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A Brief History of the Creation of the Federal District Courts of Ohio

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Roberta Alexander, author of a comprehensive history of the United States District Court for the Southern District of Ohio, described the role of the district courts this way:

The district courts have evolved from local tribunals dealing with minor infractions and land disputes into courts of tremendous significance dealing with essentially every major issue confronting society: equal rights and equal opportunities in the political and economic arenas; the scope of individual rights under the Constitution, including free speech, the free exercise of religion, and the rights of privacy; the enforcement of federal laws, ranging from environmental regulations to conflicts between labor and management; the enforcement of federal criminal law, especially in the areas of racketeering and the war against drugs; and the relationship between national and state power.¹

Establishment of the District Court of Ohio

The Judiciary Act of 1789 divided the nation into judicial districts and created federal courts for each district.² The act established “a system of lower federal courts, separated geographically by state boundaries and exercising basically the same jurisdiction; and reliance on state courts to handle the bulk of adjudication in the nation.”³ On Feb. 19, 1803, Congress passed an act organizing Ohio as a single judicial district (the District of Ohio) and authorized one judgeship for the U.S. District Court.⁴ Not being

assigned to a judicial circuit, the district court in Ohio was granted the same jurisdiction as U.S. circuit courts, except in appeals and writs of error, which fell within the jurisdiction of the Supreme Court.

The new court was to have a single presiding district judge paid the salary of \$1,000 per year. The judge was required to be a resident of the district and was to hold three sessions annually in Chillicothe, which Congress had previously designated as the seat of state government.⁵ As then-current congressional practice did not include passage of a resolution of statehood for new states,⁶ Congress did not formally admit Ohio as the 17th state. It was not until 1953 that President Dwight D. Eisenhower signed a congressional joint resolution officially declaring March 1, 1803—the date on which the Ohio General Assembly first convened⁷—as the date of Ohio’s admission into the union.⁸

To preside over the newly created district court, President Thomas Jefferson nominated, and the Senate later confirmed, Charles Willing Byrd as the district’s first judge.⁹ On June 6, 1803, the first meeting of the district court convened in Chillicothe. The District Court for the District of Ohio sat in a courtroom shared with both the local court of common pleas and the Ohio Supreme Court until 1820, when a new courthouse was built in the recently relocated state capital, Columbus.¹⁰ District court sessions were held there until the district was divided in 1855.

Originally, the U.S. District Court for the District of Ohio acted as both district court and circuit court for the state. In 1807,

Cincinnati Federal Courthouse: The Sixth Circuit's Seat of Court

Throughout its history, the Sixth Circuit has sat in Cincinnati, which is conveniently accessible from all parts of the circuit. The original federal courthouse in Cincinnati, which stood at the southwest corner of Fourth and Vine streets, was completed in 1857.

In 1885, Cincinnati's second federal courthouse was built on Fifth Street between Main and Walnut streets. The act authorizing the building's construction was signed by President Ulysses S. Grant in 1872, and the demolition of existing structures was completed in 1874. Excavating the foundation by hand took another year. Without modern power tools, the total construction time was just over 11 years, and the project's total cost exceeded \$5 million. The building housed 27 government departments, including the U.S. District Court and the U.S. Circuit Court of Appeals.

In the 1930s, growth of the federal government required another building to house the newly created offices providing services to the public. A decision was made to build the new courthouse on the site of the old one. Due to the robustness of the hand-built courthouse, it took workers over a year to demolish the old structure. Completed in 1939, the new Potter Stewart U.S. Courthouse was designed by Treasury Department architects to house the post office as well as the courts and other federal agencies. Upon completion, the building was occupied by 51 federal agencies. Again, in the 1950s, the need for more federal office space resulted in plans for another federal building to be built. The new federal building was completed on the northeast corner of Fifth and Main streets in 1964. Nonjudicial federal agencies also migrated to that building, now named the John Weld Peck Federal Building.

Today, the Potter Stewart U.S. Courthouse is occupied almost entirely by federal court offices. When the post office left in 1992, the major tenants became the U.S. Court of Appeals for the Sixth Circuit and the U.S. District Court for the Southern District of Ohio.¹

Endnote

¹"Potter Stewart U.S. Courthouse, Cincinnati, OH," *Historic Buildings*, U.S. GEN. SERVS. AGENCY, <http://www.gsa.gov/portal/ext/html/site/hb/category/25431/actionParameter/exploreByBuilding/buildingId/067> (last visited May 15, 2016).



Congress realized that growing populations in Ohio, Kentucky, and Tennessee necessitated the creation of a new circuit court. Congress created the Seventh Circuit, the first circuit west of the Appalachian Mountains, consisting of these three states.¹¹ Not until 1866, when Congress passed an act reorganizing the judicial circuits, was Ohio assigned to the Sixth Circuit.¹²

Establishment of the Northern and Southern Districts of Ohio

With population growth came increasing immigration, commerce, and industry. Lawyers, newspaper editors, and members of the Ohio bench and bar began to demand the creation of regional district courts.¹³ Legal professionals in Cincinnati and Cleveland, Ohio's two most populous cities in the 1850s, became resentful of Columbus' domination of the judicial landscape. Critics noted that lawyers and petitioners had to travel great distances to reach the center of the state, only to resolve legal disputes originating in either the Lake Erie region or from the Ohio River Valley.¹⁴ In December 1853, Sen. Salmon P. Chase of Cincinnati introduced a bill to Congress that would divide Ohio into two federal districts.¹⁵ Through politics and infighting, it took 14 months for Congress to pass the bill and for President Franklin Pierce to sign it.¹⁶

The new law created the Northern District of Ohio, consisting of the northern 47 counties, and the Southern District of Ohio, composed of the remaining 41 counties. (In 1915 Congress realigned the districts, leading to the current configuration of 40 counties in the Northern District and 48 in the Southern District.) The line of demarcation ran from Jefferson County in the east to Darke County in the west. President Pierce nominated Hiram V. Willson to be the new judge of the Northern District.¹⁷ Willson was well known in the northern legal arena as creator of one of the most successful law firms in Cleveland. He also ran for Congress in 1852, only to lose to his law partner, Edward Wade. Willson, who was also president of the Cleveland Bar Association, had traveled on many occasions to Washington, D.C., with other commissioners of Cleveland to lobby Congress for the division of the District Court of Ohio.¹⁸ Willson served the Northern District until his death from tuberculosis in 1866.

At the same time, President Pierce reassigned Judge Humphrey H. Leavitt, judge of the former District of Ohio, to be the judge for the Southern District. Judge Leavitt might best be known for denying a writ of habeas corpus for the release of Clement L. Vallandigham, who had been convicted by a military court for treasonable utterances attacking the Civil War effort in a speech given in 1863.¹⁹ Judge Leavitt upheld Vallandigham's arrest and military trial as a valid exercise of the president's war powers, which had been granted by Congress on March 3, 1863.²⁰ The case was upheld by the Supreme Court in 1864.²¹ Leavitt, who had originally been appointed to the former district court in 1834, presided over the newly created Southern District until resigning in 1871.²²

In 1878, the Northern District was divided into eastern and western divisions. The terms of court for the Western Division were to be held in Toledo and the Eastern Division in Cleveland.²³ Currently, the Northern District of Ohio's Eastern Division is authorized to hold court in Cleveland, Youngstown, and Akron, while the Western Division is authorized to hold court in Lima and Toledo.²⁴ In 1880, the Southern District of Ohio was divided into eastern and western divisions with an additional court location added in Columbus.²⁵ Currently, the Southern District of Ohio's Eastern Division is authorized to hold court in Columbus, St. Clairsville, and Steubenville, while

the Western Division is authorized to hold court in Cincinnati and Dayton.²⁶

As the state grew and additional district court locations were established, Congress authorized additional district judgeships. There are currently 11 authorized judgeships for the Northern District of Ohio, and eight authorized judgeships for the Southern District.²⁷ In addition to the active judges, a number of senior judges carry active caseloads, assisting the courts to effectively and efficiently administer justice in Ohio.

The district courts are ably led by their chief judges, the Hon. Solomon Oliver Jr. of the Northern District and the Hon. Edmund A. Sargus Jr. of the Southern District, who are assisted by their respective clerks of court, Geri M. Smith in Cleveland and Richard W. Nagel in Columbus.

In the 212-year span since a single federal judge sat in a small stone building in Chillicothe, the district courts of Ohio have grown to encompass 19 active judges, nine senior judges, and 15 magistrate judges sitting in 10 locations around the state.

[T]his docket of 100 years and more, these documents and events that tell the story and parallel the growth of Ohio from primitive backwoods—first diminutive and homely litigation, disputes over vast tracts of unsettled lands, doctrines of state-rights and judicial supremacy in the formative period of our government, a small criminal docket reflecting the local nature of people's activities and lives; next a period of financial

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growth and expansion when admiralty, bankruptcy, banking comes to the fore and the docket is replete with civil and criminal actions by government to collect constantly increasing and diversified taxes, cases reflecting the social upheaval and stresses of the Civil War; next the expansion of railroads with their claims on life and adjustment of capital, the growth and demands of labor organizations, the benefits and ills of industrial aggregates posing problems of government restraint and control; the calm before the storm of World War I with its seething mobilization, heightened loyalty, national integration, and injection of problems of another continent; the aftermath of thrust and turmoil in the Prohibition era; the repercussions of the Great Depression; the cataclysm of a second world conflict followed by the present colossal growth and spread of national governmental intervention into the most intimate phases of the economy and the life of the individual, and the attendant posing of new problems to the federal courts.²⁸

The U.S. District Courts of Ohio have provided a forum for citizens to resolve their disputes for more than 200 years. The district courts have been and continue to be an integral part of the federal judiciary, serving to counterbalance the executive and legislative branches of the federal government of the United States. ☉



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Endnotes

- ¹ROBERTA SUE ALEXANDER, *A PLACE OF RECOURSE: A HISTORY OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, 1803-2003*, 3-4 (Ohio University Press, 2005).
- ²Act of Sept. 24, 1789 (1 Stat. 73).
- ³RUSSELL WHEELER & CYNTHIA HARRISON, *CREATING THE FEDERAL JUDICIAL SYSTEM* (Federal Judicial Center, 3d ed. 2005).
- ⁴Act of Feb. 19, 1803 (2 Stat. 201).
- ⁵Act of May 7, 1800, § 6 (2 Stat. 59).
- ⁶The current custom of Congress declaring an official date of statehood did not begin until 1812, with Louisiana's admission as the 18th state.
- ⁷Joint Resolution for admitting the State of Ohio into the Union (Aug. 7, 1953) (67 Stat. 407).
- ⁸Frederick J. Blue, *The Date of Ohio Statehood*, OHIO ACAD. OF HISTORY NEWSL. 33 (2002), available at www.ohioacademyofhistory.org/wp-content/uploads/2009/12/OAH_2002_Aut.pdf (last visited May 11, 2016).
- ⁹*Journal of the Executive Proceedings of the Senate of the United States*, 7th Cong., 2d Sess., 447 (March 1, 1803).
- ¹⁰Irwin S. Rhodes, *The History of the United States District Court for the Southern District of Ohio*, 24 U. CIN. L. REV. 340 (Summer 1955).
- ¹¹Act of Feb. 24, 1807 (2 Stat. 420).
- ¹²Act of July 23, 1866 (14 Stat. 209).

- ¹³PAUL FINKELMAN & ROBERTA SUE ALEXANDER, *JUSTICE AND LEGAL CHANGE ON THE SHORES OF LAKE ERIE: A HISTORY OF THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO* 15 (Ohio University Press 2005).
- ¹⁴*Id.* at 15, citing Cleveland *The Plain Dealer*.
- ¹⁵*Journal of the Executive Proceedings of the Senate of the United States*, 33d Cong., 1st Sess., 59 (Dec. 21, 1853).
- ¹⁶Act of Feb. 10, 1855 (10 Stat. 604).
- ¹⁷Act of Mar. 4, 1915, 63 Stat. 1187.
- ¹⁸*Id.* at § 5.
- ¹⁹See Finkelman & Alexander *supra* n.13, at 16-17.
- ²⁰See Rhodes, *supra* n.10, at 347.
- ²¹Habeas Corpus Suspension Act (Mar. 8, 1863) (12 Stat. 755).
- ²²*Ex parte Vallandigham*, 68 U.S. (1 Wall.) 243 (1864).
- ²³"Biographical Directory of Federal Judges: Leavitt, Humphrey Howe," *History of the Federal Judiciary*, FEDERAL JUDICIAL CENTER, <http://www.fjc.gov/servlet/nGetInfo?jid=1360> (last visited May 11, 2016).
- ²⁴*Information About the Court*, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, www.ohnd.uscourts.gov/home/information-about-the-court (last visited May 11, 2016).
- ²⁵28 U.S. Code § 115(a).
- ²⁶Act of Feb. 4, 1880 (21 Stat. 63).
- ²⁷28 U.S. Code § 115(b).
- ²⁸"U.S. District Courts for the Districts of Ohio," *History of the Federal Judiciary*, FEDERAL JUDICIAL CENTER, www.fjc.gov/history/home.nsf/page/courts_district_oh.html (last visited May 11, 2016).
- ²⁹See Rhodes, *supra* n.10, at 353-54.

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