

## BOOK REVIEW

### RESEARCH FOR EFFICIENCY AND QUALITY: REVIEW OF *MANAGING APPEALS IN FEDERAL COURTS\**

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The publication of this compendium of studies is a significant way-point in the empirical research of appellate judicial administration. The collection affords the reviewer an opportunity not only to point out several levels of its significance and the lessons that can be distilled from it, but to note areas likely to be revisited and to suggest his own addition to the agenda of the future.

First of all, these reports—eighteen of the twenty-five on appellate management issued by the Federal Judicial Center in its twenty-three year existence—stake a credible claim to leadership in court-related research. The Center, a novel, government-supported, judge-administered center of research and education for the federal judiciary, has increasingly been recognized for the breadth and effectiveness of its post-induction and continuing education programs for the full range of federal court officers, from clerk of court to Article III judge. These programs have played a role in the creation of such entities as the Judicial Studies Board of Great Britain (1979), the Judicial Commission of New South Wales (1986), and the Canadian Judicial Centre (1988). It now remains to be seen whether the concept of research in court management is similarly exportable.

A second significance of this volume is that in a basic sense it is a kind of indirect festschrift honoring Professor A. Leo Levin of the University of Pennsylvania Law School, the fourth Director of the Center, whose tenure spanned the second decade of its existence. It was within this decade that virtually all of the research reported here

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was done, although some of the work began under the prior administration of District Judge Walter E. Hoffman, and publication occurred under the succeeding directorship of Circuit Judge John C. Godbold. It is singularly appropriate that such a wide-ranging collection of research initiatives be associated with Professor Levin, whose unique combination of intellectual, administrative, and communicative talents contributed so much to the solid establishment of the Center.

## I. LESSONS TO BE LEARNED

Beyond admittedly symbolic radiations from the volume, there are important, if humbling, lessons to be learned. I speak of "lessons" in a highly selective sense, rather than of the myriad facts, observations, predictions, and speculations that are contained within these covers. The earliest study dates from 1974, others from the mid '70's to the mid '80's. Technology, court practices, experience, and organization have so changed as to alter in many ways the relevance and utility of specific findings. The gold still exists in these hills, but its extraction requires discerning mining.

### A. *Historical Bench Marks*

A primary function of this collection is to make widely accessible the historical record of organized research in five areas: case management; weighted caseloads for purposes of comparison; abbreviated oral arguments, briefs, and opinions; operations of court structures and personnel; and the uses of technology. This is an impressive record of research techniques, facts, conclusions, and predictions at a given point of time—in effect, surveyors' bench marks from which progress in understanding can later be measured. This statement assumes that the subjects *will* be revisited from time to time in light of the current state of the art.

Borrowing from the testimony of Professor Maurice Rosenberg before the Senate Subcommittee on Improvements in Judicial Machinery, which in 1967 was considering legislation to establish the Federal Judicial Center, this concept of research might well be termed the "consecutive strain on the line" approach. Professor Rosenberg, referring to the task of sorting out types of cases which might lend themselves to differentiated treatment, said: "And, Mr. Chairman, that can't be done now in the absence of some agency that has a consecutive strain on the line and is willing to work three years

without necessarily turning up a tremendous new discovery, but just adding one more brick to the edifice of knowledge.”<sup>1</sup>

This concept of “the consecutive strain” is a modest but realistic one. It promises no sensational revelation at any one moment, but over time it does give hope for increased understanding of how best to serve the goals of enlightened judicial administration. And that kind of judicial administration has been defined by editors Katzmann and Tonry in remarkably concise, sensitive, and comprehensive terms:

Judicial administration, in sum, plays an important role in defining problems, clarifying choices, assessing existing procedures across various dimensions, forecasting the consequences of pursuing one option rather than another, and fashioning innovations. And it must create confidence in the options it chooses and the innovations it devises. Judicial reform, as Arthur Vanderbilt observed, is not for the short-winded; it cannot be sustained at all without the fuel and nutrients of meticulous research.<sup>2</sup>

The historical record function of this volume is particularly notable in its Part IV on Administration, in which the utilization of circuit executives and staff attorneys, the operations of circuit judicial councils, and the approaches and working methods of chief judges of circuits are reported and assessed. The earliest of these reports dates from 1974, the latest, from 1985. In all four areas, change has been substantial, even within the past five years. The range of functions performed and duties imposed by law, judicial conference resolution, or custom has measurably increased in every category. Moreover, reorganization of the Judicial Conference of the United States and its committees as well as the Administrative Office of United States Courts makes even recent history somewhat obsolete. Nevertheless, these reports remain valuable points of reference.

### B. *Revisiting Earlier Research*

Another value demonstrated by this work is that of revisiting the scene of prior research. Two pairs of studies make this point very persuasively. The first pair reviewed the Civil Appeals Management

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<sup>1</sup> *Crisis in the Federal Courts: Hearings on S. 915 and H.R. 6111 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Committee on the Judiciary, 90th Cong., 1st Sess. 280 (1967) (statement of Professor Rosenberg).*

<sup>2</sup> *MANAGING APPEALS IN FEDERAL COURTS 5 (M. Tonry & R. Katzmann eds. 1988).*

Plan (CAMP) of the Second Circuit Court of Appeals, first in 1977, and again in 1983. The Plan featured mandatory settlement conferences at an early stage in the appeals process, presided over by experienced staff counsel who would also set briefing deadlines. The first study concluded that there had been no discernible reduction in burden on judges or incidence of settlement and that, while the quality of counsels' work on appeals improved, the effect was "of a fairly low order of magnitude."<sup>3</sup> The later study was considerably more positive, finding that one-sixth or more of the appeals handled under CAMP were settled and that the time of disposition was accelerated by some six weeks. While stressing that there remained "a wide range of uncertainty" about the magnitude of benefits,<sup>4</sup> the report encouraged other circuits to experiment.

Another pair of studies examined the effect on the opinion-producing process of both word processing equipment and electronic mail in the Court of Appeals for the Third Circuit. The first report, published in 1979, found that use of word processing equipment had resulted in a remarkable 21 percent reduction of time for the preparation, circulation, and issuance of written opinions, but that no significant reduction of time could be attributed to electronic mail. The second study, a year later, reported not only an increased reduction of time attributable to word processing technology, some four weeks, but a one week saving of time attributable to electronic mail.<sup>5</sup> The explanation lay in improving technology and user attitudes.

### C. *The Orange Light of Skepticism*

In contrast to areas where revisiting is promising, there are other areas where existing research suggests skepticism. Not only should there be resistance to reinventing the wheel, but also a robust reluctance to continue efforts to invent a solid rubber tire when its inutility has been rather conclusively demonstrated. The exceedingly complex problem of assigning weights to various kinds of cases in order to assure an even distribution of work to panels of appellate judges and to help estimate the need for additional judges for the thirteen circuits occupies two of the reports in this volume. One sophisticated study, issued in 1982, attempts to analyze the varying burden of cases before the Court of Appeals for the District of Columbia. Not surprisingly, it noted the uniquely disproportionate

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<sup>3</sup> *Id.* at 72.

<sup>4</sup> *See id.* at 91.

<sup>5</sup> *See id.* at 818-19.

impact of appeals from administrative agencies but recognized that the bulk of the record of a particular case was no reliable predictor of its burden, and that somehow "a research design is needed to begin to evaluate the qualitative, as well as the quantitative dimensions of case burden."<sup>6</sup>

A more general study, involving three courts of appeals, dates from 1977. Its conclusions, even though not encouraging, merit attention. It found that judicial estimates of time-per-case varied between circuits and were not sufficiently accurate, that estimates of burden of case types were little better, with weighted caseload comparisons varying but little from comparisons of gross terminations of cases per judgeship. Indeed, the study found caseload weighting to be a futile exercise in comparing one circuit with another if, as is apparent, "courts of appeals have very similar 'case difficulty distributions.'"<sup>7</sup> It hesitated to be more positive (or more negative) only because the inconsistencies in appellate statistical reporting made more precise conclusions impossible.

Although twelve years have passed since this Appellate Court Caseweights Project was published, I am aware of no startling breakthrough in this arcane field. Nevertheless, the prestigious Federal Courts Study Committee in its Final Report proclaimed the need for "a weighted caseload index" that "reflects differences in the work that different kinds of cases require." Its report states: "Not only will a weighted index provide a more precise measure for assessing each court's need for judges; it will help determine the best combination of staffing and procedures to assist each court."<sup>8</sup> The search for the Grail continues. Certainly there remains a need for some basis to distribute work—and judges—fairly. Perhaps, however, past research indicates the wisdom of seeking some approach other than assigning weights to categories of cases on appeal.

#### D. *The Fertile Exchange of Experience*

Another value to be served by research is the compilation and sharing of experience of judges and courts in facing, identifying, and solving problems. There are two stand-out examples in this volume. One is the pioneering Third Circuit time study undertaken in 1971-72 by seven circuit judges and their law clerks who kept meticulous records of their working time for an entire year. The profile of time

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<sup>6</sup> *Id.* at 381.

<sup>7</sup> *Id.* at 312.

<sup>8</sup> FEDERAL COURTS STUDY COMMITTEE, FINAL REPORT 111 (1990).

spent was illuminating and suggestive: an average judge's working year exceeded 2400 productive hours—respectable even when compared with the billable hours of the most hard-driving law firms; 60% of the time was spent on cases, half of this on the construction of opinions; 40% on non-case activities, nearly half of this (17%) on court administration work.<sup>9</sup> One wonders what lessons could be learned about allocating time and prioritizing activities if similar data were gathered from many more judges.

Another impressive experience was recorded, a 1985 report of the Ninth Circuit's Innovations Project. Beginning in 1980, under the leadership of Chief Judge James R. Browning, a number of innovations were effected, including dividing the then twenty-five judge court into three administrative units, increasing the number of oral arguments heard by each panel, providing for limited en banc panels to assure uniformity, taking more cases on submission of briefs without oral argument, and subjecting each case appealed to a prebriefing conference. The results were impressive: a huge backlog was eliminated; the median time from filing to disposition was cut 40%, from 17.4 months in 1980 to 10.5 months in 1983; and the productivity of judges as measured by participation in numbers of cases increased 27%.<sup>10</sup> Adding to the bookshelf of such "success stories" would be a fruitful source of ideas and inspiration to others.

The continuing relevance of this kind of research activity is underscored by the recommendation of the Federal Courts Study Committee that the Federal Judicial Center promote the development and circulation of caseload management information and experience among the circuits.<sup>11</sup>

### E. *Unfinished Business*

Several of the reports in this volume wrestle with obdurate issues which resist quick consensus but are so central to the future activity of appellate courts that they cannot be abandoned. The entire appellate process is traditionally thought of as ending in a conjunction of three events—an oral argument, a set of briefs, and a judicial opinion. It is not surprising that each member of this trio is a lightning rod for experiments in, or speculation about, telescoping the process. Predictably, therefore, each is the subject of one or more studies in this volume.

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<sup>9</sup> See MANAGING APPEALS IN FEDERAL COURTS, *supra* note 2, at 300-03.

<sup>10</sup> See *id.* at 211.

<sup>11</sup> See FEDERAL COURTS STUDY COMMITTEE, *supra* note 8, at 115.

What these studies reveal is that, central as these elements of the appellate process are, there exists as yet no general informed consensus as to their potential for "reform" in the interest of "efficiency" by way of curtailment or elimination.

Already there has been a historical trend away from oral argument. In 1975 only 30.3% of appeals were decided without oral argument; in 1986 the percentage had increased by half to 45.6.<sup>12</sup> A 1987 study ended in a dramatic draw. Fifty-eight circuit judges from four courts of appeals—a third of all circuit judges—were asked whether their service on the bench had increased or diminished their view of the importance of oral argument. Exactly twenty-nine felt as, or more, strongly committed to oral argument, while exactly twenty-nine felt oral argument was less important.<sup>13</sup> Indeed, there was such a disparity of views concerning the wisdom of reducing the number of written opinions, of reducing the number of published opinions, and of holding preappeal conferences that the authors were forced to conclude, "[t]here exists no consensus across the courts, and little agreement within the four courts, concerning the steps that should be taken if there is a sharp increase in case filings."<sup>14</sup>

The continuing utility of traditional briefs was the subject of a 1984 report concerning a two year experiment in the Ninth Circuit in which the attempt was made to short-circuit briefs, substituting in their place a preargument statement consisting of citations to cases and the record; a fast track for hearing oral argument; and an oral argument with no preset time limits. After some sixty appeals were handled in this manner, the experiment was discontinued. Again, judges split evenly about the efficacy of this approach, although a healthy majority of the lawyers involved gave it a favorable rating. That the idea is not dead is suggested by reference to a reportedly well regarded program along similar lines conducted by California's Third District Court of Appeals in Sacramento.

Finally, the hardy perennial: when not to publish opinions? One study, in 1981, while critical of performance of the courts of appeals under their publication plans, found no significant suppression of precedent (less than 1% of nearly 900 opinions studied).<sup>15</sup> Another study, in 1985, addresses the question of fairness, if citation is proscribed but access to unpublished opinions is unlimited. The

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<sup>12</sup> See *MANAGING APPEALS IN FEDERAL COURTS*, *supra* note 2, at 399.

<sup>13</sup> See *id.* at 412.

<sup>14</sup> *Id.* at 439.

<sup>15</sup> See *id.* at 474.

study concludes with the statement, “[t]he issues in the publication debate are complex and the choices before the courts are difficult.”<sup>16</sup> What lends currency to this issue is the recommendation of the Federal Courts Study Committee that “inexpensive database access and computerized search techniques may justify revisiting the issue.”<sup>17</sup>

These three areas obviously remain as prime candidates for continuing observation, inquiry, analysis, and discussion.

## II. TOWARD APPEALING MANAGEMENT

*Managing Appeals in Federal Courts* is a record of steady research under the auspices of the Federal Judicial Center over a period of some thirteen years. The work was low profile; the subject matter was procedure; the atmosphere was that of trying to illuminate facts and analyze modest innovations for policy makers. Now there seems to be a sense of impending crisis, if not doom, which has led to macro jurisdictional and structural proposals.

The Federal Courts Study Committee reports that appeals have multiplied fifteen-fold since 1945, while the federal appellate judiciary has increased only three-fold. The average judge’s caseload has increased six-fold.<sup>18</sup> Blind application of the present caseload deemed suitable for one judge, 255 cases, would increase the present number of 156 judges to 315 in 1999, with an average court of twenty-four—and forty-nine on the Ninth Circuit.<sup>19</sup>

The ideas now advanced to cope with the remorselessly rising tide of appeals include reduction of federal court jurisdiction in diversity of citizenship cases and in a lengthening list of specialized enclaves, the creation of specialized courts, and resort to various forms of alternative dispute resolution. The structural proposals include creating perhaps five “jumbo” circuits like the Ninth, creating multiple small circuits of nine or ten judges each, combining a gaggle of small circuits under an additional tier of several regional super courts of appeal, establishing a single centrally organized court of appeals, organizing several national courts of appeal by subject matter, and, pending some new structure, conducting a five-year pilot project whereby intercircuit conflicts would be resolved by referring selected cases to an en banc court of appeals, which would establish national precedent.

<sup>16</sup> *Id.* at 530.

<sup>17</sup> FEDERAL COURTS STUDY COMMITTEE, *supra* note 8, at 130.

<sup>18</sup> *See id.* at 110.

<sup>19</sup> *See id.* at 114.



Even in the unlikely event that a significant portion of jurisdictional and structural proposals were enacted into law in the foreseeable future by Congress, there seems to be one unavoidable development. The Federal Courts Study Committee, while proposing its imposing menu of recommendations, nevertheless observes: "We are aware of no program, however, that will preclude the need for increasing judgeships as caseloads mount, because there is a finite limit to the number of cases to which a judge can provide meaningful personal attention."<sup>20</sup> This conclusion is reached only with the greatest reluctance. Indeed, the Committee urges that all alternative means of coping with federal caseloads be resorted to before authorizing substantial increases in judgeships. It even speculates: "It has been suggested that 1,000 is the practical ceiling on the number of judges if the Article III judiciary is to remain capable of performing its essential functions without significant degradation of quality."<sup>21</sup> The reasons set forth for this reluctance are that

[t]he process of presidential nomination and senatorial confirmation would become pro forma because of the numerosity of the appointees; a sufficient number of highly qualified applicants could not be found unless salaries of federal judges were greatly increased; and a judge who felt like simply a tiny cog in a vast wheel that would turn at the same speed whatever the judge did would not approach the judicial task with the requisite sense that power must be exercised responsibly . . . .<sup>22</sup>

This combination of an apprehension of an inescapable significant increase in size of the federal judiciary and a dismal view of the effects of any such increase points to the strong desirability, if not the compelling necessity, of broadening the agenda of judicial administration research beyond the realm of sheer efficiency, and of probing with all the insight that experience can vouchsafe, the essential preconditions for sustained top quality and rewarding appellate judging. For in the absence of these preconditions, we stand in imminent danger of being parties to an unholy bargain in which the unmeasurable is traded for the measurable.

Let us consider the paradigm of the efficient judge. First, there are the pressures to which he or she seeks to respond: an inexorably rising caseload; the demand for expedition in disposing of appeals; the demand to publish all opinions; the demand for oral argument in

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<sup>20</sup> *Id.* at 116.

<sup>21</sup> *Id.* at 8.

<sup>22</sup> *Id.* at 7.

a greater number of cases; the rising involvement in administration and committee work; the accelerating popularity of continuing education; the proliferation of congressional oversight inquiries and hearings often resulting in new obligations and reporting requirements; the impact of government-wide ethical restraints, limiting judges' recompense from teaching and barring any compensation for delivering a scholarly address or writing a solidly researched article for a periodical.

Second, the purely efficient judge reacts as follows. Having sextupled productivity since 1945 and tripled it since 1965, the judge aims for yet another quantum leap. This would mean carrying a caseload far beyond the 255 used as a measure of judgeship-needs by the Judicial Conference. To achieve this level of production, the judge might well have to hire not three clerks but four, five, or six. The truly efficient judge might well be able to ride effective herd over such an increased staff in the sense that he or she would keep control over the law being made by the opinion. But the judge would no longer create opinions in the sense of writing them; the judge would be a full-time editor. The judge would also have to work with a larger complement of staff attorneys on pro se and fully-counseled non-argument cases.<sup>23</sup> The judge also would confront escalating expectations of immediate, same day responses to faxed inquiries, drafts of opinions, and suggested orders from his colleagues. The judge would not only expect to attend at least one multiple day workshop or seminar per year but would expect to invest from one-fifth to one-fourth of working time in service on a court, circuit, or judicial conference committee.<sup>24</sup>

The combination of these pressures and responses in the interest of productivity and efficiency must lead us to infer that, if the average Third Circuit judge in 1971 and 1972 chalked up a work year of over 2400 hours, as the 1974 study reported, there is no hope of

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<sup>23</sup> A recent study under the auspices of the Administrative Office of United States Courts for the Judicial Resources Committee of the United States Judicial Conference finds that caseloads in the circuit courts are increasing at a higher rate than the number of staff attorneys and that the staffing formula of one staff attorney for each judgeship may have to be changed. See *Study on Staff Attorneys Released*, THE THIRD BRANCH, Feb. 1990, at 10.

<sup>24</sup> As of 1980, I reported in my *The Ways of a Judge*, "[a]t my last count there were twenty-six committees and subcommittees [of the Judicial Conference] involving the participation of roughly 180 judges. . . ." F. COFFIN, *THE WAYS OF A JUDGE* 191 (1980). As of January, 1990, after a major restructuring, the committees alone numbered 27 and involved 245 federal judges. Subcommittees exist but have not emerged as formal entities.

going in any other direction than up. What is equally to be inferred is that if, in 1971 and 1972, the average Third Circuit judge was able to invest no more than 3.9% of his time in maintaining his general professional competence, there is little hope of squeezing out more time for professional study and improvement. Finally, no statistics are necessary to make the points that there will be little or no time for creative reflection and collegial interchange in the driven judge's day.

This lugubrious litany raises a question of first impression after two centuries of existence of the third branch: who would want to dedicate the rest of one's working life to such an occupation? With judicial salaries not only set at levels below those of most successful lawyers but also chronically prevented from keeping pace with increases in the cost of living, and with both working conditions and job satisfaction on a downward slope, it seems clear that many of the most competent, reflective, creative, and public spirited potential judicial candidates will never surface. Over time, the quality of the federal judiciary faces subtle but certain erosion.

I therefore propose that we place prominently on the appellate research agenda of the future, projects dealing forthrightly and sensitively with the looming threat of numbers. Just how would a significant additional increment of judges affect the quality of a judge's life and work, and the prestige and attractiveness of the position? How can numbers be made consistent with these values? Is there necessarily a diabolical magic in numbers? When I became a circuit judge in 1965, I had some seventy-five peers. Our number has now more than doubled. I confess that I have been far less concerned with a Gresham's Law of Position, which dictates a cheapening of the currency of prestige with increased numbers, than with the increasing pressures in the name of efficiency and productivity that I have profiled above. Indeed, I suspect that "prestige" in the abstract is not a substantial magnet for those with good legal minds and genuine judicial temperament. If the work is rewarding and important, there will be more than sufficient prestige. But this is my unsubstantiated guess. The effect of numbers on self-esteem and collegiality can be tested. The Ninth Circuit already is five times larger than the First. How do the judges of the Ninth feel? Other judges? Is there change in their assessment over time?

The opportunity for a different kind and direction of research, therefore, is to examine the factors that are necessary to make the

life and work of an appellate judge rewarding.<sup>25</sup> Such an inquiry would involve research of a somewhat different nature than that recorded in the volume being reviewed. It would be a carefully constructed and periodically repeated exploration of values and attitudes. It would *not* consist of questions likely to elicit off-the-cuff conclusory opinions such as "How would you like to serve on a larger court?"

I envisage three levels or approaches of inquiry. Part I might well be qualitative and deliberately unfocused, with judges asked to say what parts of their work life they found most rewarding, what parts least satisfying, what most time consuming, what most unnecessary, etc.

Part II, while still calling for qualitative responses, would consist of more specific, sharply focused inquiries, forcing a responding judge to give hard thought to how his or her time is presently spent, how it should be spent, and why. The area of inquiry would include:

Clerks—How does one work best with clerks? How can clerks best work with each other? What principles, priorities, and approaches is it most important for new clerks to grasp? How many clerks would be the maximum for working in the most satisfying way?

Editing and reviewing drafts of others—What ground rules best help a responding judge to distinguish essentials from non-essentials? What is the maximum amount of time for this function if a judge's day in chambers is to be sufficiently rewarding?

Research and writing—What can the judge best do and what is best delegated to a clerk? How much of this work by the judge personally is necessary to give the judge a reasonable amount of job satisfaction?

Opinion quality—Where do opinions most suffer in their length and quality? Overbreadth? Excessive factual statement? Unnecessary treatment of minor issues? Unnecessary rehearsing of established legal principles? Excessive citations? Gratuitous lecturing and dicta? Other? How can judges and clerks best avoid such practices? Would a "Manual of Horribles" be useful?

Collegiality—What kinds of relationships with colleagues are most important? How can they be best preserved? What kinds of conscious planning for a collegial atmosphere are indicated?

Committee work and administration—What is the optimum amount of time a judge should give to this kind of activity? What

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<sup>25</sup> I suspect that there is even a greater urgency to examine the pressures and satisfactions of a trial judge.

kinds of issues should be addressed by non-judicial personnel? How can judges retain control of substantive policy without investing too much time in administrative work?

Education and refreshment—How much time is needed to keep current with new developments? To refresh and broaden one's knowledge and skills? To keep one's mind active and receptive beyond the law? How necessary are sabbaticals for judges? How might they best be used and administered?

Extra-judicial activity—What kind of activity does a judge find most useful and satisfying? How much time should be invested in such activity? Moot courts? Lectures? Teaching? Time in residence at an educational institution? Writing articles and books? Other?

Part III would build on the qualitative reflection that would have been invested in Parts I and II and would attempt to build bridges to more traditional social science research. That is, it would endeavor to find ways and means of getting some measure of consensus, some way of getting at least rough ideas of numbers of responders at various points on the scale of satisfaction.

The goal would be to try to establish for each category of activity—and for the mix of all activities—minimum and optimum levels of job satisfaction. To the extent that such an effort is successful, the basis is laid for replication of “satisfaction indexes” in the future.

For any such enterprise to yield anything approaching a thoughtful and reliable profile of the reflective, creative, serene appellate judge of tomorrow, able and eager to do sustained work of high quality, it obviously will require the most sophisticated and sensitive researchers. Progressive business enterprises may already have plowed the terrain. Judges themselves may at times be the interrogators. A variety of techniques suggest themselves: questionnaires, interviews with individual judges, videotaped presentations, and narrations. The long view must be taken to achieve “the consecutive strain on the line.”

What consensus or insights might emerge from such a process will not insure that conditions will change. But a concept will have been developed of the conditions to which we—judges, administrators, staff, the Congress, the public—should aspire to the end that a federal judiciary of top quality be attracted and retained. The strains and stresses of growth in the judicial establishment are awesome to contemplate. In other fields—industrial competitiveness, budgetary viability, education, the environment—the challenge is to restore, reinvigorate, and reverse deterioration. In the field of judicial

administration, the challenge is less dramatic, but no less vital; it is to preserve the core values of the judiciary that have always been cherished. If a new dimension of research can help achieve that end, it will be a noble contribution.