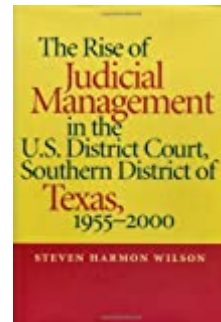


Steven Harmon Wilson. *The Rise of Judicial Management in the U.S. District Court, Southern District of Texas, 1955-2000.* Athens and London: University of Georgia Press, 2002. xiv + 559 pp. \$64.95 (cloth), ISBN 978-0-8203-2363-3.



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Where the Action Is

Steven Harmon Wilson's *The Rise of Judicial Management in the U.S. District Court, Southern District of Texas, 1955-2000*, despite its ponderous and perhaps off-putting title, is an able contribution to the recent but growing literature on the role of lower federal (and state) courts in the creation and development of the law. Much of this recent work, in fact, deals with Southern federal district courts.[1] Extensively researched and end-noted (there are 162 pages of notes and a 25-page bibliography), Wilson's book examines the district that encompasses much of the southeastern portion of Texas, including Houston. As such, the courts handle cases ranging from the usual federal criminal trials through cases dealing with immigration law, to cases in admiralty. Wilson's principal thesis is that, as a "representative" federal court, the types and numbers of cases and the ways in which judges handled the growing caseload over the time period he examines, illustrates how judges became managers in a large bureaucratic agency (p. 2). Ironically, his handling of this part of the book, while ably argued, is not the best part. Relying on judicial biography and deep analysis of individual cases (the case of Dr. Timothy Leary is especially interesting), Wilson provides the reader with a look

at how cases move through the courts, and how judges make their decisions. Interestingly, as was the case with Leary, Wilson points out how judges were more likely to be lenient on defendants who copped a plea. If you tried your case in court, you were far more likely, upon a guilty verdict, to receive a harsh sentence. Judicial management of ever-increasing caseloads required judges to be lenient on those pleading guilty, as with rising numbers of criminal and civil cases, judges had to use every means they could to reduce their workload. Thus, there developed a kind of assembly-line method of managing the docket.

The book is organized thematically and chronologically, so a chapter on the impact of legislation on the economic milieu in the 1950s and 1960s is followed by a chapter on criminal law and immigration enforcement from the 1950s to the mid-1970s. The initial chapter on 1950s school desegregation is followed four chapters later with a chapter on the "Judicial Management of Triethnic Integration" in the 1960s and 1970s (p. 189). Wilson follows the discussion of "judicial economy" in chapter two with a chapter covering "corporate misconduct" five

chapters later (pp. 50, 281). While this organizational structure may seem awkward when described in a short review, it actually seems to work pretty well with Wilson's overall theme.

Readers will get out a lot out of this book, and students will find some interesting directions for further study. First, the readers: Filled with details on the lives, appointment histories, and workloads of the judges who made up the district, *Judicial Management* provides a look at how national and local politics combine to affect the direction of jurisprudence. For example, Wilson's analysis of the political feud between Lyndon Johnson and his junior colleague Ralph W. Yarborough connects the *realpolitik* of the Texas Democrats to its impact on the appointment of judges, and consequently on the development of legal history in the Southern District.

Readers will also get a lot out of the cases themselves. As with the backgrounds on the judges, Wilson here also provides significant levels of detail on exemplary cases while also offering cogent analyses of how those cases affected the development of the law, or were affected by U.S. Supreme Court cases decided earlier. The Timothy Leary case (*Leary v. United States*, 383 F.2d 851 [1967] and *Leary v. United States*, 383 F.2d 1266 [1977]) has already been mentioned as exemplary of the detail Wilson employs to make his case. In the economic realm, *In re Corrugated Container Antitrust Litigation* enjoys the same level of attention (pp. 281 ff.). An extremely involved case with a companion criminal case, *Corrugated Container* involved fifty-five suits against "more than three dozen cardboard box manufacturers" who were civilly sued as news of criminal indictments under the Sherman Antitrust Act became known (p. 284). The case lasted over six years, and Wilson's discussion of it fits well within the judicial management framework that he establishes early on.

Students of legal history will see this book as an outgrowth of trends in legal history that by now are half a century old. James Willard Hurst's *Law and the Conditions of Freedom* informs much of contemporary legal historiography, and the influence of Hurst and his successors is obvious, if not exactly overt, in Wilson's work.[2]

Students of Southern history, namely readers of H-South, will enjoy the interplay of Southern politics (as in the Johnson v. Yarborough feud referred to above) with the federal court system. Wilson's treatment of school desegregation cases in the early part of the period under examination is well done, but more interesting—at least to this reviewer—are his later chapters on "Managing 'Our

Federalism' in the Southern District" and the "Judicial Management of Triethnic Integration." In the federalism chapter, Wilson looks at precedents and developing rules governing the extent to which federal courts can intervene in state issues, while in the chapter on triethnic integration, he treats the development of Hispanic causes and the consequent legal concerns that played out in the federal courts.

Finally, there is much in Wilson's work that students of Southern and legal history can build upon or use to inform their own research projects. First, one question that needs to be asked is exactly how representative is the Southern District of Texas. A large and extremely busy district makes for an interesting case study of judicial development, but other researchers may want to look at other, smaller districts—a landlocked district away from the U.S. border might prove to have some, but by no means all, of the same kinds of problems that the Texas Southern District endured in the second half of the last century. One can ask not only how representative of federal courts is the Texas Southern district—a question for legal historians—but how Southern is the Southern district? Some comparative work, it seems, is now in order, based on Wilson's work and the work of others in the field.

The book would therefore be useful for graduate students as a model of how to look at a broad sweep of history in one federal district. If they are looking to work on the lower federal courts for thesis or dissertation topics, Wilson's book would certainly be a good starting point. And why would not more students want to explore the history of the federal district courts? After all, that's where the action is.

Notes

[1]. See, for example, Kermit Hall and Eric Rise, *From Local Courts to National Tribunals: The Federal District Courts of Florida, 1821-1990* (Brooklyn: Carlson Publishing, 1991); Charles Zelden, *Justice Lies in the District: The U.S. District Court, Southern District of Texas, 1902-1960* (College Station: Texas A&M University Press); and Tony Freyer, *Democracy And Judicial Independence: A History Of The Federal Courts Of Alabama, 1820-1994* (Brooklyn: Carlson Publishing, 1995).

[2]. James Willard Hurst, *Law and the Conditions of Freedom in the Nineteenth-Century United States* (Madison: University of Wisconsin Press, 1956). See also Hurst, *Law And Economic Growth; The Legal History of the Lumber Industry In Wisconsin, 1836-1915* (Cambridge: Belknap Press of Harvard University Press, 1964).

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