A Bibliography for the United States Courts of Appeals

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A BIBLIOGRAPHY FOR THE UNITED STATES COURTS OF APPEALS

by Thomas E. Baker

If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice.
— Learned Hand

This Bibliography was compiled for a book by the present author entitled, RATIONING JUSTICE ON APPEAL — THE PROBLEMS OF THE U.S. COURTS OF APPEALS, published in 1994 by the West Publishing Company. That book is a general inquiry into the question whether the United States Courts of Appeals have broken Judge Hand's commandment already and, if not, whether the Congress and the Courts inevitably will be forced to yield to the growing temptation to ration justice on appeal.

After a brief history of the intermediate federal courts, the book describes the received tradition and the federal appellate ideal. The book next explains the "crisis in volume," the consequences from the huge docket growth experienced in the Courts of Appeals since the 1960s and projected to continue for the foreseeable future. The past techniques of adding judges and dividing circuits are chronicled. There follows a general discussion and evaluation of reforms, including reforms already implemented and those being proposed. Reforms are divided into intramural reforms, procedural reforms capable of being implemented by the judges, and extramural reforms, which require Congressional action. The book ends with a discussion of alternative futures of the federal intermediate court and a suggestion about how the public debate ought to choose among them. All these themes are reflected in this bibliography, which is arranged to follow the chapters in the book.

Despite the inevitability of errors of both inclusion and exclusion, this is intended to be a complete and comprehensive bibliography of all the

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books and articles dealing with the United States Courts of Appeals available through June 1993. The works are arranged according to the organization in the following outline. When a work is particularly relevant to more than one heading, it is repeated under each heading.

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