

Arkansas' New Court And Its Effect
On the Arkansas Appellate System

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On November 7, 1978, the voters of the State of Arkansas approved Amendment 58 to the Arkansas Constitution,¹ creating the Arkansas Court of Appeals. The impetus for the new court had come from members of the Arkansas Supreme Court and others in the legal profession who argued that the state's judicial system, and specifically the Supreme Court, would suffer without it. Proponents argued that the new court would reduce the Supreme Court's workload, allow judges more time to consider cases and write opinions, and make the appellate process quicker and more efficient.²

The purpose of this paper is to attempt to determine whether these projected benefits have accrued and what effects, if any, the court has had on the Supreme Court.

¹Amendment 58 provides:

The General Assembly is hereby empowered to create and establish a Court of Appeals and divisions thereof. The Court of Appeals shall have such appellate jurisdiction as the Supreme Court shall by rule determine, and shall be subject to the general superintending control of the Supreme Court. Judges of the Court of Appeals shall have the same qualifications as justices of the Supreme Court and shall be selected in the manner provided by law.

²*Arkansas Gazette*, March 4, 1977, sec. B at 1, col. 7 and September 2, 1978, sec. A at 9, col. 1.

History and Structure of the Court

For many years, the workload of the Arkansas Supreme Court was very stable. In 1964, 464 cases were filed and disposed of by the court.³ By 1970, that number had risen to 716⁴ and by 1976, it totaled 1037 cases--an increase of 123% in only 12 years.⁵ The earliest appeals for help came from the membership of the Supreme Court. In his 1976 annual report to the governor and General Assembly, Chief Justice Carleton Harris wrote:

Justices of the Supreme Court wrote an average of over 73 opinions each in 1976 as compared with an average of 65 during 1975, substantially above the national average for states without an intermediate appellate court. Total workload of the Court increased by almost 30 percent during 1976 as compared with 1975. Despite the heavy workload, the Court remains current, but it will be difficult for the Court to keep pace with its skyrocketing workload in the years to come unless help in the form of an intermediate appellate court for Arkansas is forthcoming.⁶

The same theme was echoed in civic meetings and legislative committee hearings in subsequent months by other members of the court, educators, and legal practitioners. In March of 1977 the Arkansas General Assembly approved Senate Resolution 5,⁷ which allowed the proposal to be placed on the 1978 general election ballot. By more than a two-to-one margin,⁸ the proposal was approved as Amendment 58 to the Arkansas Constitution.

³*First Annual Report of Judicial Department of Arkansas, 1964* (herein cited as *Annual Report*).

⁴1970 *Annual Report*.

⁵1976 *Annual Report*.

⁶Letter from Carleton Harris to David Pryor, contained in 1976 *Annual Report*.

⁷Senate Joint Resolution 5, Acts of Arkansas 1977, p. 2431.

⁸The official vote totaled 291,941 for the amendment; 141,792 against the amendment.

The amendment is not very specific, providing that the General Assembly is empowered to create a court of appeals with such "jurisdiction as the Supreme Court shall by rule determine." All provisions concerning the number of judges, method of election, length of term, method of selecting the chief judge, and issues relating to salaries and staff support are left to the legislature.

While there was widespread support for Amendment 58, there was an intense debate, especially in legal circles, concerning the implementing legislation.⁹ After lengthy discussions and several amendments, the Legislature eventually enacted Act 208 of 1979. It provided for a six-member court, one judge to be elected from each of six districts to be created by a Court of Appeals Apportionment Board. It further provided for a chief judge to be selected from the membership of the court by the Chief Justice of the Supreme Court. Terms of office were to be eight years, with the Chief Judge serving a four year term.¹⁰

One additional issue of great importance which was not addressed by the legislation concerned the jurisdiction of the new court. Proponents of the court repeatedly stressed that the new structure was not intended to add a second level of review in the appellate process --rather the Court of Appeals and Supreme Court were to have their own separate jurisdictions. The advantage of this structure was that the Supreme Court would be free to consider cases which concerned new or important areas of the law. Appeals from the Court of Appeals to the Supreme Court would be allowed only in exceptional circumstances.

⁹In a vote of January 1979 the House of Delegates of the Arkansas Bar Association was closely divided over the bill then being debated in the General Assembly. *Arkansas Gazette*, January 21, 1979, sec. A at 9, col. 1. The most controversial provisions debated were that the court would have six members, which could cause evenly-split decisions, that four of the justices would be elected from the four congressional districts and the others at large, and that the chief justices of the Supreme Court would appoint the chief judge of the Court of Appeals. Of those, only the method of electing the six judges was eventually changed before the adoption of the legislation.

¹⁰*Ark. Stat. Ann.* Sec. 22-1201-22-1208 (Repl. 1962).

Rule 29 of the Supreme Court was adopted in May of 1979. It provided for several types of cases which were to be appealed directly to the Supreme Court, with the Court of Appeals to exercise residual jurisdiction over all other cases. The rule has been amended nine times since the original version,¹¹ and now provides that the Supreme Court will hear thirteen classes of cases.¹² The number of cases has grown since the rule's inception, as the Supreme Court has attempted to equalize the workload between the two courts.

¹¹The original rule was adopted May 14, 1979. It was later amended October 15, 1979, January 28, 1980, February 25, 1980, May 5, 1980, June 30, 1980, October 6, 1980, December 22, 1980, March 2, 1981, and April 27, 1981. The reason for the amendments was stated by the court in section 7 of the rule, as originally enacted: "It is the intention of this court by the adoption of this rule to achieve an equalization of the appellate workload between the Supreme Court and the Court of Appeals. If the classifications made herein do not achieve this objective, adjustments will be made."

¹²Arkansas Supreme Court Rules, rule 29.1 (amended April 27, 1981). The type of cases include:

- a. Cases involving the interpretation or construction of the Arkansas Constitution;
- b. Criminal cases in which the death penalty, life imprisonment, or a sentence of at least 30 years has been imposed;
- c. Cases in which certain acts, ordinances, or administrative rulings are being challenged;
- d. Appeals from the Public Service Commission, Arkansas Transportation Commission, and Pollution Control Commission.
- e. Petitions for post-conviction relief;
- f. Cases of quo warranto, prohibition, injunction, or mandamus;
- g. Cases involving elections;
- h. Disciplinary actions of attorneys and regulation of the practice of law;
- i. Cases in which there is a prior decision by the Supreme Court;
- j. Cases of usury and products liability;
- k. Cases involving oil, gas, or mineral rights;
- l. Cases involving the law of torts; and
- m. Cases concerning the construction of deeds or wills.

Rule 29 also places strict limits on those cases which may move from the Court of Appeals to the Supreme Court. This may happen in one of two ways. First, the Court of Appeals is given the power to certify to the Supreme Court any case which is exempted from its jurisdiction, or which involves an issue of "significant public interest or a legal principle of major importance." The acceptance of these cases is totally within the discretion of the Supreme Court. Secondly, the Supreme Court may grant certiorari to review a case previously decided by the Court of Appeals where the case has been improperly filed, should have been certified, or was decided by a tie vote. There is no direct right of appeal.¹³

Within the structure and jurisdiction of the new court in place, Governor Bill Clinton appointed its first members on July 7, 1979.¹⁴ The court handed down its first opinion one month later.

ARKANSAS APPELLATE PROCESS

1984

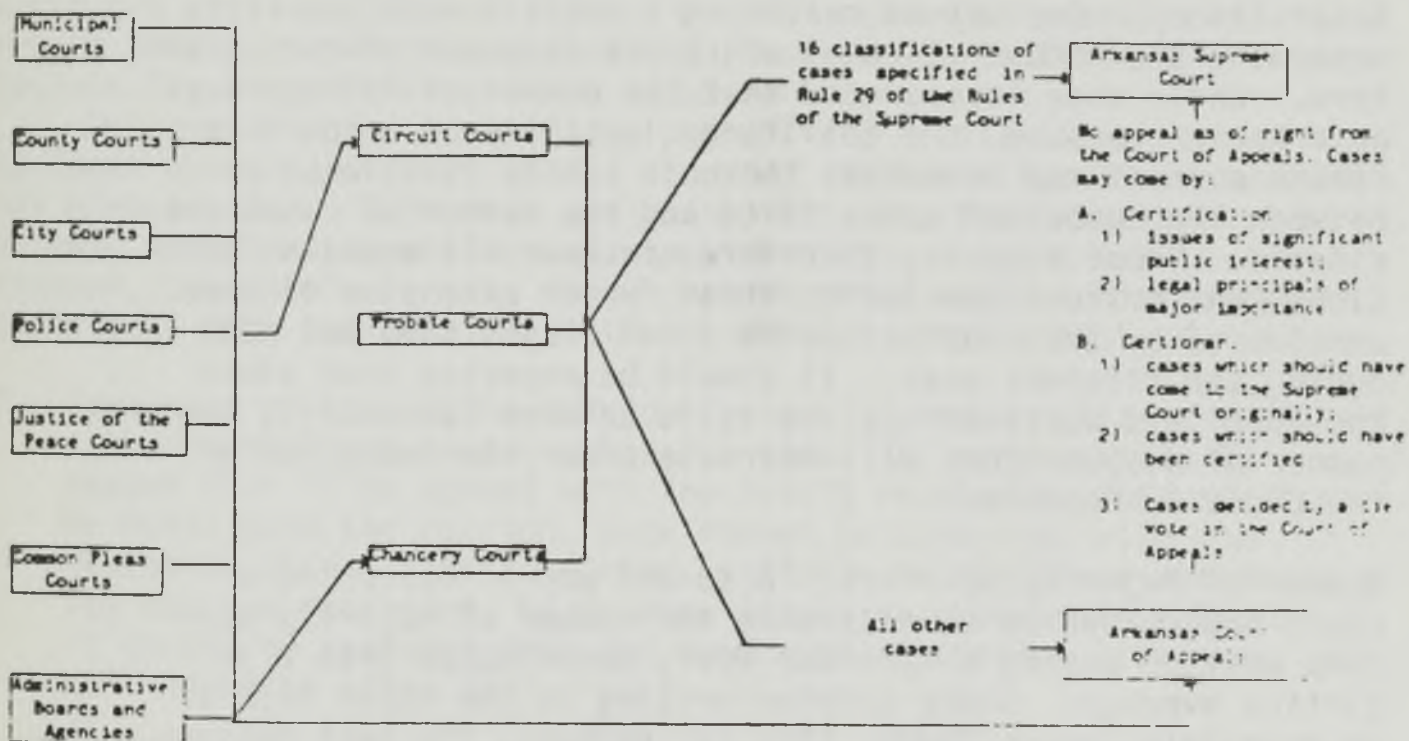


Figure 1

¹³Arkansas Supreme Court Rules, rule 29.4 - 29.6 (amended April 27, 1981).

¹⁴The first members of the court included M. Steele Hays, David Newbern, Mrs. Marian Penix, George Howard, Jr., Ernie Wright, and James Pilkington. These members served until January 1, 1981, when the first elected members of the court assumed office. *Arkansas Gazette*, July 8, 1979, sec. A at 1, col. 3.

Measurement and Hypotheses

Proponents of the Court of Appeals argued that the new court would create the following results: (1) the workload of the Supreme Court would be decreased; (2) the Supreme Court would be able to hear only the more "serious" cases, have more time to decide them, and, consequently, write "better" opinions; (3) the appellate process would become quicker and more efficient; and (4) duplications in the appellate process would be avoided. In order to measure whether these benefits have accrued, an analysis was made of Arkansas Supreme Court cases handed down over a seven-year period, from 1976-1982.¹⁵ Nine criteria were selected as measurement tools. The criteria selected, and the reason for their selection, are as follows:

Workload

1. Dispositions. One way of measuring a court's workload is to determine the number of cases which are disposed of during the term. While some have argued that the number of filings may be a better measure, the ability or inability of a court to remain current may mean that there is little relationship between the number of cases filed and the number of cases considered. These figures, therefore, include all appeals, petitions, and motions (excluding those for an extension of time), considered by the court of which final disposition was made during the calendar year. It should be expected that since the appellate workload will be split between two courts, the number of dispositions will decrease after the inception of the Court of Appeals.
2. Number of Majority Opinions. A second way of measuring a court's workload is to determine the number of majority opinions written during a calendar year, denominated into a per-justice average. Since opinion writing is the major task of an appellate court judge, this is, perhaps, the best measure of actual workload. It should be expected that the number of opinions per justice will decrease after the creation of the Court of Appeals.

¹⁵One disadvantage of using this time frame is the fact that the personnel of the court changed during this period. Three of the justices who were on the court in 1976 remained in 1982. The extent to which this change in personnel may have affected the court is not examined by this study.

More Time to Consider Cases, Write "Better" Opinions

The objective of allowing justices more time to consider and write opinions is that it will allow time for additional research, thought, drafting, and, in the end, produce a "better" opinion. The problem lies in developing a means to measure the quality of an opinion which excludes, as much as possible, the introduction of large amounts of subjectivity. One group of researchers attempted to count the number of cases and non-case materials cited within opinions, suggesting that the "better" opinion would include more citations (Kagen, 1978:961). Without a more thorough analysis of the types of cases and materials cited and the use to which they are put in the particular opinion, however, this author is unconvinced that such a review gives any indication of the "better" opinion. Additionally, in Arkansas, the jurisdiction of the Supreme Court has been restructured so as to allow the court to consider only the more important, and sometimes novel, areas of the law. That fact alone may tend to limit the number of cases which are available for citation. As well, under this analysis, new or innovative decisions would be recorded as "bad" simply because few previous cases were cited.

Because of these problems, a method very similar to that used by Roger Groot (1971:548) in his study of the North Carolina courts has been adopted. With this analysis, there has been no direct attempt to determine whether the quality of the opinion has increased, but simply to note those changes which would indicate that additional time had been put into the opinion-writing task.

3. Frequency of Concurring Opinions. In a system in which a justice is overworked and hard-pressed for time, it is reasonable to assume that if he agreed with the result reached by the majority, he would join the opinion, even though he disagreed with the reasoning used. With more time available to formulate and develop his own reasoning, he is more likely to express it. Thus, it should be expected that the number of concurring opinions will increase after 1979.
4. Frequency of Dissenting Opinions. It should be expected that the number of dissenting opinions will increase following the Court of Appeals' creation for basically the same reasons as concurring opinions will be more frequent.
5. Number of Pages Per Opinion. With more time available to do research and develop and expand lines of reasoning, it should be expected that the average number of pages per opinion will increase after 1979.

6. Number of Per Curium Opinions. If the court is properly restructured so that the Supreme Court hears only the more important cases, the number of cases disposed of with per curium opinions should decrease. In addition, with more time to consider cases, those which would have previously resulted in a per curium order can be handled with a full opinion. Thus, per curium opinions should decrease with the creation of the Court of Appeals.

Make the Appellate Process Quicker and More Efficient

7. Number of Days in Appellate Court. The obvious method of determining whether the appellate process requires less time is to count the average number of days cases are before the court. The Arkansas Judicial Department has been tracking selected cases through the courts for several years, and their findings are used here for this purpose. The time measured begins on the day on which the record is filed with the Supreme Court and ends on the day when the decision is rendered. It should be expected that the amount of time will decrease following the creation of the Court of Appeals.
8. Currency. The most common method of determining a court's efficiency is to measure its currency, that is, the number of cases which are disposed of within the term as compared to the number of cases which are filed. With a smaller workload, it should be expected that the disposition ratio of the court will increase after 1979.

Avoid Duplication of Appeals

9. Number of Petitions for Review Granted. The only way a case once heard by the Court of Appeals may reach the Supreme Court is by a grant of certiorari. The number of these petitions granted is compared to the total number of cases disposed of by the Court of Appeals. If the proponents were correct, only a very small percentage of the cases disposed of should have been accepted for review by the Supreme Court.

Findings and Analysis¹⁶

1. Disposition. At first glance, there seems to be little change in the number of Supreme Court dispositions before and after the

¹⁶Unless otherwise noted, all figures were compiled from the *Annual Reports of the Arkansas Judicial Department* for the years 1976-1982.

creation of the Court of Appeals. In 1976 there were 1037 cases disposed of, rising to 1234 in 1979. By 1982 the number of dispositions had dropped to 1062,¹⁷ a decline of only 14%.

The figures are more enlightening when compared to the number of dispositions which would have resulted had the Court of Appeals not been created. Since the jurisdiction of the Supreme Court prior to the creation of the Court of Appeals is basically the same as that presently shared by the two courts,¹⁸ an indication of what the Supreme Court's workload would have been can be

Table 1. Workload as Measured by Number of Dispositions, Arkansas Supreme Court and Court of Appeals.

Year	Appeals	Petitions	Non-Time Motions	Total
<u>Arkansas Supreme Court</u>				
1976	551	186	300	1037
1977	576	190	268	1034
1978	585	203	282	1070
1979	657	244	333	1234
1980	512	312	398	1222
1981	468	208	384	1060
1982	437	224	401	1062
<u>Arkansas Court of Appeals</u>				
1979	226	96	93	415
1980	905	158	284	1347
1981	886	178	361	1425
1982	1062	164	466	1692

¹⁷The 1982 *Annual Report*, p. 21, incorrectly calculates the total dispositions at 928. This appears to be due to an error in addition for petitions and motions which is listed at 491, but actually totaled 625.

¹⁸The only significant change in the jurisdiction of the court concerned the additions of appeals from the Employment Security Division. Originally, these cases were appealed to the circuit court of the county where the appellate resided. In 1979, all such appeals were transferred to the Court of Appeals. *Ark. Stat. Ann.* sec. 1107 (d) (7) (Repl. 1976). These cases constituted 154 dispositions in 1980, 360 in 1981, and 391 in 1982.

made by adding the workload of the two courts. In 1982 had these cases been added to the workload of the Supreme Court, they would have totalled 2754 cases. As compared to the actual workload of 1062 cases, this is a real decline of 692 cases, or 61%. Thus, it can be seen that the creation of the Court of Appeals has had a significant effect on the decline in the number of dispositions by the Supreme Court.

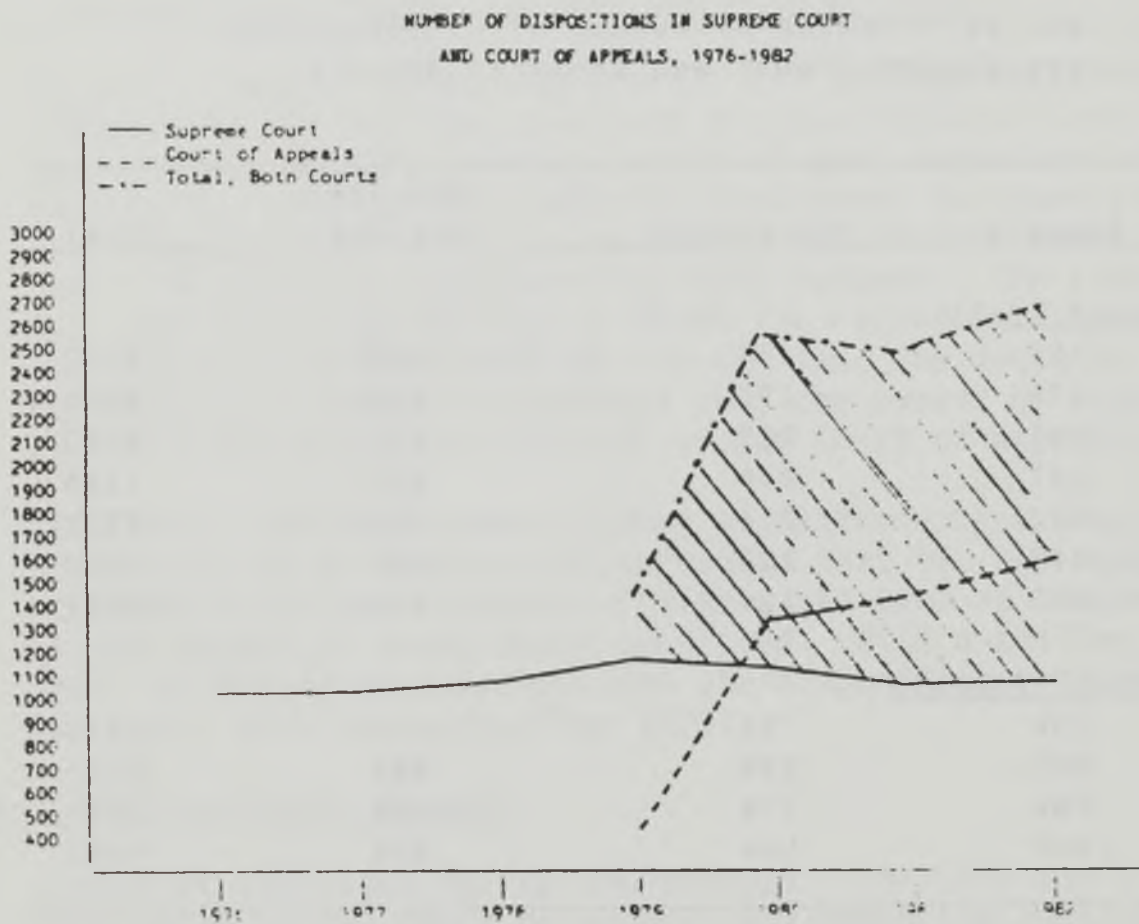


Figure 11

2. Number of Majority Opinions. The average number of published opinions per justice provides further evidence of the Supreme Court's decreasing workload. From a high of 77 majority opinions per justice in 1978, the average has dropped 41% to 45 opinions in 1982. The largest decline is from 1979 to 1980, a direct result of the effects of the Court of Appeals. Thus, it appears that the creation of the court has produced the desired result of decreasing the workload of the Supreme Court.

Table 2. Workload as Measured by Number of Written Majority Opinions, Arkansas Supreme Court

	1976	1977	1978	1979	1980	1981	1982
Total Maj. Opinions	509	488	539	453	352	327	318
Ave. Per Justice	73	70	77	65	50	47	45

3. Frequency of Concurring Opinions. In the three years preceding the creation of the Court of Appeals, the Supreme Court wrote an average of 16.33 concurring opinions per year. In the years following the court's creation, that average increased to 39 opinions per year. This number increased even though the total number of all opinions declined during the period. The percentage of all opinions made up of concurring opinions increased from 4% in 1979 to 13% in 1982. Thus, the expected rise in concurring opinions after 1979 has resulted.

4. Frequency of Dissenting Opinions. Similarly, the number of dissenting opinions has increased over the period. From 1976-1978 the Supreme Court wrote an average of 52.33 dissenting opinions per year, representing an average of 8.66% of the total opinions handed down during the period. From 1980-1982 the number had increased to 70 dissenting opinions per year, an average of 15.33% of the total opinions.

Table 3. Number and Percentage Distribution of Majority, Dissenting, and Concurring Opinions, Arkansas Supreme Court.

	Majority Opinions	Dissenting Opinions	Concurring Opinions	Other Opinions	Total
1976	509 (88%)	55 (9%)	11 (2%)	6 (1%)	581
1977	488 (90%)	37 (7%)	14 (3%)	3 (0%)	542
1978	539 (85%)	65 (10%)	24 (4%)	6 (1%)	634
1979	453 (83%)	62 (11%)	23 (4%)	6 (1%)	544
1980	352 (71%)	95 (19%)	35 (7%)	11 (2%)	493
1981	327 (74%)	79 (18%)	26 (6%)	7 (2%)	439
1982	318 (76%)	36 (9%)	56 (13%)	8 (2%)	418

5. Number of Pages Per Opinion. If the Supreme Court had declining workloads and additional time to consider cases, it is reasonable to expect that the length of opinions issued by the court would increase. The evidence, however, indicates that the number of pages per case has declined.¹⁹ In 1976, the court published 256 opinions with an average of 4.5 pages per case. By 1982, the number of published opinions had increased to 382, but the average had declined to 3.4 pages per case. The average has declined to 3.4 pages per case. The average has declined each year since 1979.

One possible explanation external to the Court of Appeals which may account for the decline involves the court rule related to the publication of opinions. It was at one time a policy of the Supreme Court to publish only certain types of opinions; those which involved routine issues or were not useful for reference purposes were not designated for publication.²⁰ In 1979 this rule was changed to provide that "all signed opinions of the Supreme Court shall be designated for publication."²¹ Prior to 1979, therefore, many opinions which resolved routine issues, and thus were likely to be shorter opinions, were not published; whereas, following 1979, all cases were included.

Table 4. Number of Pages Per Case*, Arkansas Supreme Court.

	1976	1977	1978	1979	1980	1981	1982
Cases	256	275	333	371	367	375	382
Pages	1159	1102	1367	1626	1515	1300	1288
Pages Per Case	4.5	4.0	4.1	4.4	4.1	3.5	3.4

* Includes all published opinions, including per curiums.

¹⁹These figures were compiled from a review of all cases published by the Supreme Court for January 1, 1976 - December 31, 1982, contained in volumes 531-644 of the *South Western Reporter, 2nd. series.*

²⁰See, Smith, "The Selective Publications: One Court's Experience," 32 *Arkansas Law Review* 26 (1978) and Newbern and Wilson, "Rule 21: Unprecedented and the Disappearing Court," 32 *Arkansas Law Review* 37 (1978).

²¹Arkansas Supreme Court Rules, rule 21.1.

6. Number of Per Curium Opinions. Other than to note that the number of per curium opinions rose dramatically in 1982, it is difficult to draw any conclusions from the figures. The percentage of per curium opinions decreased in the years preceding the Court of Appeals, then began to rise slowly until 1982. The expectation was that they would decrease after 1979. It may be that the increasing percentage of the Supreme Court's workload made up by petitions and motions, as opposed to appeals (See Table 1) has increased the use of per curiums. The number of appeals decreased 21% from 1976 to 1982, whereas the number of petitions and motions increased about 29% during the same period. Even if this could be shown, however, it would not account for the dramatic increase of per curiums in 1982.

Table 5. Number and Percentage of Per Curium Opinions, Arkansas Supreme Court.

	1976	1977	1978	1979	1980	1981	1982
Total							
Per Curiums	43	28	16	16	22	46	106
Total							
All Opinions	624	570	650	560	515	485	524
%	7%	5%	2%	3%	4%	9%	20%

7. Number of Days in Appellate Court. The results of the survey concerning the average length of time a case is before the Supreme Court are somewhat mixed. The average time for all cases actually rose substantially from 1979 to 1980--from 173.5 days to 196.5 days. The average has steadily declined since, reaching its lowest point during the seven years in 1982 with an average of 149.5 days.

While the average time for all cases has increased, that increase is solely attributable to the increased time to hear criminal cases. The average time for civil cases has declined each year since 1979. The added time to hear criminal cases is no doubt a result of the change in the Supreme Court's criminal jurisdiction. While the court was hearing all criminal

cases before the creation of the Court of Appeals, it now hears only the most serious criminal cases involving a sentence of death, life imprisonment, or at least 30 years' imprisonment. The more substantial issues, especially in capital cases, have increased the amount of time these cases are before the court. As a result, the Court of Appeals has not had the immediate result of decreasing the amount of time a case is before the Supreme Court.

Table 6. Average Number of Days Cases Are Before the Arkansas Supreme Court.

	1976	1977	1978	1979	1980	1981	1982
Civil Cases	181	178	173	201	184	177	146
Crim. Cases	146	137	150	146	209	188	153
All Cases	163.5	157.5	161.5	173.5	196.5	182.5	149.5

8. Currency. With a currency level over 100% in the calendar year preceding the creation of the Court of Appeals, it is difficult to expect that any improvement could result. In fact, the disposition ratio increased to 110.5% in 1979, dropped to 95.39% in 1980, and then returned to above the 100% level in 1981 and 1982. Because the Supreme Court did such an admirable job of remaining current despite a pressing workload before its creation, it is difficult to tell if the Court of Appeals has had any effect.

Table 7. Disposition Ratio (Currency), Arkansas Supreme Court.*

	1977	1978	1979	1980	1981	1982
Filings	1086	1012	1116	1281	1021	979
Dispositions	1034	1070	1234	1222	1060	1062
Disp. Ratio	92.21%	105.7%	110.6%	95.3%	103.8%	108.4%

*Figures for 1976 were not available

9. Number of Petitions for Review Granted. The last general goal stated by the proponents of the Court of Appeals was to insure that the court did not slow down or complicate the appellate process by allowing a system of "dual" appeals. Dr. Robert Leflar, one of the leading figures in the court's establishment, suggested that "3 or 4 percent is too large, of the cases decided by the intermediate court, (to) go on to the Supreme Court."²² The figures indicate that the system has easily met that goal. In the first six months of the Court of Appeals' existence, 8 cases, or 2% of the court's 415 total dispositions, were heard again in the Supreme Court. The percentage has decreased each year so that by 1982, only .3% (5 of 1692) of the Court of Appeal cases were accepted for review.

Table 8. Number of Petitions for Review Granted, Arkansas Supreme Court.

	1979	1980	1981	1982
Dispositions in Court of Appeals	415	1347	1425	1692
Petitions Granted	8	15	9	5
Ratio	2%	1%	.6%	.3%

Conclusion

From this analysis, it can be concluded that the insertion of the Court of Appeals into the Arkansas appellate structure has been largely successful. Most of the benefits which were projected by the court's proponents have, in fact, resulted. The decrease in the workload of the Supreme Court, during a time in which the number of appeals from lower courts has increased dramatically, has

²²Arkansas Gazette, September 2, 1978; sec. A at 9, col. 1.

relieved the court of a tremendous burden. The substantial decrease in the number of majority opinions written per justice and the increasing frequency of concurring and dissenting opinions suggest that justices have more time available now to consider cases. In addition, the court continues to be one of the most efficient in the United States.

One projected benefit which has not been met involves the nature of the cases heard by the Supreme Court. While the rule concerning the Supreme Court's jurisdiction was intended to allow the court to hear only the more important cases, recent additions to that jurisdiction have been made solely to effectuate a balance between the number of cases filed in the two courts. Thus, in many instances, the cases heard by the Supreme Court are no more important or significant than those heard by the Court of Appeals--they are merely different. One might argue that what results is a structure having two supreme courts. However, so long as the Supreme Court retains the right to review cases heard by the Court of Appeals, it remains the "supreme" court, and any dilution of its jurisdiction is more than outweighed by the advantage of smaller workloads and the resulting quality and efficiency in the appellate process.

There are also several questions which are raised by an examination of the data. First, it appears that the increase in the number of cases filed in the appellate system has grown more rapidly since the creation of the new court. Further study should consider the proposition that the change in the judicial structure itself, making access to the appellate system more convenient, has increased the likelihood that an appeal will be taken, further increasing the workload of the appellate courts.

Secondly, it should be noted that this trend in increasing workloads for the appellate system makes it likely that the old problems which the Court of Appeals has "cured" will eventually return. What options remain for Arkansas courts? One remedy which has already been adopted and proved successful involves the use of panels. The Supreme Court first began the practice in 1925²³ and the Court of Appeals in 1983.²⁴ This practice allows the courts to effectively double the number of cases considered.

It is also possible to consider expansion of the two courts. For the Court of Appeals, new judges could be authorized by the

²³Ark. Stat. Ann. Sec. 22-206 (Repl. 1962).

²⁴Ark. Stat. Ann. Secs. 22-1209, 22-1212 (Repl. 1962).

General Assembly while expansion of the Supreme Court would require a constitutional amendment.²⁵ Other courts have also considered the use of accelerated dockets, pre-argument settlement conferences, "fast tract" processing techniques, and the hiring of additional support staff.²⁶

From a situation in which bulging dockets and increasing workloads were threatening the integrity of the Arkansas appellate system, the Arkansas Court of Appeals has emerged to save the day. A review of the evidence suggests that its creation has had a positive effect on the Supreme Court and accomplished those things which were expected of it. While future caseload increases may require additional modifications to the system, the effectiveness of the Supreme Court and the Arkansas appellate system should continue to improve in the years to come.

²⁵Amendment 58 does not specify a number of members for the Court of Appeals--that decision is left to the General Assembly. The Arkansas Constitution originally provided for a three-member Supreme Court, with possible expansion to five members, Art. 7, secs. 2 and 3. This was later expanded by sec. 1 of Amendment 9, which set the number at five and allowed the General Assembly to further expand to a maximum of seven members. This was carried out by the Legislature in 1925. *Ark. Stat. Ann.* sec. 22-1201 (Repl. 1962).

²⁶See, Martin, John and Elizabeth Prescott, *Appellate Court Delay*, National Center for State Courts (1981).

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