

## MINUTES

### The Historical Society of the United States Courts in the Eighth Circuit

#### Annual Meeting Minneapolis, Minnesota July 17, 2003

#### Directors present:

Court of Appeals:	Thomas H. Boyd
Eastern District of Arkansas:	Hon. William R Wilson, Jr. Frances Ross, Vice-President
Western District of Arkansas:	Hon. Jimm L. Hendren
Southern District of Iowa:	Hon. Ronald E. Longstaff F. Richard Lyford
District of Minnesota:	Hon. John R. Tunheim
Eastern District of Missouri:	Hon. E. Richard Webber Ann E. Buckley
District of Nebraska:	Hon. Richard G. Kopf, President
District of North Dakota:	M. Daniel Vogel
District of South Dakota:	Hon. Karen E. Schreier

#### Others in attendance:

Ann Fessenden, Secretary-Treasurer  
Hon. Richard W. Peterson, Ex-Officio Director  
Joan Stevens, Archives/Reference Librarian  
Guests:  
Hon. Edward L. Filippine, Eastern District of Missouri  
Dana C. McWay, Clerk of U.S. Bankruptcy Court, Eastern District of Missouri  
Joyce Larson Schampel, Minneapolis Librarian  
Isabel Levinson, Minnesota Branch Treasurer  
Margaret Dostal-Fell, former Secretary-Treasurer  
Veryl Riddle, Attorney, Eastern District of Missouri  
Neil Danberg, Attorney, Nebraska

Directors absent were Hon. Donald P. Lay (Court of Appeals), Katherine C. Gay (Western Arkansas), Hon. Mark W. Bennett (Northern Iowa), Eric W. Lam (Northern Iowa), Randall M. Tietjen (Minnesota), Hon. Ortrie D. Smith (Western Missouri), F. Russell Millin (Western Missouri), Mary Hewitt Jones (Nebraska), Hon. Dwight C.H. Kautzmann (North Dakota), and Mark F. Marshall (South Dakota).

## **Roll Call/Call to Order**

President of the Historical Society Judge Kopf called the meeting to order at 2:00 p.m. and took roll call.

Judge Kopf first called on Judge Peterson to describe the items he had brought for display at the Judicial Conference. Judge Peterson exhibited an album documenting the donation of a Victorian style conference table to the Southern District of Iowa, suggesting that an album can be an effective means of recording ceremonies. He also shared an abridged one-volume copy of *Blackstone's Commentaries* used by his father while attending Drake Law School. Judge Peterson plans to put the volume on display in the Des Moines courthouse along with an explanation of who Blackstone was and why the treatise is so important.

Judge Peterson also shared some articles covering a program in the First Circuit. As part of the Boston Federal Court Education Project, an 1854 trial testing the Fugitive Slave Act is reenacted regularly for students as an interactive play, *The Trial of Anthony Burns*, in Boston's John Joseph Moakley U.S. Courthouse.

Judge Filippine then gave an update on the Eastern District of Missouri's Learning Center. Those involved in the Center have been doing legal work, gathering opinions on codes of conduct, and researching how to recognize donations. They have formed a nonprofit Missouri corporation and expanded the board of directors to the district and circuit levels.

Judge Filippine also spoke on judges' papers. Having made arrangements for the donation of his chambers papers with the Missouri Historical Society within the last year, Judge Filippine is in the process of sorting through the 150 transfer cases of material he has accumulated in his 26 years on the bench. He described the weeding process as nightmarish. He contacted the Federal Judicial Center's History Office for guidance, and as a result, Judge Filippine will be working with Circuit Librarian Ann Fessenden and the FJC to develop guidelines not just for the Eastern District of Missouri but for all federal judges in the Eighth Circuit.

## **Secretary-Treasurer's Report**

Secretary-Treasurer Ann Fessenden introduced the minutes of the Historical Society's 2002 board meeting and the parent Society's 2003 treasurer's report. She noted that the parent Society's only expenses during the past year were standard expenditures such as postage. Both documents were approved by the board.

## **Report of Surveys on Funding and Structure**

Judge Kopf then gave the background for the Historical Society surveys conducted in February 2002, which were proposed by secretary-treasurer Ann Fessenden. The Historical Society was established as a 501(c)(3) nonprofit organization in 1985 with eleven branches, one for the Court of Appeals and each district in the Eighth Circuit, and two directors representing each branch. This structure allows a local branch to carry out work to preserve the history of its court. Today, some branches are active, and some are inactive. Judge Kopf noted that this is a problem in that the Society's reporting requirements call for each branch to submit activities and treasurer's reports annually.

He then asked Ann Fessenden to describe the surveys. Ms. Fessenden explained that there had been two surveys: one to the other circuits to find out what they were doing in terms of historical programs or societies to preserve their histories and one to the branches to find out how each was operating. There was a good response rate.

Ms. Fessenden reported what was learned from each survey. From the circuit survey, the Society learned that the Eighth Circuit is unique in having a branch for each district and that some of the other circuits use attorney admission funds to preserve history. From the branch survey, the Society learned at least three pieces of information: 1) Some branches have not really been able to function as membership organizations or sustain the level of activity originally envisioned during the creation of the present structure; 2) some branches were not familiar with their own sets of regulations (Ms. Fessenden noted that she was able to find regulations on file for each branch which had been established early on in the Society's existence); 3) some branches have used attorney admission funds.

Judge Kopf said that in examining the survey results, the executive committee, comprised of himself, vice president Frances Ross, secretary-treasurer Ann Fessenden and past presidents Tom Boyd and Judge Peterson, came up with the following ideas:

- 1) Structurally, it may make sense to have some branches declare themselves inactive so as to not have to maintain the facade of being active branches.
- 2) It is hard to develop projects without a consistent form of seed money from a source such as the attorney admission fee funds. (The term used to describe these funds varies by jurisdiction. Some refer to them as attorney admission fee funds, while others call them library funds or federal practice funds. Hereafter in this document, the terms "attorney admission fee fund" or "attorney admission fund" will be used.)

Judge Kopf then asked each member of the executive committee to comment on these ideas.

Ms. Ross agreed with the premises and said it would be very helpful for the branches to have seed money.

Mr. Boyd commented that the surveys were a worthwhile process in that it allowed the Society to find out what the branches and other circuits are doing. He also said the two proposed resolutions were probably the most important steps in the history of the Society. In response to the first idea, Mr. Boyd expressed concern about branches going inactive. He pointed out that no local activity may result in no activity at any level. He felt it was constructive, however, to consider both proposals.

Judge Peterson echoed Mr. Boyd's concern at the prospect of inactive branches. He especially thought that, if the attorney admission fund proposal passed, the branches should first be given an opportunity to try to be more active with increased funding.

Ms. Fessenden commented that the basis for the inactive branch idea was that it was very difficult to get reports from some branches, and some districts were too small to form membership organizations. Ms. Fessenden said she felt the attorney admission funding would be very good for the Society, and noted that precedent had been set at the circuit level as the Court of Appeals had always been supportive in this respect.

Judge Kopf said that he was a member of the Judicial Council and reported that Judge Morris Sheppard Arnold had presented the attorney admission fund idea at the Judicial Council meeting the day before. He said that no approval was sought or given. He conveyed that it would be up to each district and the circuit court to decide whether to contribute. He noted that there was no opposition expressed at the Judicial Council.

## **Resolutions on Funding and Structure**

President Kopf then introduced the Historical Society's proposed resolutions.

Resolution One concerned establishing annual contributions to the Historical Society from the attorney admission funds of the various federal courts in the circuit.

Resolution Two concerned structure in terms of allowing a branch to be declared inactive. Miscellaneous provisions in proposed Resolution Two called for:

- reducing the requirement to meet from annual to biennial;
- decreasing the number required for a meeting quorum from a majority to 25 percent;
- eliminating the requirement that one of the two board of directors members for a branch be a United States judge;
- allowing electronic notices and waiver of notices.

Following introduction of the proposed resolutions there was a wide ranging discussion, and a few key points emerged:

- concern that branches should not take an "inactive" status at least until the outcome of the efforts to get attorney admission fee funding is known;
- concern that judges need to continue to be members of the board of directors;
- concern that the proposed \$3,000 would be too much for branches whose districts have a small number of attorneys practicing in federal court;
- need for branches to have definite plans/proposals when requesting funding;
- that the most important part of Resolution One was providing a sustained means of funding, even if the amount is less than the proposed \$3,000;
- that Resolution One also was not intended to cap \$3,000 as a ceiling if more money is needed for a particular project.

The following actions were taken on the resolutions: Judge Hendren suggested removing the language eliminating the requirement that a judge from each branch be on the board. Mr. Vogel seconded this. Ms. Buckley suggested striking the language allowing inactive branches, and Judge Schreier seconded the motion.

The secretary confirmed that a quorum was present; then the resolutions were voted upon.

Resolution One, with language allowing inactive branches stricken (last sentences in paragraphs numbered one and two), was adopted. This resolution encouraged each court to annually contribute from its attorney admission fee fund, library fund, or federal practice fund such sum as may be deemed appropriate by the court to support the historical preservation efforts of the local branch. Everyone agreed that it would be appropriate for each such court to request from its branch a proposal describing how the money would be used, including a budget. The sum of \$3,000 per year was suggested with the understanding that the amount of any contribution would be determined by the court. The Society is hopeful that some courts will contribute more to their branch just as they are aware that some courts can only contribute less.

Resolution Two passed in part and was tabled in part. The portions allowing branches to be declared "inactive" were tabled, while several miscellaneous portions were adopted. The following sections passed, and all other proposed amendments to the Bylaws were tabled:

Page 7, section 3, amending meeting requirements to "at least every two years;"

Page 9, section 4 (f), striking the requirement to announce special meetings either personally or by mail or telegram, thereby not specifying the means that must be used;

Page 9, section 4 (g), reducing the meeting quorum to 25 percent;

Page 9, section 5 (a), providing for electronic notice;

Page 10, section 5 (b), striking the requirement to receive waiver of notice in writing and signed.

(Please see attached proposed resolutions.)

## **Report of Nominations Committee and Election of Officers**

President Kopf asked Mr. Boyd to present the nominations committee's recommendations for the 2003-2005 officers. Mr. Boyd reported that the committee, comprised of Judge Peterson, Ms. Fessenden, and himself, recommended the current officers continue, thereby nominating Judge Kopf as president, Frances Ross as vice president, and Ann Fessenden as secretary-treasurer. He noted that Ms. Fessenden had abstained with respect to her nomination. A motion was made to elect the nominated slate and passed, with Judge Kopf abstaining.

## **Reports from Branches**

Judge Kopf then invited those board members who wished to report for their branches to do so.

### *Court of Appeals*

Tom Boyd reported that he had just received the seventh draft, a newly shortened manuscript, of the history of the Eighth Circuit from Professor Jeffrey Morris. When the draft is finalized, the branch will have the history published by a university press. Judge Webber asked what source of funding was used to accomplish the court history, and Mr. Boyd replied that some money had been approved from the attorney admission fee fund, though the branch is also doing some private fund raising.

Mr. Boyd also reported on the fourth annual John F. Dillon award, a history essay contest at the University of Iowa College of Law, co-sponsored by the Appeals branch and the John F. Dillon Inn of Court of Davenport, Iowa. He said the branch is looking for a co-sponsor to develop a history essay contest at another school.

### *Eastern and Western Districts of Arkansas*

Frances Ross reported having collected more biographical essays for the Eastern and Western Districts of Arkansas. She said that the essays are being written by various contributors, with publication being the ultimate goal.

### *Southern District of Iowa*

Judge Longstaff reported that the Southern District of Iowa branch had just created a poster depicting federal courthouses currently in use in the Eighth Circuit. This project, headed by Judge Celeste Bremer, cost \$7,000 to make and another \$750 for copyright permission to use some of the photos. He said the poster was on display and for sale at the conference for only \$25, including the tube housing the poster and shipping.

### *Minnesota*

Judge Tunheim asked everyone to take a look at the display in the conference lobby honoring the late U.S. District Judge Earl R. Larson. The display was funded by the District of Minnesota and prepared by the Minnesota Historical Society. It was the first time the District had hired a professional to create a permanent display.

Ms. Fessenden added that there were several displays available in the Historical Society display area of the Judicial Conference this year. The Minnesota branch, which organized the displays, had laptops featuring historical information related to the District of Minnesota. The North Dakota branch had material on outreach activities and the Burdick Learning Center. The Southern District of Iowa featured the materials previously described by Judge Peterson. In addition, the U.S. Courts Library, St. Louis, created a display honoring the conference's guest speaker, Judge William H. Webster.

#### *Eastern District of Missouri*

Earlier in the meeting Judge Filippine had reported on the progress with the Learning Center in the Thomas F. Eagleton U.S. Courthouse in St. Louis.

#### *Nebraska*

Judge Kopf reported that the Nebraska branch is working with Professor John Wunder on the written history of the District of Nebraska. Like the Court of Appeals, the Nebraska branch is having problems with length. Prof. Wunder has said the history may need to consist of two volumes.

Dana McWay applauded the Nebraska branch for their involvement in Nebraska History Day and asked how this came about. Judge Kopf explained that they worked with an association of secondary education teachers to sponsor an essay contest honoring Judge Van Pelt. They offered high school students doing projects related to history a \$100 prize. The winner was selected by James Hewitt, a member of the Nebraska branch who just earned his doctorate in history. The winning entry consisted of videotaped interviews of lawyers involved in a Nebraska case that went to the Supreme Court.

### **Adjournment**

President Kopf asked if anyone had any other comments, and, as there were none, he wrapped up the meeting by thanking everyone for participating in the meeting and extended a special thanks to Ann Fessenden and Joan Stevens for all their efforts in Historical Society operations. Ms. Fessenden in turn thanked the Judge for his very considerable contributions as president.

A motion was made to adjourn the Historical Society board meeting. The motion was seconded, and the meeting was adjourned at approximately 3:30 p.m.

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Ann T. Fessenden,  
Secretary-Treasurer

Approved:

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Hon. Richard G. Kopf,  
President