must be made before a child is committed to the custody of the Department of Health and Mental Hygiene for inpatient care and treatment in a State mental retardation facility.

Facilities for Shelter Care—Mental Health Facilities Excluded. Chapter 285 excludes from the definition of "facilities" use for shelter care in a State mental health facility. Under this act, CINS and CINA cases also cannot be referred to State mental health facilities for shelter care.

Juvenile Dispositions—Priorities. Chapter 511 amends section 3-820(b) of the Courts Article to provide that a program of treatment, training, rehabilitation best suited to the physical, mental and moral welfare of a child consistent with the public safety are co-equal priorities in making juvenile dispositions.

Assessment of Points—Delinquent Act. Chapter 275 amends section 3-824(a) of the Courts Article to establish that for purposes of the assessment of points against a child under the Transportation Article it is not necessary that a child be adjudicated de-



linquent. Rather, it is sufficient for the court to find that a delinquent act has been committed.

Delinquent Act—Payment of Funeral Expenses by Parent. Chapter 389 amends section 3-829 of the Courts Article to require payment of funeral expenses by parents of a child whose delinquent act results in the death of another. A \$5,000 limitation remains in effect as to one child or his parents for all acts arising out of a single incident.

Protection From Domestic Violence. Chapter 584 amends the Protection From Domestic Violence Act (Chapter 887, Acts of 1980) to expand the definition of household members, to provide that a hearing on an ex parte order in a protection from domestic violence proceeding shall be held no later than five days after the service of the order on the household member, and to make violation of an order to vacate the family home a misdemeanor subject to a fine not exceeding \$500, imprisonment not exceeding sixty days, or both.

Emergency Evaluations. Chapter 579 makes a number of substantial changes in the provisions of what is now the Emergency Evaluation Act, a part of Article 59.

Paternity Proceedings—Limitations. Chapter 787 sets out various periods of time limitations on the institution of paternity proceedings and adds that "if the mother is under the age of 18 years [the time limitation begins to run] within two years after the date the mother reaches the age of 18 years."

Contempt of Court—Nonsupport—Statute of Limitations. Chapter 649, supported by the Judicial Conference, responds to the holding of *Green vs. Green*, 288 Md. 127 (1980), by adding a new section 5C to Article 16 and a new section 5-111 to the

Courts Article, both reading: "A proceeding to hold a person in contempt of court for the person's default in payment of periodic child or spousal support under the terms of a court order shall be commenced within three years of the date each installment of support became due and unpaid."

Divorce—Change of Name. Chapter 746 amends Article 16, section 32, to provide that on the request of a party who assumed a new name on marriage and desires to discontinue using it, an equity court shall state in the decree of divorce either the birth given name or other previous name the person desires to use.

Visitation Rights—Grandparents. Chapter 276 amends section 3-602(a)(4) of the Courts Article to provide that a court may consider a petition for a reasonable visitation by one or more grandparent and may grant such petition if the court believes it to be in the best interest of the child.

Spousal Support—Doctrine of Necessaries. In *Condore v. Prince George's County*, 289 Md. 516, 425 A.2d 1011 (1981), the Court of Appeals struck down the common law doctrine of necessities as violative of the Maryland ERA as embodied in Article 46 of the Declaration of Rights. The Court also struck down Article 45, section 21, as being declaratory of the common law rule. SB 1069 and HB 1866 were introduced, each providing for reciprocal obligations of husband and wife. However, neither bill passed. Therefore, neither the common law doctrine of necessities nor Article 45, section 21, is now in effect in Maryland.

5. CRIMINAL LAW AND PROCEDURE

Demands for Jury Trials in the District Court. Chapter 608, a Judicial Conference bill, eliminates the right to demand a jury trial in the District Court if:

1. the prosecutor recommends in open court that no penalty of imprisonment in excess of ninety days be imposed;
2. the judge agrees not to impose a penalty of imprisonment in excess of ninety days; and
3. the judge further agrees not to increase the defendant's bond if the defendant is convicted and takes an appeal.

District Court Criminal Jurisdiction—Theft. Chapter 757 increases District Court criminal jurisdiction in the area of theft laws by providing that violations of Article 27, sections 342-344, fall within District Court jurisdiction, without regard to the value of the property stolen.

Interference with Constables. Chapter 274 amends Article 27, section 27, to include interference with constables among the acts penalized by that section. It also eliminates the statutory requirement that prosecution for this offense must be by indictment.

Statements Obtained in Violation of MDR 723. Chapter 577 supersedes portions of MDR 723, as

construed in *Johnson vs. State*, 282 Md. 314 (1978), and *McLain vs. State*, 288 Md. 456 (1980), by providing that a confession may not be excluded from evidence solely because the defendant was not taken before a judicial officer after arrest within any time period specified by the Maryland District Rules. Failure to comply with the provisions of the rules is only one factor, among others, to be considered by the court in deciding the voluntariness and admissibility of the confession.

Patuxent Institute Records. Chapter 625, proposed by the Judicial Conference, makes Patuxent Institute records available to a judge "in connection with pre-trial release, pre-sentence, or post-sentence investigation."

Assault—Sexual Offenses. Chapter 722 repeals the provision of Article 27, section 12, calling for a sentence of from two to ten years for a person convicted of an assault with intent to commit vaginal intercourse with a person who is under fourteen years of age and instead provides that a person guilty of assault to commit a rape in any degree or a sexual offense in the first or second degree shall be sentenced to imprisonment for not less than two or more than fifteen years.

Controlled Dangerous Substances. Chapter 729 amends Article 27, section 286A, to add certain additional substances to the list of those a person may not bring into the State.

Distribution of Noncontrolled Substances. Chapter 628 adds a new section 286B to Article 27 making it a crime to distribute or attempt to distribute noncontrolled substances intended for use or distribution as controlled dangerous substances.

Crimes of Violence—Robbery with a Deadly Weapon. Chapter 353 amends Article 27, section 643B, to include robbery with a deadly weapon as a crime of violence.

Burning of Religious Symbols—Convictions. Chapter 409 makes cross burning a felony instead of a misdemeanor and increases the penalty to three years' confinement or a fine of \$5,000, or both.

Malicious Burning. Chapter 768 rewrites Article 27, section 8, with respect to the burning of any personal property of another person.

School Property—Possession of Weapons. Chapter 528 amends Article 27, sections 37A(a) and (b) to prohibit the possession of certain weapons on public school property.

Sharing PSI's. Chapter 300, a Judicial Conference proposal, retains the provisions of Article 41, section 124, authorizing a PSI to be made available, on request, to the defendant's attorney, the State's attorney, and a correctional institution. In addition, it provides that these reports may be made available to a parole or probation official of this State, any other state, or the District of Columbia, and a public or private mental health facility in any of those jurisdictions, if the individual who is the subject of the

report is committed or being evaluated for commitment to that facility as a condition of probation.

Credit Against Sentence for Time Spent in Custody. Chapter 724, a Judicial Conference bill, amends Article 27, section 638C, to make credit against sentence provisions inapplicable "to a parolee who is returned to the custody of the Division of Correction as a result of a subsequent offense" if the parolee "is incarcerated prior to the date on which he is sentenced for the subsequent offense."

Restitution for Crimes—Reimbursement for Medical Expenses. Chapter 160 amends Article 27, section 640, with respect to reimbursement for medical expenses that may be required as a provision for restitution.

Probation Violation—Sentencing to Confinement and Further Probation. Chapter 293, a Judicial Conference proposal, provides that upon a finding of violation of probation, a judge may sentence the offender to the period of imprisonment originally imposed, or any portion thereof and in addition provides that the judge may suspend the original sentence in whole or in part, and place the offender on further probation, but no term of probation may exceed the maximum (five years) prescribed by Article 27, section 641A.

Probation—Period Longer than Sentence. Chapter 398 amends Article 27, section 641A, to allow a court to grant probation for a period in excess of five years with the written consent of a defendant, for purposes of making restitution.

Probation Before Judgment—Fines and Penalties. Chapter 348, supported by the Judicial Conference, amends Article 27, section 641, to permit a court to order payment of a fine or pecuniary penalty as a condition of probation before judgment. This has the effect of superseding portions of *Commissioner vs. Lee*, 254 Md. 279 (1969).

Criminal Sentences—Revisory Power of District Court Judges. Chapter 331 repeals Article 27, section 641B, dealing with the sentence revisory power of District Court judges. These powers are now covered by MDR's 770 and 774.

Appeal of Revocation of Parole. Chapter 103 provides that an appeal from a revocation of parole must be taken within thirty days after the inmate receives the written decision of the Parole Commission.

Bail Bond Study Commission. Resolution 5 requests the insurance commissioner to conduct a comprehensive review of bail bonding and the surety industry in this State, with the objective of deciding whether or not it is necessary to promulgate new regulations or more extensive regulations. The insurance commissioner is asked to appoint a committee to be comprised of a trial judge to be selected

by the Maryland Judicial Conference, a person selected by the President of the Senate, a person selected by the Speaker of the House, two persons selected by the independent Bail Bond Association of Maryland, and two selected by the insurance commissioner.

Appeals by the State. The Judicial Conference supported HB 516, which, as introduced, would have permitted limited appeals by the State from the granting of certain suppression or similar orders in criminal cases. The bill was enacted, but included other provisions which would have authorized appeals by the defendant from certain decisions admitting evidence offered by the State or refusing to require the return of property alleged to have been seized in violation of the Constitution. At the request of the Judicial Conference, as well as others, the Governor vetoed the bill.

6. MOTOR VEHICLE LAWS

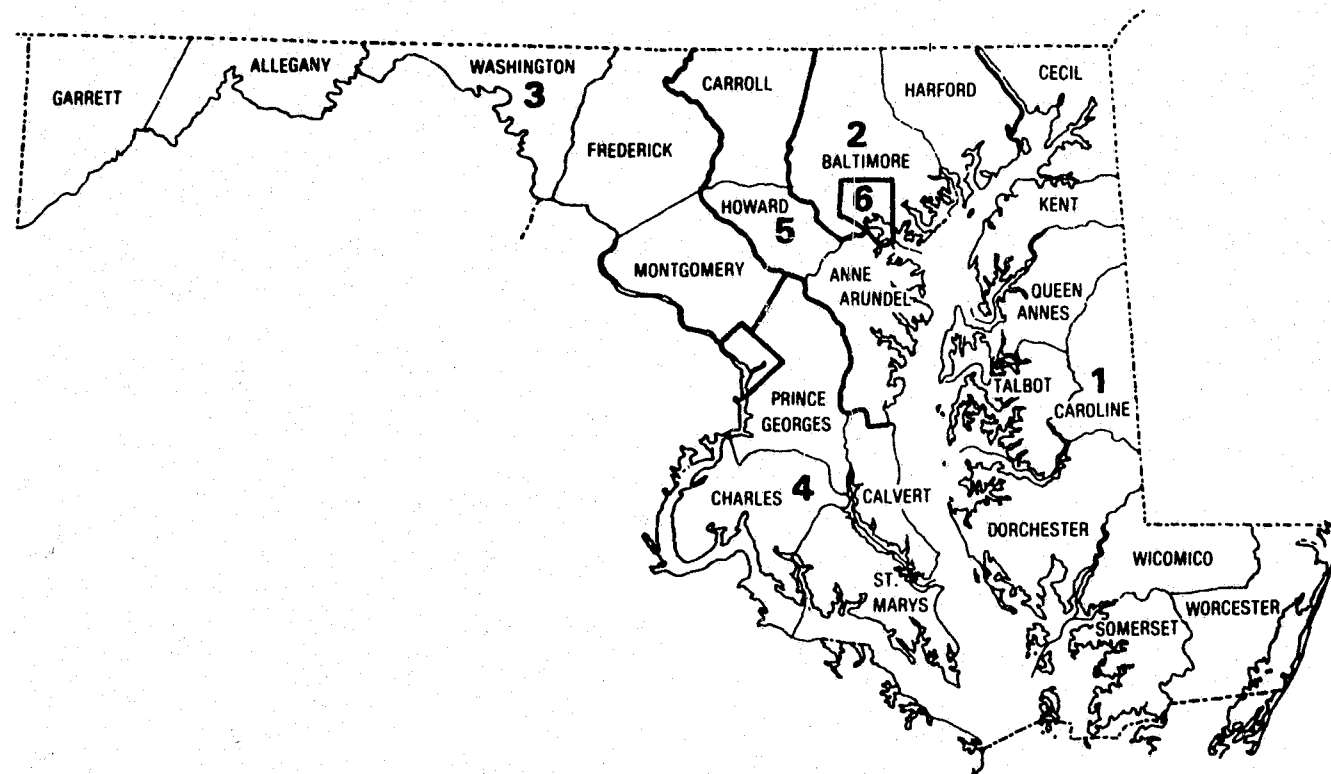
Drunken Driving. The legislature passed a package of six Administration bills tightening the laws dealing with driving while intoxicated or while under the influence of alcohol. Chapter 240 deals with the selection of chemical tests for intoxication, limiting the ability of the person charged to change selection of tests. Chapter 241 authorizes a police officer to administer a preliminary breath test. Chapter 242 provides that a professional driver will not be granted point system extension if the latest conviction was alcohol related. Chapter 243 modifies the provisions dealing with presumptions that apply if certain percentages of alcohol are found in a person's blood. Chapter 244 changes the condition precedent to the issuance over renewal of a driver's license to require that the applicant must sign a statement acknowledging that the MVA shall suspend the license for certain periods if a person refuses to take a chemical test for alcohol. Chapter 245, a watered-down version of a Judicial Conference proposal, provides for placing probation before judgment dispositions under section 21-902 of the Transportation Article in the MVA computer, thereby making these dispositions available to judges.

7. COMPENSATION AND RETIREMENT

Sick Pay—Social Security Benefits. Chapter 504 amends Article 64A and Article 73B to redefine sick leave and to define sick pay for employees as payments received while on sick leave. The effect of these amendments is to eliminate the need for employer or employee social security contributions when sick pay is being received.

Transfer Between Retirement Systems. Chapter 165 permits an employee who wishes to transfer from the Employees' Retirement System (the old system) to the State Pension System (the new pension system) to do so as of the first of any month.

Judicial Maps and Members of the Judiciary as of September 8, 1981



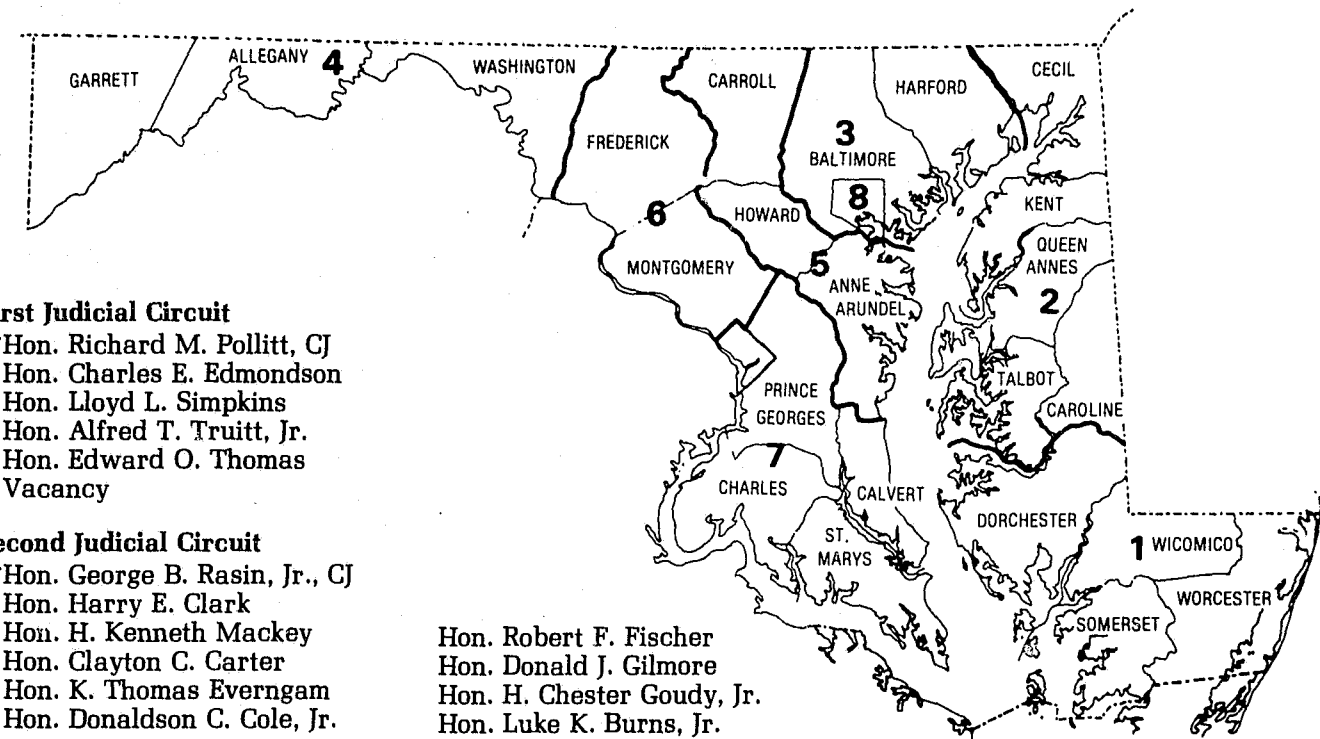
Appellate Judicial Circuits

Court of Appeals

Hon. Robert C. Murphy, CJ (2)
Hon. Marvin H. Smith (1)
Hon. J. Dudley Digges (4)
Hon. John C. Eldridge (5)
Hon. Harry A. Cole (6)
Hon. Rita C. Davidson (3)
Hon. Lawrence F. Rodowsky (6)

Court of Special Appeals

Hon. Richard P. Gilbert, CJ (6)
Hon. James C. Morton, Jr. (5)
Hon. Charles Awdry Thompson (1)
Hon. Charles E. Moylan, Jr. (At large)
Hon. John P. Moore (3)
Hon. Thomas Hunter Lowe (At large)
Hon. David T. Mason (At large)
Hon. Solomon Liss (6)
Hon. Alan M. Wilner (At large)
Hon. James F. Couch, Jr. (4)
Hon. H. Kemp MacDaniel (2)
Hon. Edward O. Weant, Jr. (At large)
Hon. John J. Bishop, Jr. (At large)



First Judicial Circuit

*Hon. Richard M. Pollitt, CJ
Hon. Charles E. Edmondson
Hon. Lloyd L. Simpkins
Hon. Alfred T. Truitt, Jr.
Hon. Edward O. Thomas
Vacancy

Second Judicial Circuit

*Hon. George B. Rasin, Jr., CJ
Hon. Harry E. Clark
Hon. H. Kenneth Mackey
Hon. Clayton C. Carter
Hon. K. Thomas Everngam
Hon. Donaldson C. Cole, Jr.

Third Judicial Circuit

Hon. John E. Raine, Jr., CJ
Hon. Walter R. Haile
Hon. Albert P. Close
*Hon. Frank E. Cicone
Hon. Edward D. Higinbotham
Hon. Edward A. DeWaters, Jr.
Hon. William R. Buchanan
Hon. Brodnax Cameron, Jr.
Hon. Paul E. Alpert
Hon. Cullen H. Hormes
Hon. Austin W. Brizendine,
Hon. James S. Sfekas
Hon. James H. Langrall
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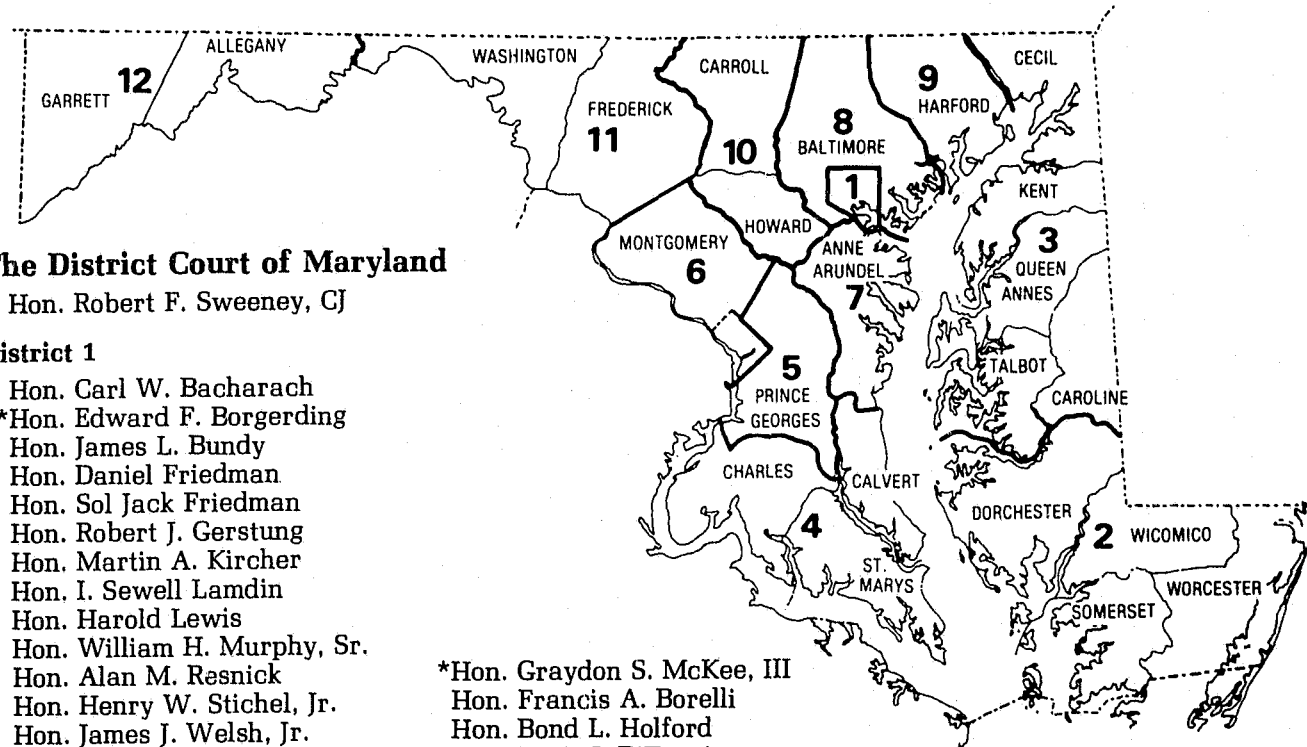
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