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The Ohio Merit Plan

**RECORDS RELATING TO EFFORTS TO
CHANGE THE JUDICIAL ARTICLE OF THE
OHIO CONSTITUTION**

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THE OHIO MERIT PLAN

RECORDS RELATING TO EFFORTS TO CHANGE THE JUDICIAL ARTICLE OF THE OHIO CONSTITUTION

FOREWORD

The outlines which follow summarize data, studies, correspondence, clippings and general material relating particularly to the 1987 campaign for adoption, by initiative petition, of an amendment to the Ohio Constitution changing the way Ohio judges are selected. Since 1952, I have been associated with the efforts of the Ohio State Bar Association and various other organizations with which it has coalesced to adopt the "Merit Plan" of judicial selection, sometimes referred to by its advocates as the "Missouri Plan" and by its detractors as "an un-American scheme to take away the people's right to vote." The voters of Ohio, strongly encouraged by a state wide television campaign financed largely by the AFL-CIO, apparently accepted the latter characterization when they defeated the issue at the polls in November, 1987 by a 2 to 1 margin.

The Association's efforts antedate my own by at least fifteen years. Ironically, the defeat of the Merit Plan at the polls in 1938 was essentially by the same overwhelming margin as the 1987 defeat. The records which I have retained extend back to the early sixties and these outlines cover what records I have of a long series of efforts, in which I was involved, to put the issue on the ballot by legislative action, an initiative petition effort in 1979 (which fell short of signatures) and efforts to adopt related reforms in the Ohio judicial selection process. The latter include the successful 1968 Modern Courts amendment and the 1972 Executive Order by which Governor John J. Gilligan established voluntary nominating councils to recommend appointments to fill judicial vacancies. Thus, although the most current material relates to the period 1986-1987, the other material going back to 1962 can be regarded as relating to precursors of the 1987 campaign.

Those materials which relate to the 1987 campaign are organized in a manner which I found most useful for ready reference during the hectic days of the campaign itself. They apply to almost every aspect: the initial planning for a campaign to obtain the necessary signatures; the first fund raising efforts; the hiring of an administrative staff; the drafting of the constitutional amendment itself; the drafting of the initiative petitions; the organization of the citizens' committee, executive committee and steering committee; the hiring of a signature-gathering firm; the hiring of professional campaign and public

relations consultants; the intensified efforts to raise funds from lawyers, other individuals and corporate donors; the gathering of endorsements; the cataloguing of opposition arguments, opposition efforts and responses thereto; the collection of data from other states utilizing merit selection in one form or another; efforts (however hopeless) to win the support of the political parties and individual politicians; efforts to utilize foundation money for research efforts relating to judicial selection methods; collections of material used in speechmaking; letters to the editors of newspapers; presentations to editorial boards; articles for bar publications; and a multitude of miscellaneous matters.

Most of this material relates to my personal participation in these efforts. There were, of course, similar activities by other Ohio lawyers. To the extent that their records have been organized and retained, they should be consulted to round out the story. Notable among them are William K. Weisenberg, legislative affairs director of the Ohio State Bar Association, who was the principal Association official involved in the campaign; Jack R. Alton, Esq., of Columbus, who was chairman of the Association's Modern Courts Committee during the campaign; and William W. Milligan, Esq., of Columbus, who was not only extremely active in the 1987 campaign, but who has been active in merit selection efforts as long or longer than I have been. Leslie Jacobs, Esq., of Cleveland, was President of the Ohio State Bar Association during the campaign, played a very active role in the campaign and, no doubt, has accumulated records relating to his participation. The materials accumulated in the Columbus campaign office under the direction of Bill Weisenberg were handled in large part by Mrs. David (Terry) McCoy, of Columbus, who served as Weisenberg's principal staff assistant. To the extent they have been preserved, the Ohio Bar Center in Columbus is the likely repository. Earl F. Morris, Esq., of Columbus, has, for more years than anyone now alive, been active in the merit plan effort and during the 1987 campaign was principally involved in corporate fund raising and participation on the Executive Committee.

There were, of course, lay persons, especially those active in the coalition organizations, who played a very important part in the campaign, who would be ready sources of information, notably Diana Winterhalter, President of the League of Women Voters at the time of the campaign.

The campaign consultants, Mr. Kent McGough and Bradley Long, of McGough and Associates in Columbus; Mr. David Milenthal and Robert Tennenbaum, of Hameroff/Milenthal/Spence/Grey, in Columbus, were retained to develop overall campaign strategy and publicity, on a professional consulting basis.

The materials are replete with the names of other individuals and organizations who were active in one capacity or another. For example, Professor Robert Martineau, of the University of Cincinnati College of Law, chaired the committee which drafted the

language, and was himself the principal draftsman, of the constitutional amendment and initiative petition.

It would be hard for others to imagine my gratitude to Mrs. Taylor Fitchett, Librarian of the University of Cincinnati College of Law, for her willing cooperation in preserving the records here summarized in the College archives. Moreover, without the assistance of James Englert, a student in the College of Law, they would not have been assembled, organized, labeled and indexed in a manner which should facilitate future reference. I greatly appreciate Mr. Englert's help and the funding provided by the Ohio State Bar Association Foundation.

Finally, it is my hope and belief (however unlikely it may seem to others at this time) that the subject of merit selection of judges will recur in Ohio. In anticipation of that reprise, I believe that the preservation of these records will be well worth the effort - even at a time when as campaign-weary participants we would have preferred to put the subject of judicial selection as far behind us as possible.

Bruce I. Petrie

Cincinnati, Ohio
August, 1988

FOREWORD TO THE 1995 ADDITIONS

NEWMAN v. VOINOVICH

The defeat of the Merit Plan Initiative in 1987, by essentially the same 2 to 1 majority by which a similar plan had been defeated in 1938, was, to put it mildly, discouraging.

Until one has been actively involved in a statewide campaign to change, in a drastic way, a fundamental provision of a state's constitution (especially Ohio's!), it is hard to imagine the demands it makes on one's time, energy, money and emotional equilibrium.

The fact that Merit Selection was defeated in a campaign that relied heavily on a television message, financed exclusively by the AFL-CIO, "Don't let them take away your right to vote," simply added to the frustration and convinced many of us that we would never again waste our time, money and energy in trying to bring reforms to Ohio citizens, whose voting decisions seemed to depend on thirty-second bursts of light and sound, carefully composed by highly paid spin-doctors, and shot into living rooms between dinner and bed time. In a word, much of the initiative campaign had been "mindless" - a phenomenon as troublesome as the defeat itself.

It was about 1991 when Bob Newman, a Cincinnati lawyer who had taken on, courageously, many pro bono public issue causes, called to inquire if I had considered the application of the Supreme Court's decision in Rutan v. Republican Party of Illinois to the Merit Selection cause. I told him I had not only not considered but was unaware of Rutan. But a hasty reading of it confirmed the important relevance which Bob had noticed. In Rutan, the Supreme Court, building on Elrod v. Burns (1976) and Branti v. Finkel (1980), held that political patronage hiring, as well as firing, was proscribed by the First Amendment. The Court also confirmed the "political-affiliation" test, effectively replacing the "policy-making" test, with respect to exceptions from the basic rule.

Anyone with even a mild interest in Hamilton County politics is well aware that virtually all judicial vacancies in our county, not to mention the eighty-seven other counties in Ohio, are filled by gubernatorial appointments in which political affiliation and partisan service are the most important credentials, the other credentials being the ability to get elected after appointment, and professional ability at least adequate to minimize overt embarrassment to the Party.

To test our thoughts regarding the application of Rutan to the practices of the Ohio Governor in making judicial appointments, we enlisted the help of Prof. Michael Solimine of the U.C. College of Law who, after a lengthy study, opined that indeed a strong argument could be made that Rutan extended to partisan political appointments to fill judicial vacancies by Ohio governors.

Shortly after Prof. Solimine's report was issued, there was a public announcement that Judge Norman Murdock of the Hamilton County Common Pleas Court would be resigning several months hence and that the local Republican leadership was considering whom to recommend to the Governor as his replacement. This situation offered the opportunity to test our ideas about Rutan.

After a lengthy but unsuccessful search to find counsel who would represent Newman against the Governor, I undertook that task myself. We drew Hon. George Smith, U.S. District Judge in Columbus, Ohio, who ordered a prompt hearing on our motion for a preliminary injunction, allowing just two days for depositions. Thus began the extensive effort described in the Newman v. Voinovich documents. The disappointing denouement is summarized in my article which appeared in the University of Toledo Law Review, Vol. 25 Number 3, "A Tale of Two Tests: The Sixth Circuit and Patronage Appointment of Judges."

It remains to be seen whether the disappointment, not to say disgust, which is apparent in the article, will eventually be assuaged by some courageous Judge who decides that it is time to convert into reality the lip-service now given to the desirability of an independent judiciary.

Bruce I. Petrie

MALLORY v. EYRICH

My involvement in Mallory was only peripheral - the result of a last minute call from Rev. Duane Holm, Director of the Metropolitan Area Religious Coalition of Cincinnati (MARCC) which had been following the attempts by the Democratic Party of Hamilton County to force the election of Municipal Court judges by geographical districts rather than by the county at large. The litigation was led by William Mallory, a notable Black politician who saw district elections as insuring the election of more Black judges - a cause which MARCC would normally support.

But the use of districts has side effects not so desirable, such as further politicizing the judicial process, not to mention the tendency to encourage Blacks to remain in particular neighborhoods rather than to disperse throughout the community.

With the help of an ancient fax machine in my Michigan cottage, I managed to meet the deadline for filing an amicus brief on MARCC's behalf in the District Court in Cincinnati. I later was given the opportunity to make a short appearance, when the Court was considering a remedy to implement its decision that some relief was appropriate, arguing, as I had in my brief, that nominating commissions and related appointment techniques would give Blacks fair opportunities for judicial office without the destructive aspects of districting.

To make a very long story short, the Court was more interested in adopting a conventional response to Black complaints about discrimination rather than an innovative method of satisfying those grievances which simultaneously avoided further politicizing of the Courts. Among the sequela to all this was the election of William Mallory's son to a Municipal Court judgeship.

Bruce I. Petrie

Governor's Council on Judicial Selection (1972 through 1974) and Background Materials

File Headings:

[Drawer 1] AJS Conference - Ohio (1963)

 AJS Conference - Indiana (1964)

 AJS Conference - Pennsylvania (1964)

 AJS Conference - Michigan (1967)

 Ohio Constitutional Revision Commission - 1970-1977 Final Report

 Ohio Constitutional Revision Commission - Recommendations for Amendments, Part 10, Judiciary

 Handbook for Members of Judiciary Committee

 American Judicature Society - GCJS

 Completed Recommendations - GCJS

 Forms - Not Ohio - GCJS

 Ohio Forms - GCJS

 Miscellaneous Correspondence - GCJS

 Manual - GCJS

 Ohio Bar Article

 Voluntary Plan - Governor Gilligan

 Operating Rules

 Black binder relating to Executive Order Granting - GCJS

Executive Order Creating - G.C.J.S.

Nominating Councils

Nominating Councils Miscellaneous

First Appellate District Vacancies (1972-1973)

Institute Miscellaneous

G.C.J.S. Institute

Judicial Nominating Councils Workshop (1972)

Workshop

Institute Manual Contents

Nominating Council's Publicity

Voluntary Plan Data

Nancy Cassidy

Judicial Nominating Administration

Constitutional Revision Commission)

) 2 files with same name

Constitutional Revision Commission)

[Drawer 2]

Florida Judicial Nominating Commissioner's Institute - Miscellaneous Travel Info

American Judicature Society National Conference on Judicial Selection and Tenure

Modern Courts Committee Speaking Data

Modern Courts Committee Task Force

Miscellaneous printed materials (1972)

General Materials on Judicial Selection and Tenure

Cincinnati Association Study - Campaign Expenditures (810.01)

Cincinnati Association Study - CBA Ratings of Candidates
(810.02)

Cincinnati Association Study - Court Study Papers (810.03)

Cincinnati Association Study - Followup (810.04)

Cincinnati Association Study - General (810.05)

Cincinnati Association Study - Judges' Questionnaire (810.06)

Cincinnati Association Study - Judicial Salaries (810.07)

Cincinnati Association Study - Judicial Study (810.08)

Cincinnati Association Study - Miscellaneous, M. Davis (810.09)

Cincinnati Association Study - Papers (810.10)

Cincinnati Association Study - Poll of Registered Voters (810.11)

1972 Governor's Council (820.00)

Modern Courts Committee and Merit Plan (1977 through 1979)

File Headings:

Ohio Omnibus Study Analysis - Merit Plan 1979

Bruce Petrie - Atlanta AJS Board, 1979

Merit Plan - Ketchem, Inc.

Modern Courts Committee - Printed Pieces

Merit Plan 1979 - Don W. Montgomery

Fiocca, John A., Jr.

Modern Courts Committee Recruitment Staff

Merit Plan 1979 - Chris Clark, Steve Patsfall, Larry Siemer

Merit Plan 1979 - Law Schools

Modern Courts - David Frank

Citizens Council - Planning - 1978

Initiative Campaign - Planning 1978

Modern Courts - Miscellaneous 1978

Modern Courts 1977 Legislation

[Drawer 3] Modern Courts Constitutional Revision Commission

Merit Plan 1979 - Ohio Materials for Argument

Merit Plan Materials - Miscellaneous for Argument

Merit Plan 1979 - Nationwide Materials for Argument

Merit Plan 1979 - Judicial Conference Letter to Judges

Merit Plan 1979 - Markus Supreme Court Race

Merit Plan 1979 - Opponents' Arguments Against

Judicial Selection Printed Materials - Ohio

Judicial Selection Printed Material - Local

Judicial Selection Printed Material - National

Merit Plan 1979 - Cincinnati Post

Modern Courts - Cincinnati Enquirer

Merit Plan 1979 - Radio

Merit Plan 1979 - Report to Executive Committee OSBA - Sept.1979

Modern Courts Committee - 1975

Modern Courts Committee - 1975

HJR - 1986, etc.

Modern Courts Committee - Correspondence: John Pinney

Modern Courts Committee Grading - John Pinney

Modern Courts Committee SJR No. 6, 1977, Senate Judiciary Committee

Modern Courts - Woodle Proposal - 1977

Modern Courts - Business Support

Modern Courts - Miscellaneous 1977

Modern Courts Committee HJR 100

Governor's Council on Judicial Selection LEAA Fund Application 1974

Modern Courts Committee LEAA - 1977

Modern Courts Committee Speaking Dates through 1970

Modern Courts Committee 1974

Modern Courts Committee Initiative - 1976

Cincinnati Bar Association Article for Journal - 1973

Judicial Selection Materials published 1973-1974

Modern Courts Committee Meetings - March 3 and 4, 1978

Modern Courts Committee - 1976-1977

Speeches and materials - 1979 through 1981

Merit Plan Audio Cassettes

Modern Courts 1977 Poll, etc. - Cincinnati

Miscellaneous Materials 1957-1977

Merit Plan 1979 - Bulk Mailing Supplies

[Drawer 4] Public Opinion Surveys

Ohio Omnibus Study Data - 1979

Ohio Omnibus Study Analysis - 1979

Constitutional Provision - Drafting - Modern Courts

1975 - IRC Deductibility - Modern Courts Commission

Testimonials Lowell Thomas (1979)

Incorporation - 1979 - Ohioans for Merit Selection

Modern Courts Steering Committee Meetings

Ohio Courts Institute (1979)

1979 Legislative Efforts

Modern Courts Foundation

Reporting Requirements (1979)

Corporate Giving - Legality (1979)

Merit Plan 1982 - Executive Committee Seasongood Fund

Merit Plan 1979 - Petitions (Statewide Effort)

Sample Letters of Mass Mailings - Merit Plan Campaign (1979)

Merit Plan 1979 - Other Ballot Issues

Modern Courts - Columbus Committee (1981)

Merit Plan 1980 - Cleveland

Modern Courts - Cleveland

Modern Courts - Fundraising

Ohio State Bar Association - Centennial Meeting (May 1980)

Modern Courts Budget and Funds

Modern Courts Labor Support

Merit Plan 1979 Religious Community

Merit Plan 1979 Fraternal Order of Police

Merit Plan 1979 Ohio Academy of Trial Lawyers

Merit Plan 1979 American Association of University Women

Modern Courts Committee - League of Women Voters

Merit Plan 1979 Cincinnati League of Women Voters

Merit Plan 1979 - Women's City Club

Merit Plan 1979 - Columbus Jaycees

Merit Plan 1979 - Miscellaneous Support

Modern Courts - Ohio PTA

Merit Plan 1979 - Democrats

Modern Courts Charter Endorsement

Merit Plan 1979 - Cincinnati Laymen

Merit Plan 1979 - Seasingood GG Fund

Merit Plan 1979 Miscellaneous Correspondence

Merit Plan 1979 - Hamilton County Petitions

Merit Plan 1979 - Athens County

Merit Plan 1979 - Clermont County

Merit Plan 1979 - Clinton County

Merit Plan 1979 - Hamilton

Merit Plan 1979 - Lorain County - Elyria

Merit Plan 1979 - Marion County

Merit Plan 1979 - Warren County

Merit Plan 1979 Washington County (Marietta)

Modern Courts 1977 Poll - Middletown

Merit Plan 1979 - BIP calls - P&G, Eagle-Picher, LeBlond, Federated, Cincinnati Bell

Merit Plan - Feb. 28, 1979 Luncheon

Modern Courts Committee - Akron

Merit Plan - Cincinnati

Merit Plan 1979 - Canton

Modern Courts - Columbus

Merit Plan 1979 - Dayton

Modern Courts Committee - Toledo

Modern Courts - OSBA Executive Committee

Black binder entitled "Fund Raising Cincinnati"

Merit Plan 1979 - Bill Ahlstrom

Modern Courts - Merit Plan 1979 - Media Costs, Etc.

Merit Plan 1979 - Sive & Associates

Merit Plan 1979 - Bailey Deardourff & Assoc., Inc.

Merit Plan - 1978-1979 - Newspapers

Merit Plan Initiative Campaign 1979 - Report to OSBA Executive Committee

Merit Plan 1979 - Initiative Petitions - Filing of Master Petition

Merit Plan Speech Outlines - 1976-1977

Merit Plan Publications and Forms -1979

Merit Plan 1979 - September Wrap-Up, Analyses, and Future Planning (1980-1981)

Merit Plan - Newspaper Clippings (1980)

Wright Supreme Court Campaign Committee Finance Report (1985)

1987 Campaign
Merit Selection of Judges

I. Organization and Administration

101.00 Administration

101.10 Administration: Mrs. Holzapfel

101.20 Administration: Mrs. McCoy

101.30 Administration: Blythe Satogata

102.00 Ballot Date Issue

102.01 Campaign Consultants

102.011 Campaign Consultants: Phase Two

102.012 Campaign Consultants: Unsuccessful Proposals

102.013 Campaign Consultants: Fact Book

102.02 Campaign Financial Data

102.03 Campaign Expenditures: Reporting Requirements

103.00 Fiocca Legal Opinions

104.00 Incorporation

105.00 Law: Petition Initiative

106.00 Ballot Language

107.00 Modern Courts Committee

108.00 OSBA Council of Delegates

- 108.01 Public Opinion Polling
- 108.02 Signature Gathering
- 108.03 Signature Gathering: Weinkam - CBA
- 108.04 Petition Crisis
 - 108.041 Petition Crisis: Legal Action
- 108.05 CBS Temporary Services
- 109.00 Steering Committee
- 110.00 County Campaign Coordinators
- 111.00 Administration: Ann Bunis

101.00 Administration

- Letter delegation of authority
- Letter from Leslie Jacobs to Bill Weisenberg 5/8/87
- Necessity for immediate plan for more signatures plus regular monthly financial reports

101.10 Administration: Mrs. Holzapfel

101.20 : Mrs. McCoy

101.30 : Blythe Satogata

101.40 : Jim Englert

102.00 Ballot Date Issue. File contains correspondence over best date to present issue on ballot: either the May, 1987 primary election or the November general election.

- Opinions from Secretary of State that an amendment to Ohio Constitution may not be presented at a primary election ("regular election" specified in Constitution does not encompass primary election.)

102.01 Campaign Consultants

Consultants were used in two phases of the campaign:

- 1) the petition initiative to collect signatures;
- 2) campaign management and public relations. This file contains
 - correspondence from 1984/85, planning for campaign
 - Craig/Krakhoff `s Phase I proposal for signature-gathering.
 - Contract (and drafts) of agreement with Craig/Krakhoff for collection of signatures

102.011 Campaign Consultants: Phase II

This file contains:

- The solicitation and selection of consultants for the management and public relations of the campaign itself. Contract awarded to McGough & Associates, with Hameroff/Milenthal/Spence/Grey, Inc. handling public relations
- The proposal of McGough & Associates, with sub-sequent correspondence and meetings with McGough

102.012 Campaign Consultants: Unsuccessful Proposals

This file contains:

- Proposals from consultants who were not awarded the contract: Paul Werth & Associates, Inc.; Craig, Krakhoff & Co.

102.013 Campaign Consultants - Fact Book

This file contains:

- The Merit Selection Factbook and materials relating to its preparation by public relations consultant Hameroff/Millenthal/Spence, Inc.

102.02 Campaign Financial Data

- Financial Report: Cash Basis
(2 Reports: 1/1/87-4/6/87 and 4/7/87-6/11/87)

102.03 Campaign Expenditures: Reporting Requirements

103.00 Fiocca Legal Opinions

Legal opinion relating to financial contributions, committee organization and ballot language

104.00 Incorporation

File contains:

- Articles of Incorporation, Committee for Merit Selection of Judges

105.00 Law: Petition Initiative

File contains:

- Statutes, cases, opinions collected for 1979 petition initiative
- Statutes and opinions collected in 1986
- Law relating to petition crisis, September 1987 when Secretary of State Brown found a deficiency of 29,000 signatures necessary for the petition
- Action filed against Secretary of State seeking writs ordering him to accept signatures mailed before deadline, but which, because of intervening weekend, could not have reached him before deadline of Monday, 9 Sept. 1987
- Protests filed in Summit, Franklin and Cuyahoga counties resulting in validation of portion of previously-held invalid signatures

106.00 Ballot Language

File contains all materials relating to drafting of what would become Issue 3. Principal drafter was Professor Robert Martineau, College of Law, University of Cincinnati. Materials arranged chronologically.

12/84 - 2/85 Correspondence, phone calls between Bruce Petrie, Robert Martineau and George Palmer; Amendments to 1979 petition language

2/4/85 Draft of new section to: The Martineau Plan for Selecting Commissioners

4/4/85 From American Judicature Society: Model Judicial Selection Provision

7/23/85 Text of Joint Resolution Ohio General Assembly, to present a new judicial selection system in 1987 election

8/9/85 Resolution of Illinois General Assembly (3/27/85) for proposed judicial selection amendment at next election

5/21/85-11/85 Correspondence between members of Modern Courts Committee re drafting language. Contains successive drafts of Constitutional Amendment.

2/1/86 Revised Text of Ohio General Assembly Resolution on new judicial selection system

3/3/86-6/13/86 Comparison of language in General Assembly Resolution and Modern Court Committee's proposed Amendment

6/5/86 Semi-final version of Modern Court Committee's Draft

6/12/86 Further revisions; final draft of

- 6/25/86 Modern Court Committee's proposal; text of proposed Initiative Petition

- 8/7/86 The Initiative Petition, as certified by Attorney General

107.00 Modern Courts Committee

- March 1984 meeting to discuss effort to put issue on ballot
- Agenda and/or minutes of meetings 1985-1987

108.00 OSBA Council of Delegates

- Meeting (10/9/85) to discuss Merit Plan draft
- Roster of delegates (1985)
- Meeting of Council (11/85) approving Merit Plan
- Reports of various 1986 activities

108.01 Public Opinion Polling

- Publicity Brochure: Ohio Poll, Institute for Policy Research, University of Cincinnati
- correspondence (January, February 1986) arranging survey with Alfred Tuchfarber
- preliminary and final reports (March 1985) of Ohio Poll on Merit Selection. Survey found 64% of respondents in favor; support fell slightly to 59% after respondents were informed about merit selection
- speculation from 1985-1987 about how to use plan

108.02 Signature Gathering

- materials relating to '86 gubernatorial election returns on which petition signature requirement (10% of gubernatorial vote) is based
- grass roots signature collection
- Craig-Krakoff materials, including Final Report on Petition Drive (April, 1987 - pre-crisis)

108.03 Signature Gathering - Weinkam - CBA

- effort to enlist lawyers to fill petitions

108.04 Petition Crisis

- Secretary of State rules that 30,000 additional signatures are needed (Sept. 1987) and must be collected in 10 days
- File contains notes for emergency plan to collect more signatures
- list of volunteers who filed additional signatures during crisis period

108.041 Petition Crisis - Legal Action

108.05 CBS Temporary Services

- invoices to cover emergency service during petition crisis

109.00 Steering Committee (Executive Committee)

- meetings for 1986-1987, materials arranged chronologically

110.00 Administration: County Campaign Coordination

- lists of names to head up county-by-county grass roots effort

111.00 Administration: Ann Bunis

- Ann Bunis secured testimonials from LWV Presidents in 10 states which have Merit Selection and prepared a pamphlet. File contains preparation materials and mock-ups for pamphlets

II. Campaign Support

210.00 Bar Association Support: OSBA and Local Bars

220.00 Cincinnati Association Support

230.00 Coalition Building

239.00 Judges - Letter to

240.00 Judicial Support

240.001 Justice Herbert Brown

240.01 Justice A. Douglas

240.02 Judge Joyce J. George

240.03 Justice Robert Holmes

240.04 Justice Tom Moyer

240.05 Judge Alan Norris

240.06 Justice Craig Wright

250.00 Regional Support

260.00 Support: Other

261.00 Support: Black Community

262.00 Support: Ohio Chamber of Commerce

II. CAMPAIGN SUPPORT

210.00 Bar Association Support: OSBA and Local Bars

- OSBA: Letters and meetings with Gov. Celeste
- Stark Co. Bar: articles pro and con in Bar Journal
- Clermont County Bar: listing of Bar officers; BIP presentation to Bar; failure of Bar to adopt resolution endorsing merit plan
- Columbus Bar: formal endorsement and financial backing
- Dayton Bar: efforts to get Bar to endorse; letter from Dean of U.D. Law School; endorsement by Dayton Bar
- Cincinnati Bar: formal resolution of endorsement
- Lake County Bar: Articles by Judges Milnovitch and Avellone in Bar publication opposing merit selection; reply by BIP; Resolution of Bar in endorsement
- Toledo Bar: BIP inquiry into endorsement by Toledo Bar
- Wayne County Bar: Acknowledgement of Resolution
- Letter sent to all Ohio Bars seeking support

220.00 Cincinnati Assn. Support

- Inquiry into possibility of presentation in 1986
- 1987 presentations

230.00 Coalition Building

- Efforts to enlist support from broad range of groups, and a final list of supporting organizations

239.00 Judges: Letter to

- letter from Duke Thomas, President OSBA, to Ohio Appellate and trial court judges outlining advantages of Plan

240.00 Judicial Support

- letter indicating extent of support by appellate judges (4 to 1 in favor)

240.001 Judicial Support: Justice Herbert Brown

- Justice Brown's letter supporting Merit Plan because of expense of campaigning and politicization of judiciary

240.01 Judicial Support: Justice Andy Douglas

- text of speech of Justice Douglas to OSBA in Cleveland (2/6/85), describing recent situation of Ohio Supreme Court and indicating that as basis for his own support of Merit Plan
- letter (3/7/85) from Justice Douglas to-Frank Bazler, OSBA President, regarding attacks by Justice Clifford Brown and indicating his own financial support for Merit Plan

240.02 Judicial Support: Judge Joyce J. George

- Correspondence (11/86) with Appellate Judge George regarding her defeat in Supreme Court election and her support and suggestions for the Merit Plan campaign

240.03 Judicial Support - Judge Robert Holmes

- Statement of support for Merit Plan (1982-1987)

240.04 Judicial Support: Chief Justice Moyer

- Letters & clippings regarding Justice Moyer's 1986 election victory and the transition to a new Supreme Court
- 1987 statements in support of Merit Plan

240.05 Judicial Support: Judge Alan Norris

- Statement (7/29/86) supporting Merit Plan for former Ohio appellate judge, now on federal bench

240.06 Judicial Support: Justice Craig Wright

- notes of conversation with Justice Wright (1985-86)
- letter (6/17/86) expressing support for Merit Plan

250.00 Regional Support

File contains record of activities directed toward regions

- Butler County/Hamilton, Ohio. Contact is Carl Morgenstern
- Cleveland. Correspondence from 1977, 1985 and 1987

- Columbiana County. Fundraising letters mailed by local firm
- Dayton. Contact is Gerald Rapp of Mead Corporation
- Toledo. Contact is Theodore Vogt
- Youngstown. Record of attempt to find regional contact

260.00 Support: Other

- Dean Davis, University of Dayton Law School. Letter of support
- Jack Gilligan. Letter of support from former Governor
- Ronald Reagan. Article by former Governor of California praising the Judicial Selection Act of 1967, defeated by California legislature

261.00 Support: Black Community

- Correspondence with Judge Nathaniel Jones
- Endorsements from black leaders
- Explanation of support from Rainbow Coalition

262.00 Support: Ohio Chamber of Commerce

- Statement of endorsement, 1987

III. Opposition

310.00 Opposition: Labor

320.00 Opposition: Articles

321.00 Opposition: Other - Glick & Emmert Articles

322.00 Opposition: Judge Keefe

323.00 Opposition: Hamilton County Republican Party

324.00 Opposition: Ohio Republican Party

325.00 Opposition: Pfeifer - Douglas Debate

330.00 Opposition: Miscellaneous

III. Opposition

[Drawer 6]

310.00 Opposition: Labor

- Letters soliciting possible support from labor leaders
- News & Views editorial opposition
- Correspondence and News & Views
- Enquirer correspondence with Milan Marsh, President, AFL-CIO, Marsh's resignation from post
- AFL-CIO campaign materials
- letter from Israel Tremain on necessity of labor support

320.00 Opposition: Articles

- Opposition: C.P. Judge Paul M. Perkins
 - Article
- Opposition: Other
 - Kathleen Barber Articles
- Ohio Judicial Election - Nonpartisan Premises with Partial Results by Kathleen Barber in Ohio State Law Journal 1971
- Letter (Robert Hilton) and comments (Robert Martineau) in reply
- Opposition: Batchelder Article
 - Article with populist tone appearing in Summary Judgment
- Opposition: Dick Finan
 - Article by State Senator Richard Finan appearing in Little Miami Express, 1/5/87, plus letter in reply from Bruce Petrie

- Article by Cleveland lawyer, Lawrence Landskroner in Summer 1987, Practical Law.

321.00 Opposition: Other Glick & Emmert Articles

- Copy of article appearing in Dec./Jan., 1987 issue of Judicature: "Selection System and Judicial Characteristics: The Recruitment of State Supreme Court Judges" by political scientists, Henry R. Glick and Craig Emmert. Article suggests that appointments are made on basis of objective qualifications and, therefore, tend to exclude blacks, women, Jews, Catholics.
- Correspondence concerning a reply to charges
- Materials which refute charge
- Political Fallout: Opponents of merit selection cite article, e.g. Don Traci, President, Cleveland Bar

322.00 Opposition: Judge Keefe

- Letters to editor and personal correspondence, 1982, 1985, 1987
- Outline of history of Keefe's election & appointment as judge

323.00 Opposition: Hamilton County Republican Party

- 1986 Press Release, Hamilton County Republican Party, "Merit Selection of Judges: A Wolf in Sheep's Clothing"
- Correspondence: Bill Milligan - Ralph Kohnen, Chairman, Hamilton County Republican Party
- Ronald Reagan's 1967 support for Merit Selection

324.00 Opposition: Ohio Republican Party

- 1984 platform supporting merit selection

- 1987 reversal

325.00 Pfeifer - Douglas Debate

- William Milligan's Report of February 1987 Debate

330.00 Opposition: Miscellaneous

- Four letters to editor

IV. Newspapers and Other Media

400.00 Newspapers and Other Media

401.00 Enquirer Editorial Board

402.00 Newspapers

403.00 Special Publicity: E. G. Marshall

404.00 Campaign TV Spots

400.00 Newspapers & Other Media

- Article from Judicature: Acting
Responsibly:journalists and judicial performance surveys

401.00 Enquirer Editorial Board

402.00 Newspapers

File contains clippings from 1984-1987 from newspapers throughout the state. They are organized chronologically.

1984: Clippings concern the `84 Ohio Supreme Court election, as well as more general judicial matters

1985: Clippings mostly concern the effort to get merit selection on the ballot

1986: Clippings concern the effort to get it on the ballot, as well as the 1986 judicial elections. Many concern activities of Celebrezze court

1987: Clippings concern the campaign, editorial support and opposition

403.00 Special Publicity: E. G. Marshall

Correspondence with E. G. Marshall on possibility of doing television ads for merit selection; script for 30-second ad.

404.00 Campaign TV Spots

Transcripts and market distribution of TV ads produced by consultant David Milenthal.

V. Fundraising

510.00 Corporate Fundraising

520.01 Corporate: Akron

520.02 Corporate: Cincinnati

520.03 Corporate: Cleveland

520.04 Corporate: Columbus

520.05 Corporate: Dayton

520.06 Corporate: Hamilton

520.07 Corporate: Toledo

520.08 Corporate: Troy

521.00 Corporate: Insurance Companies

522.00 Corporate: Small Towns

523.00 Corporate: Utilities

530.00 Doctors: Hummel, Bob

540.00 Lawyers: Fundraising

550.00 Fundraising: Citizens

510.00 Corporate Fundraising

File contains:

- breakdown of 1979 corporate contributions
- 1986 memo - information booklet on campaign status, marked for potential Merit Plan contributions; miscellaneous drafts of this memo
- Correspondence re strategy for corporate fundraising
- Income statements 8/86, May/June `87
- Materials from Jim Spurrier (corporate fundraising coordinator)
- Ohio 100 data and other potential corporate givers

520.01 Corporate: Akron

- Materials relating to fundraising breakfast 8/19/86 when BIP raised \$20,000
- Lawyer fundraising in Akron

520.02 Corporate: Cincinnati

- List of 1979 Corporate Contributors
- Letter mailed to corporate leaders over signature of Kroger CEO, Lyle Everingham
- Correspondence with companies, following up on Everingham letter
- Data on top Cincinnati companies

- List of Cincinnati corporate contributors with contact and amount
- Bob Rawson - Steering Committee

520.03 Corporate: Cleveland

- Correspondence: Attempt to find CEO to serve as titular head of corporate fundraising effort
- Correspondence: Fundraising among lawyers

520.04 Corporate: Columbus. File contains:

- Data on largest employers and firms with 10M sales
- Correspondence with Nationwide Insurance, major corporate contributor
- Breakdown of Columbus law firms' contributions

520.05 Corporate: Dayton

- Correspondence arranging luncheon (7/18/86) hosted by Mead, attended by corporate counsel of 8 Dayton companies
- Correspondence arranging letter to Dayton companies, over signature of Reynolds & Reynolds, CEO, Terry Carder. Letter explains plan, solicits contributions, mailed 10/20/86
- Second letter from Reynolds & Reynolds CEO mailed 2/26/87
- Letters sent 8/28/87 and 10/13/87 from Smith & Schnacke to Dayton companies

520.06 Corporate: Hamilton - File contains:

- Letters soliciting corporate contributions from Mosler - Ohio Casualty Insurance

520.07 Corporate: Toledo

- Correspondence BIP-David A. Ward, General Counsel of Owens-Illinois, soliciting funds
- Corporate appeal made over signatures of R. A. Stranahan, CEO, Champion Spark Plug Co. (10/6/86), sent to 200 largest Toledo companies; acknowledgement of solicitations
- Lunch given by John Eastman in Toledo, attended by Toledo attorney, BIP, James Spurrier. Toledo attorneys agreed to solicit other companies
- Letters sent to employees of Owens-Illinois and Nekoula Packaging urging "Yes" vote on Issue 3

520.08 Corporate: Troy

- Correspondence BIP-William Hobart, Chairman of Hobart Brothers Company, soliciting funds (7/28/87, 8/3/87, & 9/29/87) and expressing appreciation for contribution (10/8/87)
- Directions and map to Hobart
- Phone messages regarding Hobart meeting
- Correspondence Frederick Hauck-William Hobart, recommending a contribution
- Correspondence Frank Bazler-William Hobart, confirming meeting and providing information about Merit Selection
- Correspondence BIP/Frank Bazler-D. D. Sandman, General Counsel & Secretary of Marathon Oil Company, providing information about Merit Selection and soliciting funds
- Correspondence BIP-Frank Bazler, Hobart Corp., providing address for mailing contributions (8/3/87), providing information about Merit Selection (6/23/86)

- Correspondence William Milligan - BIP, describing potential contributors in the Troy area
- Notes from meetings/discussions with potential contributors

521.00 Corporate: Insurance Companies

- Letter soliciting insurance companies from Robert Bailey, President, State Auto Insurance, Columbus
- 1986 directory of Ohio insurance companies, with legislative committee members
- Summary of insurance company solicitation plan, with list of contributors to OMC.

522.00 Corporate: Small Towns

- List of lawyers in smaller towns `who agreed to solicit rural companies
- Lists of companies solicited. No records of contributions

523.00 Corporate: Utilities

- Small file: 1986 letters discussing plan to solicit utilities

530.00 Doctors: Hummel, Bob

- Correspondence with Cincinnati doctors - Academy of Medicine, resulting in mailing of 2100 letters to Cincinnati doctors over signature of prominent physicians, Robert Hummel and Eugene Saenger (10/87).
- Plans for similar letter to Dayton physicians

540.00 Lawyers: Fundraising

- Lists, prepared 12/84, of Cincinnati lawyers who circulated petition or made contribution in 1979.

- The January 10, 1985 meeting in Cincinnati to discuss Merit Selection
- The lawyer fundraising pyramid: a chairman in each county recruits 10 captains (5 rural) who in turn recruit 100 solicitors (50 rural), each of whom raise \$500.00 (\$250.00) rural. By 3/86 most chairs are recruited. By 6/22/86 a total of 21,000 has been collected. A list from 5/21/86 contains names of all contributors to date.
- The fundraising pyramid in Cincinnati: how it worked in one city
- Fundraising in law firms
- Fundraising in Cincinnati law firms

550.00 Fundraising: Citizens

- 2 letters: possibility of direct mail solicitation

VI. Foundations

601.00 Cincinnati Bar Association

602.00 General Information

603.00 George Gund Foundation

604.00 Ohio State Bar Foundation

605.00 Tax Law and Information

601.00 Cincinnati Bar Association

- Grant of \$1,500 for funding of educational program on judicial selection methods

602.00 General Information

- List of all Ohio foundations by county
- Correspondence with Victor Rosenblum, Chairman American Judicature Society, relating to grants for educational program
- List of voter education grants in Ohio (1986)
- List of Lucas County (Toledo) foundations and trusts
- Materials on possible Seasongood Fund study in conjunction with Air, Inc.
- League of Women Voters' proposal to Ohio Humanities Council

603.00 George Gund Foundation

- 1976 Proposal to Gund Foundation
- 1985 Annual Report of Gund Foundation

604.00 Ohio State Bar Foundation

- Funding from OSBF for organization of BIP materials relating to Merit Selection

605.00 Tax Law and Information

- Opinion, memoranda, law (1985-1987), relating to use of tax deductible funds for educational programs on judicial selection

VII. Merit Plan Data

710.00 Federal Judicial Selection

720.00 States

730.00 Speeches: General

731.00 AJS Materials

732.00 Individual Speeches

733.00 Bruce Petrie Source Book Binder

740.00 Ohio Merit Plan Information Booklet

741.00 "An Overview"

741.01 "Question and Answers"

741.02 Update: Dave Frank Booklet

742.00 Ohio PUCO: Commission Selection

742.01 Appellate Judges' Support and Opposition

743.01 Local Option

743.02 Sunshine Law

743.03 Cost to Operate Merit System

743.04 Opposite Party Appointments

743.05 Vote Dilution Question

743.06 Rural Counties

744.00 Retention Election

745.00 The 1938 Campaign

751.00 Present Political System

751.01 Local Judicial Politics

751.02 Judicial Campaign Fundraising

751.03 Judicial Elections: Articles

751.04 Name Game 752.00 Appointment to Bench

753.00 Celebrezze Court Decisions

754.00 Voter Lack of Knowledge

755.00 Politics of Bench and Bar

756.00 Roster of Ohio Judges and Salaries

757.00 Women and Minorities

710.00 Federal Judicial Selection

[Drawer 7]

720.00 States

720.01 Arizona

720.02 California

720.03 Colorado

720.04 Connecticut

720.05 Delaware

720.051 Florida

720.06 Indiana

720.07 Illinois

720.08 Kansas

720.09 Kentucky

720.091 Louisiana

720.10 Missouri

720.11 New York

720.12 Pennsylvania

720.13 Rhode Island

720.14 Texas

720.15 Utah

720.16 Wyoming

730.00 Speeches: General

File contains materials used in preparation of speeches and texts of speeches

731.00 AJS Materials

Names, data, publications from American Judicature Society

732.00 Individual Speeches

- to Cincinnati Association (1972)
- to Ohio Judicial Conference (1979)
- to Women's City Club (1986)
- to Common Pleas Judges Association (1987); debate with Bill Seitz and correspondence with Robert Kraft

733.00 Bruce Petrie Source Book Binder

A collection of Merit Plan information and documents, organized in binder with subject matter dividers and used by BIP during debates and speeches

740.00 The 1987 Ohio Plan for Merit Selection

741.00 "An Overview"

A concise statement of merit selection for public distribution

741.01 "Questions and Answers"

- a four-page informational handout

741.02 Update: Dave Frank Booklet

In 1979 Dave Frank prepared a booklet: "An Indictment of Ohio's Judicial System: The Case for the Merit Plan. The file contains a copy of the booklet and correspondence relating to an update, including the costs of reprinting.

742.00 Ohio PUCO: Commission Selection Process

Ohio PUCO uses an analogous selection process

742.01 Appellate Judges' Support and Opposition

A survey of Ohio appellate judges was conducted in 1986 and updated in 1987.

743.01 Local Option

By local electoral option, merit selection can be extended to the trial courts of counties voting for it. File contains BIP letter summarizing some states' experience with local option.

743.02 Sunshine Law

File contains materials relating to possibility that proposed legislation would require nominating commission to hold public sessions

743.03 Cost to Operate Merit System

File contains:

- letter (1987) from Missouri State Court Budget Director testifying that cost never exceeds \$10,000 annually
- AJS letter describing sources of expense

743.04 Opposite Party Appointments

- AJS materials providing statistics and arguments, current through 1977
- letter from Governor Cuomo, who has appointed 3 Democrats and 3 Republicans to New York's highest court

743.05 Vote Dilution Question

The question concerns the objection that the urban vote will be under-represented on the Supreme Court Nominating Committee.

The response is that judges do not represent a constituency in the same sense as a legislator.

743.06 Rural Counties

Memo on possibility that merit plan will increase representation of judges from rural counties

744.00 Retention Election

The Ohio Plan would provide that appointed judges run in a retention election. The file contains:

- correspondence about the 55% majority necessary for retention
- AJS materials on some states' experience with this feature

745.00 The 1938 Campaign

- AJS analysis of the 1938 defeat of merit selection in Ohio

750.00 The Political Background

751.00 Present Political System

- Memo from Judge George Palmer: his experience how the Democratic Judicial Nominating Committee worked in the 1960's
- Speech (1987) by Justice Richard Neely of West Virginia: "The Politicization of America's Courts"
- OSBA Report of the Special Committee on Judicial Evaluation

751.01 Local Judicial Politics

- campaign materials illustrating effect of election on judiciary in Hamilton County
- The appointment of Judge McIlwain as example of the present "elective" system at work

751.02 Judicial Campaign Fundraising

- expenditures on Ohio Supreme Court election (1976-1984)

material relating to Chief Justice Moyer's controversial campaign funding from insurance companies

751.03 Judicial Elections: Articles

- '83 Judicature Article: Electoral fates of Common Pleas incumbent are similar to results in retention elections

- '87 article by Prof. Lawrence Baum, OSU: "Explaining Judicial Elections: The 1984 Ohio Supreme Court Election"

751.04 Name Game

Materials showing tendency of the parties to nominate judges for the Ohio Supreme Court on the basis of a familiar name

752.00 Appointment to Bench

- 1986 research on appointed Ohio judges
- 1986 county-by-county survey of appointed judges
- Article on State trial court appointed judges

753.00 Celebrezze Court Decisions

- insurance companies' summary of direction of court
- text of five egregious opinions
- evidence of court bickering

754.00 Voter Lack of Knowledge

- Articles and data relating to difficulty voters experience in learning about judges

755.00 Politics of Bench and Bar

Chapter-from book by Richard Watson and Rondal Downing on qualifications of judges: objective measures do not correlate with quality of judge

notes of 1987 BIP conversation with Richard Watson

756.00 Roster of Ohio Judges and Salaries (missing file)

- list of Ohio judges (1987)

- Report of OSBA Committee on judicial compensation (1987)

[Drawer 8]

757.00 Women and Minorities

- 1985 demographic survey: "Success of Women and Minorities in Achieving Judicial Office"

- Washington University Law Quarterly article: "Women Judges and Merit Selection under the Missouri Plan"

- experience in Illinois: black and women judges

- correspondence with members of black community: Representative Bowen, Judge Jones, Barry Isaacs, Frederick Benton

VIII. The Final Effort of Campaign and Aftermath

801.00 Sample Campaign Materials

810.00 Bruce I. Petrie Personal Effort

811.00 Bruce I. Petrie Appearances

812.00 Group Mailings

812.01 Postcard Mailings

813.00 Individual Contributions

814.00 Lists of Volunteers

815.00 Newspaper Ads and Articles

820.00 Election Results: November 4, 1987

830.00 Election Analysis: Post-mortem

830.01 Article for Ohio Lawyer

840.00 Newspaper Articles and Letters 1992-1994

840.01 Guest Editorial December 1992

VIII. The Campaign and Aftermath

- Material in this file concerns the intensive campaign effort of September through November, 1987. It relates mainly to Hamilton County and largely reflects the personal involvement of Bruce I. Petrie, Sr.

801.00 Sample Campaign Materials

- Postcards mailed in last month of campaign pamphlet: "The Merit Plan," prepared by Citizens for the Merit Selection of Judges

- Campaign Hand Out: "Vote Yes on Issue 3"

- Mailer: "Vote Yes on Issue 3" prepared by League of Women Voters

Pamphlet: "Merit Selection: The Best Way to Choose Judges," prepared by American Judicature Society

- Supplementary Initiative Petitions, with instructions for completion

- Pamphlet, "Merit Selection and Voter Retention of Judges: The Ohio Merit Plan," prepared by League of Women Voters of Ohio Education Fund

- Campaign Hand-Out: "The Merit Plan Supported"

810.00 BIP Personal Effort

File contains a miscellany of letters seeking support or explaining merit selection, plans for campaign activities, etc.

811.00 HIP Appearances

Speeches and panel discussions in final month of campaign

812.00 Campaign: Group Mailings

Letters signed by prominent members of each group were sent out to all members of that group:

- Sigma Chi

- Suburban Newspaper Editors
- University of Cincinnati faculty members
- MARCC: Metropolitan Area Religious Coalition of Cincinnati
- Makrauer mailing -to owners of Cincinnati small businesses from George A. Makrauer, CEO, Amko Plastics (list of small business owners)
- lawyers (51 Cincinnati lawyers)
- Graydon, Head & Ritchey client list
- Jewish community, letter and ad in American Israelite
- Commonwealth Club (list of members)
- Black Community - letter and article in Cincinnati Herald

812.01 Postcard Mailings

BIP requested individuals to mail out campaign postcards to their acquaintances

813.00 Individual Contributions

BIP solicited individuals to make campaign contributions

814.00 Lists of Volunteers

815.00 Newspaper Ads and Article

File contains all material relating to the Lindhorst/Backman half-page ad which appeared in **The Cincinnati Post** and **Enquirer** 11/2/87

- **Cincinnati Business Courier** article of 10/26/87
- **CBA Report** and soliciting volunteers

820.00 Election Results

830.00 Election Analysis: Post-mortem

830.01 Article for Ohio Lawyer

840.00 Newspaper Articles and Letters 1992-1994

840.01 Guest Editorial December 1992

File contains notes, correspondence, and research materials used in preparing guest editorial for the **Cincinnati Enquirer** 12/23/92

IX. Ohio Merit Plan 2011 Additions

841.00 Newspaper Clippings & Articles

841.01 Newspaper Clippings & Articles

841.02 Ohio State Bar Association Materials

842.00 Direct Mail Booklet Campaign 2004

843.00 Handbook for Judicial Nominating Commissioner

844.00 Correspondence

844.01 Correspondence, cont.

845.00 Items of Interest

846.00 "Fair and Independent Courts..."

847.00 H.B. 266 (2006)

848.00 The Murray and Agnes Seasongood Foundation

848.01 The Joyce Foundation

848.02 The George Gund Foundation

849.00 OSBA Judicial Selection/Campaign Financing Meeting (2009)

850.00 Nominating Councils

851.00 Documents Relating to the Ohio Merit Plan Proposal

851.01 Resources of Interest

851.02 Resources of Interest, cont.

852.00 Campaigning Efforts

853.00 American Judicature Society

854.00 OSBA Board of Governor's Meeting

855.00 Branti v. Finkel, 445 U.S. 507 (1980 Resource)

856.00 Citizens United v. Federal Election Commission, No. 08-205

857.00 Sandra Day O'Conner Project on the State of the Judiciary

858.00 B.I.P. Authored Works

859.00 The Ohio Judicial Merit Plan Materials

859.01 The Ohio Judicial Merit Plan Materials, cont.

860.00 The Ohio Judicial Merit Plan Panels (2009)

860.01 The Ohio Judicial Merit Plan Panels, cont. (2009)

861.00 Campaign Finance Reform in Judicial Elections (2009)

862.00 Forum on Judicial Selection (2009)

863.00 Miscellaneous Papers

864.00 Archival Origination Information

IX. Ohio Merit Plan 2011 Additions

[Drawer 13]

-Materials within this specific collection relate to judicial reform within the State of Ohio and document the various efforts of The Ohio Judicial Merit Plan Initiative through the years of 2000 to 2011 with few select records and resources predating this period. The collection largely reflects the personal involvement of Bruce I. Petrie, Sr.

841.00 Newspaper Clippings & Articles

2001: Clippings mostly concern judicial reform.

2002: *Judicial Independence and Human Rights Protection Around the World* by Linda Camp Keith & *The False Promise of Judicial Elections*

2003: *Thoughts on Goldilocks and Judicial Independence* by Frank B. Cross

2004: Clippings mostly concern judicial reform.

2005: Clippings mostly concern judicial influence and campaign contributions.

2006: Clippings mostly concern campaign contributions.

841.01 Newspaper Clippings & Articles

2007: Clippings mostly concern judicial reform, the death penalty and partisan-politics.

2008: Clippings mostly concern judicial influence and campaign contributions.

2009: *Case May Alter the Election of Judges: Ads in a Race Raise Influence Questions* by Adam Liptak

2012: Clippings mostly concern judicial reform.

841.02 Ohio State Bar Association Materials

Materials are clipping from the Ohio State Bar Association Report published each week.

842.00 Direct Mail Booklet Campaign (2004)

843.00 Handbook for Judicial Nominating Commissioner

844.00 Correspondence

- 2000-2004
- 2005 - 2008
- 2011

844.01 Correspondence, cont.

- Misc. Handwritten Notes
- Jacobs, Leslie (2006)
- Solimine, Michael (2006-2007)
- Strickland, Ted Gov. (2006)
- League of Women Voters (2006)
- Law School Deans; Ohio (2006)
- Weisenberg, William K. - OSBA (2006)

845.00 Items of Interest

Biographical Summary Regarding Judicial Selection Matters. Petrie, Bruce I. - Revised 6-19-01 with Proposer's Credentials

"Evaluating Fairness and Accuracy in State Death Penalty Systems: The Ohio Death Penalty Assessment Report. An Analysis of Ohio's Death Penalty Laws, Procedures, and Practices." - September, 2007

846.00 “Fair and Independent Courts...”

Remarks: Stephen Breyer, Associate Justice, Supreme Court of the United States

“Fair and Independent Courts: A Conference on the State of the Judiciary” Remarks By: Stephen Breyer, Associate Justice, Supreme Court of the United States. September 28, 2006, Georgetown University Law Center, Hart Auditorium, Washington, D.C.

847.00 H.B. 266 (2006)

848.00 The Murray and Agnes Seasongood Foundation

[Drawer 14]

- 2009
- 2006
- 2000
- 1999
- 1998
- 1997
- Jim Ginocchio, Invoices (2007-2008)

848.01 The Joyce Foundation

848.02 The George Gund Foundation

849.00 OSBA Judicial Selection/Campaign Financing Meeting (2009)

Agenda

850.00 Nominating Councils

Nominating Councils; Judicial Nominating Councils: A Proposal for the Twenty-First Century

- Includes Initiative Petition (1987) and H.B. 266 as introduced (2005-2006)
- Ohio State Bar Association Meeting 2006
- OSBA 2006
- Cincinnati Enquirer 2006
- Law School Deans 2006
- Cincinnati Bar Association 2006

- Metropolitan Bar Association 2006
- Ohio State Bar Foundation
- Tax Inquiries

851.00 Documents Relating to the Ohio Merit Plan Proposal

- Constitutional Amendment: Article 1 - January 29, 2008
- Fund for Modern Courts
 - Correspondence with statistics (1998)
- *Freeing Candidate Speech in Judicial Elections: or How Safe Are Loose Canons?* By Mark Kozlowski and Praveen Krishna. Judicial Independence Series; Brennan Center for Justice at NYU School of Law. - 2002
- Beyond Merit Selection by Luke Bierman (2002)
 - With accompanying notes from 2005.
- State Liability Systems Ranking Study, U.S. Chamber Institute for Legal Reform. (2005)
- *Judicial Selection in the States: Ohio* (2006)
- Highlights of the Past Term of the Supreme Court of Ohio; (2006-2007)
- American Judicature Society, Hunter Center for Judicial Election. (2006)

“...a compilation of information from each state about what is coming in November, including Supreme Court races, ballot initiatives pertaining to judicial selection issues, and a summary of controversies that could potentially influence judicial candidates in the 2006 elections.”

- Gov. Ted Strickland’s Judicial Appointments Recommendations Panel
- Objectives: Drafts
- Progression of Judicial Merit Plan Selection in the United States
- Merit Facts

851.01 Resources of Interest

- Collected materials from the Jimmy Carter Presidential Library and Museum. Atlanta, Georgia.
 - “Selecting Federal Appellate Judges” an address by Daniel J. Meador, Assistant Attorney General , before the Virginia Bar Assoc. Conference of Laymen and Lawyers - November 19, 1977
- The History of Ohio Law, V.1
- “The False Promise of Judicial Elections in Ohio” by Michael E. Solimine, *Capital University Law Review*. Vol. 30, No. 3, 2002
- “The Future of Parity” by Michael E. Solimine, *William and Mary Law Review*. Vol. 46, No. 4 2005
- Ohio Sunshine Laws Update: Public Records Act/ Open Meetings Act (2006)
- The Supreme Court of Ohio, Ohio Court Statistical Summary (2008)

851.02 Resources of Interest, cont.

- *The Key to Judicial Merit Selection: The Nominating Process* (1974)
- *Judicial Retention Elections in the United State* (1980)

- *The Selection of Judges in Ohio* by Michael E. Solimine and Richard B. Saphire
- *Poll: Huge Majority Wants Firewall Between Judges, Election Backers*
- “Chief Justice Speech Centers on Ensuring Judicial Impartiality” (2009)
- Judicial Elections, CQ Researcher (2009)
- Institute for the Advancement of the American Legal System. Selection Stories.
- “Election-by-Lot as a Judicial Selection Mechanism”, *NYU Journal of Law & Liberty*.

852.00 Campaigning Efforts

Materials include a 1987 binder with primary campaign materials.

853.00 American Judicature Society (2004)

“...comments regarding merit selection and questions posed” with accompanying articles and response.

854.00 OSBA Board of Governor’s Meeting

- Judicial Selection, November 4, 2004
- Draft correspondence to participants; 2009

855.00 Branti v. Finkel, 445 U.S. 507 (1980 Resource)

856.00 Citizens United v. Federal Election Commission, No. 08-205

857.00 Sandra Day O’Conner Project on the State of the Judiciary

858.00 B.I.P. Authored Works

[Drawer 15]

No Sport for the Short-Winded (Opinion Piece in Ohio Lawyer, Jan.-Feb. (2000)

"Political Patronage in Ohio: Governer Taft's Judicial Appointees",
University of Cincinnati Law Review (2009)

The Colossal Charade - August 6, 2009

Special Qualities of Judges (Letter in Judicature V.95, No. 1 July-August 2011)

An Ohio Governor's "Independent" Judicial Appointess (2007)

859.00 The Ohio Judicial Merit Plan Materials

- Articles and Data
- Statement
- Editorials, etc.
- Ideas
- Carmen Roberto, OSBA
- Penny Manes/ Mark Painter

859.01 The Ohio Judicial Merit Plan Materials, cont.

- OSBA, Debbie Cooper
- Emily Vance (Intern)
- Campaign Contributions/Public Financing
- League of Women Voters
- Miscellaneous

860.00 The Ohio Judicial Merit Plan Panels (2009)

- Jim Borgman Cartoon/ A Move Toward Merit Selection
- Panelist
- Ohio Judicial Appointments Recommendations Panel OJARP
- Strickland Panels: Data, etc.

860.01 The Ohio Judicial Merit Plan Panels, cont. (2009)

- Publicity
- Flyers, etc.
- Miscellaneous

861.00 Campaign Finance Reform in Judicial Elections (2009)

Various: articles, correspondence, and statistics

862.00 Forum on Judicial Selection (2009)

863.00 Miscellaneous Papers

- American Judicature Society Pamphlet
- Hamilton County Democratic Party Mailing
- Tonight Show: Political Humor DVD/VHS (2004)
- U.S. Court of Appeals, Fourth Circuit, North Carolina Right to Life Committee v. Larry Leake, et al. (2007-2008)
- Nuance Omnipage

864.00 Archival Origination Information

Materials involve the origination of The Ohio Judicial Merit Plan Papers at the University of Cincinnati College of Law Robert S. Marx Law Library.

MERIT PLAN

Pre 1986 - Master List to Files

<u>Category</u>	<u>File Description</u>	<u>No.</u>	<u>Year</u>
Other States	Wisconsin Judicial Reform Article by Martineau	2.01-0	1985
Special Topics	Council for Court Excellence: Tax Exempt Status	4.01-0	1982
	Articles of Incorporation: Council for Court Excellence	4.02-0	1985
	Council for Court Excellence: (brochures)	4.03-0	1986
	Fund for Modern Courts 1985 Annual Report	4.04-0	1985
	Fund for Modern Courts Surrogate's Court Elections in N.Y. State: 1980-1985	4.04-A	1985
	Fund for Modern Courts: The Illusion of Democracy: N.Y. City Civil Court Elections 1980-1985	4.04-B	1985
	U.C. Institute for Policy Research: Ohio Poll - Report on Findings on Merit Plan	4.05-0	1985
	Tax Exempt Status: Lobbying General Info. 1977-1986	4.06-0	77-86

U.C. Law Review Article: Merit Selection Attracts Larger No. Applicants	4.07-0	1981
General Assembly: Resolution of Merit Plan 1983-1984	4.08-0	83-84
Charter Committee Support	4.09-0	1984
NESC Merit Plan Agreement	4.10-0	1985
Modern Courts Committee: Merit Plan Ballot Timing	4.11-0	1984
Modern Courts Committee: Merit Plan Timing: Costs	4.12-0	1985
Modern Courts Committee: 10/85 Proposed Merit Selection Const. Amend.	4.12-A	1985
OSBA Council of Delegates	4.12-B	1985
Celebrezze & Ohio Bar Assn.	4.13-0	1984
Celebrezze: Articles pertaining to	4.13-A	85-86
Celebrezze: Supreme Court Justices Dispute - July 1985	4.13-B	1985
Summary SJR 15 - Sept. 1983: related correspondence	4.14-0	1983
Guidelines from Celeste on filling judicial vacancies Feb. 1983	4.15-0	1983
Judge McCormac - 1982 Campaign Literature	4.16-0	1982

Modern Courts Committee: General	4.17-0	82-83
Clarence Brown	4.18-0	1982
Newspaper articles re Merit Plan	4.19-0	82-84
OSBA Merit Plan: 1981	4.20-0	1981
Ohioans for Merit Selection of Judges - Frank Booklet	4.21-0	1979
Voluntary Nominating Councils - Celeste 1982	4.22-A	1982
AJS "Judicial Merit Selection Current Status" Jan. 1984	4.22-B	1984
OSBA - Merit Plan 1984	4.23-0	1984
Nominating Commissioners Handbook	4.24-0	1984
League of Women Voters	4.25-0	1985
CBA - Operations Crossroads Africa, Inc. 1985	4.26-0	1985
Martineau Plan: Judge Palmer's Response	4.27-0	1985
Leadership Cincinnati: 1983-1984 - 1984-1985	4.28-0	83-85
AJS Model Merit Selection Provisions	4.29-0	1985

	Merit Selection 1979 - "How is it Working?" Fund for Modern Courts	4.29-A	1985
	Judicial Elections in N.Y. 1981-1982: Fund for Modern Courts	4.29-B	1985
	CBC & Merit Selection (Mechem)	4.30-0	1985
	Ohio General Assembly Roster 1985-1986	4.31-0	1985
	Ohio Farm Bureau Federation, Inc.	4.32-0	1984
	Guiliani V. Cuyahoga County Bd. of Elections (1984) Judgeships Political	4.33-0	1984
	Proposed Meeting with Celeste	4.34-0	1985
Campaign General	Support: Frank G. Davis	6.00-0	1985
	Newspapers: Editorial Support Cleveland, Cinti., Col., C.J.	6.01-0	1985
	Delaware County Bar Assn.	6.02-0	1986
	Cochran: Recommendations of Name	6.03-0	1986
	League of Women Voters - Request for support of	6.04-0	1983
	Individuals' Support: Offers to Help	6.05-0	1985

Fundraising

Fundraising 1985	7.00-0	1985
Fundraising: Lawyers 1984	7.01-0	1984

Newman v. Voinovich

I. BACKGROUND

110.00 Ohio State Bar Association

120.00 Solimine's Rutan Research

130.00 Pre-Litigation Administration

II. GENERAL RESEARCH MATERIALS

210.00 Voting Rights Act

220.00 Assorted Law Review and Magazine Articles

230.00 Newspaper Clippings

240.00 Ohio Resources

250.00 Rutan

260.00 Related Cases

270.00 State ex. rel O'Donnell v. Voinovich

280.00 Trial Preparation

II. DISTRICT COURT

310.00 Plaintiff's Case

320.00 Bond Required for Injunctive Relief

330.00 Administrative Correspondence and Notes

340.00 Depositions

350.00 Research Materials

350.10 Indexed Trial Materials

350.20 Plaintiff's Exhibits

360.00 Matters Raised at Trial

370.00 Proceedings Lists and Proceedings

380.00 Decision

390.00 Notice of Appeal

IV. COURT OF APPEALS

410.00 Notice of Appeal and Briefs

420.00 Administrative Notes and Correspondence

430.00 Joint Appendix

440.00 Trial Materials

450.00 Decision

V. SUPREME COURT

510.00 Petition for Writ of Certiorari

520.00 Rules of the Supreme Court

530.00 Research

540.00 Miscellaneous Information

550.00 Expenses and Budgeting

560.00 AJS Amicus Brief

570.00 Decision

VI. ANALYSIS

610.00 University of Toledo Law Review Article

620.00 Newspaper clippings

Newman v. Voinovich

I. BACKGROUND

[Drawer 9]

110.00 Ohio State Bar Association

- correspondence with the Ohio State Bar Association discussing the possibility of a meeting with the Voinovich administration to advocate merit selection of judges

120.00 Solimine's Rutan Research

- notes and correspondence concerning Solimine's research on Rutan, sponsored by the Seasingood Foundation
- copies of the final paper and draft comment

130.00 Pre-Litigation Administration

- notes and correspondence concerning decision to bring suit
- early research and thoughts about litigation
- Solimine's grant application for litigation research

Newman v. Voinovich

II. GENERAL RESEARCH MATERIALS

210.00 Voting Rights Act

- Voting Rights Act
- copies of the Mallory amicus, motions, and orders

220.00 Assorted Law Review and Magazine Articles

230.00 Newspaper Clippings

240.00 Ohio Resources

- Ohio Constitution
- Ohio Revised Code index pages
- related pages from Ohio Jurisprudence

250.00 Rutan

- assorted law review articles about the Rutan case
- the plaintiff's brief in Rutan

move Rutan brief from related cases

260.00 Related Cases

270.00 State ex. rel O'Donnell v. Voinovich

- memo in support of mandamus petition
- related case

280.00 Trial Preparation

- general correspondence, materials, and notes

Newman v. Voinovich

III. DISTRICT COURT

[Drawer 10]

310.00 Plaintiff's Case

- complaint
- requests for a temporary restraining order, preliminary & permanent injunctions, and class certification
- memorandums supporting those requests

320.00 Bond Required for Injunctive Relief

- plaintiff's argument against requiring a bond for injunctive relief
- information on visiting judges as an alternative solution

330.00 Administrative Correspondence and Notes

- documents preparing for trial

340.00 Depositions

- order granting leave to take depositions
- notice of depositions
- depositions
 - Martineau
 - Dawson
 - Futey
 - Newman

350.00 Research Materials

- prepared and indexed for trial

350.10 Indexed Trial Materials

- questions
- statement of facts
- oral argument
- information about witnesses
- copies of the complaint and motions

350.20 Plaintiff's Exhibits

- copies of the exhibits
- documents used in preparing exhibits

360.00 Matters Raised at Trial

- plaintiff's memo

370.00 Proceedings Lists and Proceedings

380.00 Decision

- decision of the court granting defendant's motion to dismiss for failure to state a claim upon which relief could be granted (31 March 1992)
- correspondence concerning publication of the decision
- copy of the decision as published in West's Federal Supplement

390.00 Notice of Appeal

Newman v. Voinovich

IV. COURT OF APPEALS

410.00 Notice of Appeal and Briefs

- notice of appeal
- drafts of brief for appellant and related notes
- brief for appellant
- brief for appellee
- corrected brief for appellee
- reply brief for appellant
- correspondence with regard to briefs for appellant and appellee

420.00 Administrative Notes and Correspondence

- case development checklist
- information concerning the composition of the court
- information on filing notices of appeal
- procedural checklist for the 6th Circuit
- official caption
- information on ordering a transcript and related correspondence
- application for admission to the 6th Circuit bar
- pre-argument conference request
- forms of appearance of counsel
- civil appeal pre-argument statement
- motion for and order granting expedited briefing and oral argument
- time requirements for briefs and appendices
- schedule for oral arguments
- notice and acknowledgement of oral argument schedule
- related notes and correspondence

430.00 Joint Appendix

- rules concerning appendices
- joint appendix volumes I and II

440.00 Trial Materials

- oral argument and related notes
- notable quotes from district court proceedings indexed for use during oral arguments
- related cases indexed for use during oral arguments

450.00 Decision

- decision of the court (22 February 1993) affirming the district court's decision
- motion, supporting memorandum, and order staying issuance of mandate pending petition for writ of certiorari

Newman v. Voinovich

V. SUPREME COURT

510.00 Petition for Writ of Certiorari

- correspondence and notes drafting petition for writ of certiorari
- sample petition from Discovery Network, Inc. v. City of Cincinnati
- draft of petition and final bound version
- notice to appellee of petition

520.00 Rules of the Supreme Court

- rules relevant to the petition process

530.00 Research

- information used in preparing the petition for writ of certiorari

540.00 Miscellaneous Information

- information about preparing cases for the Supreme Court
- information about the composition of the Supreme Court

550.00 Expenses and Budgeting

560.00 AJS Amicus Brief

- notes, correspondence, and rules for an amicus brief from the American Judicature Society supporting the granting of the writ of certiorari

570.00 Decision

- notice that petition was denied (6 July 1993)
- related correspondence

Newman v. Voinovich

VI. ANALYSIS

610.00 University of Toledo Law Review Article

- Petrie article about the 6th Circuit decision
- administrative correspondence about publishing the article
- research materials and notes used in preparing the article
- correspondence with Scott Poley about research conducted to prepare the article

620.00 Newspaper clippings

- newspaper clippings in response to the case
- newspaper clippings that make reference to the case

[Drawer 10]

Mallory v. Eyrich

- Motions, Briefs, Orders of the Court
- Reference Materials
- Correspondence and Related Notes

THE OHIO MERIT PLAN

Supplement Regarding Records Relating to Efforts to Change the Judicial Article of the Ohio Constitution

As a supplement to records regarding the 1987 Merit Plan Campaign in Ohio (catalogued and transmitted to the University of Cincinnati College of Law Library under date of August, 1988), the following compilation by file headings relates to various efforts prior to the 1987 campaign to advance the cause of merit selection in Ohio. These records have now been organized by my research assistant, James Englert, into four separate sections:

Modern Courts - 1962-1973

These files contain records of the Modern Courts Committee of the Ohio State Bar Association, which was engaged in a variety of Merit Plan activities.

Modern Courts 1970's; Gilligan Nominating Councils

These records relate to the Nominating Councils established by Governor John J. Gilligan, at the instance of members of the Modern Courts Committee, to assist Governor Gilligan in filling judicial vacancies. The Councils were, in fact, utilized to fill all of the judicial vacancies which the Governor filled during his term. In addition, this section contains other miscellaneous materials regarding Merit Selection in the 1970's.

Modern Courts/Merit Plan 1979, Part 1

For the most part, these files contain materials relating to the activities of the Modern Courts Committee leading up to and including the 1979 effort to gather sufficient signatures to put the Merit Plan on the ballot. This effort fell short of its goal and led to the conclusion that unpaid volunteers, at least at that time in Ohio history, were not adequate for the huge task of gathering signatures.

Modern Courts/Merit Plan 1979, Part 2

These files contain further materials relating to the 1979 signature-gathering effort.

Although, in general, these materials are not as well organized as those relating to the 1987 Merit Plan campaign, they, nonetheless, cover a broad range of activities which culminated in the 1987 campaign.

Of particular interest, I believe, are the records relating to Governor John J. Gilligan's Judicial Nominating Councils, which represent the first and only successful effort by an Ohio governor to introduce a nonpartisan system as part of the judicial selection process. The Councils were similar to voluntary nominating plans adopted by Governors of various other states. Regrettably, one of the first acts of Gilligan's successor, James A. Rhodes, was to abolish this system and return to the system of filling judicial vacancies from recommendations made by the County Chairman of the Governor's political party.

Similar councils may offer the best hope in the future of filling judicial vacancies on the basis of the candidates' professional qualifications rather than their political affiliations. Any Governor courageous enough to return to a nominating council system would find these records of the Gilligan years useful.

Bruce I. Petrie
Cincinnati
January, 1989

[**Editorial note:** sections 2, 3, and 4 contained materials that were found to duplicate those appearing earlier in the files. Only the *Modern Courts 1962-1973* were unique.]

MODERN COURTS 1962-1973

[Drawer 11]

- Ohio State Bar Association: Constitutional Amendments 1962 and 1963 year-by-year record of efforts of Bar to incorporate Modern Courts Plan into Constitutional Amendment
- Ohio State Bar Association: Constitutional Amendments 1964-1967
- Modern Courts: Materials
Correspondence, newspaper articles, miscellaneous publications 1966-1974
- Modern Courts; Legislators
Correspondence from 1970 with legislators concerning constitutional amendment
- Ohio State Bar Association: Modern Courts Committee: 1968 Election Efforts to place merit selection issue on ballot
- Modern Courts Committee: 1968, Jan.-June 1969
- Modern Courts Committee: July - Oct. 1, 1969
- Master List of Invitees 10/1/69 Conference
The Modern Courts Committee Conference in Cincinnati, and other materials through January, 1970
- Modern Courts Committee Lists and Data 1969
Material relating to 10/1/69 conference
- Modern Courts Committee (OSBA)
- Merit Plan Selection Sub Committee 1970
Activities of Committee concerning Governor Gilligan's Plan for establishing a nominating council for judges to fill vacancies 1970-1972
- Modern Courts - 1970-1971
Committee Meetings 9/12/70 and 3/5/71
- Modern Courts Committee OSBA Current 1973
Modern Courts committee Meeting 1973 in Columbus

- Ohio State Bar Association - Modern Courts Committee - Wilmington, Ohio 1975 appearance at Wilmington College by John Gilligan
- Modern Courts Committee 1972-1973
Miscellaneous materials

[Drawer 12]

Ohio Constitutional Revision Commission

- Miscellaneous papers