

The Third Branch

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A Bulletin of the Federal Courts



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A Message from the Chief Justice



*Chief Justice Burger

It is gratifying to see that the Federal Judicial Center and the Administrative Office have combined their efforts in one publication for the Judicial Branch and will use the caption *The Third Branch*. I am sure that this cooperation will lead to a more meaningful publication. I hope all persons in the Judicial Branch will regard this as their publication and feel free to contribute to it. It is my intention to use it as a vehicle of communication with you and I shall look forward to each issue for the messages you send through the columns of *The Third Branch*.

District Clerks Stress Efficiency

In the first week of December, the Federal Judicial Center will finish the 1970 program of District Court Clerks Seminars. The seminars, which have been organized by and for clerks, have marked a milestone in the Center's efforts to provide education and training to court administrative personnel.

The major emphasis of the seminars is on the clerk's role as a manager and the skills and techniques he requires to fulfill this role. Special sessions are devoted to the organizational structure and functions of a clerk's office, personnel management and training, and the clerk's office role in calendar management under the individual assignment system.

All of the faculty members are court clerks. Judge Murrah commented, after the first two seminars, that "Both in the substance of the material and the spirit of the participants and the faculty, these are the most outstanding seminars I have seen . . ." In addition to the special emphasis on management, a number of technique sessions are included in the seminars. Techniques for scheduling, monitoring and controlling cases and case records are covered both in narrative and graphic presentations. Clerks are challenged to take charge of the administrative apparatus of the court and provide a smooth running, modern, efficient office which will increase support to judges and reduce the amount of time judges have

*Photo courtesy of the Smithsonian Institution

to spend on administrative tasks. Clerks are urged not to be hesitant to present problems to judges, but when they do they should also propose a solution. In effect, they should adopt the doctrine of completed staff work.

Mr. Ebersole of the Center, who has been in charge of the seminars, stated that he has been impressed with the high level of competence and enthusiasm of all the clerks who have attended the seminars. "Most of them know the answers," he said. "The Center and the Administrative Office should work toward providing the maximum support to clerks so they will have the resources and tools for making the improvements they know need to be made." Mr. Ebersole further noted that although provocateurs have usually been assigned for Center seminars in the past, this has not been necessary for clerks. "They know their business, they know the problems and they are not shy about jumping into a discussion and posing and probing issues. However," he noted, "the seminars have not been complaint sessions; rather they have consisted of constructive discussions on the subjects presented by the faculty."

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Rowland F. Kirks Honored at Special Retirement Review

Rowland F. Kirks, Director of the Administrative Office of the United States Courts, retired July 31 as commanding general of the 97th U.S. Army Reserve Command, Ft. Meade, Md., after 39 years of enlisted and commissioned service in the Active Army and U.S. Army Reserve. He was honored October 3 by the Department of Army with a special review on the occasion of his retirement and in recognition of his distinguished service to the Army and the Nation. Accompanying General Kirks in the reviewing party was Lieutenant General Jonathan O. Seaman, Commanding General of the First United States Army.

President Nixon awarded the Distinguished Service Medal, the Nation's highest noncombat decoration, to General Kirks for exceptionally meritorious service in a position of

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Seminars for New District Court Judges

1. February 28 - March 6, 1971
2. March 28 - April 3, 1971

CLERKS (Continued from p. 1)

The Center has attempted to cover all the subjects which are of major importance to the management of a clerk's office. For example, one half day period is given to the impact of rules, orders and statutes on the clerks' role as manager. This includes not only the Rules of Civil and Criminal Procedure, but a critical review of the impact which Rules of Appellate Procedure have on district court clerk's offices. Circuit rules are reviewed in order to analyze which of these lead to the most efficient operation for preparing the record on appeal, etc. In an adversary session on local rules one faculty member takes the position that local rules are often an impediment to the efficient administration of justice, and another that local rules are an aid. This has resulted in extensive discussions on the intent of Rules 1 and 83 of the Federal Rules of Civil Procedure and the ways in which local courts have interpreted Rule 83 so as to either improve or hinder efficient administration.

Emphasis is also given to operating procedures under the Jury Selection and Service Act including a complete description of jury selection by computer and suggestions on how a clerk should proceed to implement such a plan. For those districts which have conditions not conducive to automated systems, a session is provided for suggestions for improved manual systems. Other topics include the clerk's role in taxation of costs, the substantive aspects of taxation and alternative techniques of implementation of this responsibility by clerks. Because of the necessity of extensive coordination with other government agencies, a special session on liaison functions covers both specific techniques and the nature and scope of a clerk's liaison responsibilities. The clerk's responsibility in the implementation of the Magistrates Act and the impact of the Federal Defenders Office on the clerk's office is also described in the depth necessary to aid clerks in their role in relation to these innovations in the federal system.

In order to improve coordination between clerks and the Administrative Office and the Center, separate sessions are set aside to air questions on Administrative Office and Center roles, responsibilities and programs. During the coming months, the Center will be planning training sessions for deputy clerks. With the assistance and advice of the clerks who have attended the 1970 seminars, a program will be established which will build on the excellent foundation that now exists.

State-Federal Appellate Judges Confer at Center

One of the most poignant portions of the Chief Justice's "State of the Federal Judiciary" speech at the last ABA meeting is that which deals with the need to create better relationships between the state and federal courts. Taking this as a suggestion for top priority at the Center, Director Murrah expanded pending plans for a meeting at the FJC headquarters and set dates for a 4-day conference. A planning committee was established. Judge Murrah appointed from the federal side, Judge Griffin B. Bell of the Fifth Circuit. Mr. Justice Louis H. Burke, of the Supreme Court of California, who as the 1969-70 chairman of the Appellate Judges Conference requested the Center to co-sponsor the meeting, and Mr. Justice Harry A. Spencer of the Supreme Court of Nebraska, and chairman of the Continuing Education Committee of the Conference, represented the state courts. The committee, in consultation with the outstanding appellate court judges throughout the country, set up a 4-day schedule which calls for discussions of habeas corpus cases, civil rights jurisdiction, removal of cases from state to federal courts, opinion writing, the impact of recent Supreme Court decisions, and court management.

Mr. Justice Burke, in making his introductory remarks to the gathering, on November 17th, commented that "Viewed in

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Conferees at State-Federal Appellate Judges Conference

APPELLATE JUDGES (Continued from p. 2)

this broad context all of us present can appreciate the historical significance of this first State-Federal Appellate Judges Conference. We have brought together here outstanding supreme court justices from approximately 40 percent of the states, a corps of distinguished appellate judges from roughly one-half of the federal circuits and a representative number of leading judges from the ever-growing intermediate appellate courts of the Nation."

Since the Conference is under way as we go to press, a further report on the meeting will be in the December issue of *The Third Branch*.

Management Training Seminar Held for Chief Probation Officers

The second in a series of three Management Training Seminars for Chief Probation Officers, held at the Federal Judicial Center, October 8 to 10, was attended by 32 chiefs. At a luncheon on October 8 the group was addressed by Milton Luger, chairman of the New York State Narcotic Addiction Control Commission. Mr. Luger, who is former director of the New York youth division spoke about the division's volunteer program in which former offenders are employed as case aides.

These seminars have been developed by the Center and the staff of the Graduate School of the Department of Agriculture with primary emphases on the basics of management skills, motivation, group interaction, communication, and related subjects. The seminars are being held on a pilot basis to evaluate their usefulness as a fundamental part of the Center's program of continuing education for personnel of the judiciary. It is recognized that even the most extensive academic and in-service training in professional skills does not necessarily equip people to manage effectively a staff of 40 to 50 persons. These seminars are an initial effort to meet that need.

The third seminar will be held at the Center November 23 to 25. Thirty-two chief probation officers and three district court clerks are expected to attend. The clerks will be assisting Center staff to evaluate the program as a potential training experience for clerks.

District Courts Given Green Light to Hire Magistrates

The appropriations bill providing funds for the implementation of the Federal Magistrates Act has now been approved by the President. In an October 22 letter from the Director of the Administrative Office all U.S. district judges were informed that the district courts may therefore proceed with the selection of U.S. magistrates to fill the 61 full-time, 449 part-time, six referee-magistrates, and two clerk-magistrate positions which were approved by the Judicial Conference at its March 1970 session.

The Administrative Office and the Committee To Implement the Federal Magistrates Act conducted a resurvey of the magistrate requirements in those district courts where the positions approved by the Judicial Conference varied from the recommendations made by Judicial Councils of the Circuits. As a result of this resurvey the Judicial Conference at its meeting held October 29-30 approved 21 additional full-time magistrate positions, subject to the availability of funds. The number of part-time positions remains at 449. The number of referee-magistrate positions was changed from six to four and the originally approved two clerk-magistrate positions were changed to seven clerk and deputy clerk-magistrate positions.

Bankruptcy Meetings Held at Center

The National Bankruptcy Conference, which is made up of professional men who are experts in the field of bankruptcy, met October 30 and 31 at the Federal Judicial Center. Professor Charles Seligson of the New York University School of Law is chairman of this organization which has been responsible for the introduction of more bankruptcy legislation than any other group. Representatives from the Bankruptcy Division attending the 2-day session included Royal E. Jackson and Berkeley Wright.

The Liaison Committee of the National Conference of Referees in Bankruptcy met with the Director of the Administrative Office on October 27 to discuss matters of mutual interest. Present at the meeting were Referees in Bankruptcy Clive W. Bare of Knoxville, Tenn., chairman; William J. O'Neill of Cleveland, Ohio; Daniel R. Cowans of San Jose, Calif.; Conrad K. Cyr of Bangor, Maine; Asa S. Herzog of New York City; W. Homer Drake of Atlanta, Ga.; Joe Lee of Lexington, Ky.; and Saul Seidman of Hartford, Conn. Joining Mr. Kirks from the Administrative Office were William E. Foley, Joseph F. Spaniol, Royal E. Jackson, and Berkeley Wright.

Criminal Justice Act Amendments Passed

Senate bill S. 1461 has passed both Houses of Congress and has been enacted into law as P.L. 91-447, to become effective on February 11, 1971. Key features of this series of amendments to the Criminal Justice Act are as follows:

1. Representation under district court plans may be by attorneys furnished by a bar association or legal aid agency, or by a federal public defender organization or community defender organization otherwise provided for in the amendments (in addition to private attorneys).

2. The Act is extended to permit appointment and compensation of attorneys at the arrest stage. It is also extended to apply to juvenile proceedings, proceedings under

(Continued on p. 4)

CJA AMENDMENTS (Continued from p. 3)

Title III of the Narcotic Addict Rehabilitation Act (18 U.S.C. 4253), and revocation of probation proceedings.

3. The hourly rate for attorneys appointed under the Act may be set at not exceeding \$30 per hour plus reimbursement of expenses, with a total fee maximum per attorney of \$1,000 in a felony case and \$400 in a misdemeanor case. For representation in an appellate court the fee may be up to \$1,000 for any representation by an attorney. Representation in a posttrial matter may not exceed \$250 per attorney. Fees may be paid to the agency or community defender organization where appropriate.

4. The ceiling of \$300 for investigative, expert, or other services may be waived in unusual cases if approved by the chief judge.

5. Discretionary appointments of counsel may be allowed a person subject to revocation of parole, a material witness, or one petitioning for habeas corpus, or for relief under section 2255 of title 28, or under section 4245 of title 18, U.S. Code.

6. In a district or part of a district where at least 200 persons require appointments of counsel per annum, a defender organization may be established and two adjacent districts or parts of districts may be aggregated to establish such eligibility. The defender organization may be of two kinds: (a) *Federal Public Defender Organization*, consisting of one or more full-time salaried attorneys, supervised by a federal public defender appointed by the judicial council of the circuit for a 4-year term, his compensation to be fixed by the circuit judicial council at a rate not exceeding that of the U.S. attorney, and (b) *Community Defender Organization*, a nonprofit defense counsel service furnished by any group authorized by the plan to provide representation. Upon application, an organization may, to the extent approved by the Judicial Conference of the United States, receive an initial grant of expenses necessary to establish the organization and, in lieu of fees, receive periodic sustaining grants to provide representation under the Act.

New forms, plans, and guidelines are in preparation and will be furnished to all federal judges in advance of the effective date of the Act and subject to Judicial Conference approval.

Senate Confirms 34 Judges

The Senate in October confirmed four U.S. circuit judges and 30 U.S. district judges. The circuit judges are Max Rosen of Wilkes Barre, Pa., Third Circuit; John Paul Stevens of Chicago, Ill., Seventh Circuit; Robert H. McWilliams, Jr., of Denver, Colo., Tenth Circuit; and Paul H. Roney of St. Petersburg, Fla., Fifth Circuit.

The district judges confirmed are: Cornelia G. Kennedy of Detroit, Mich., Eastern District of Michigan; Samuel E. Pointer, Jr., of Birmingham, Ala., Northern District of

Alabama; Walter K. Stapleton of Wilmington, Del., District of Delaware; Frank J. McGarr of Chicago, Ill., Northern District of Illinois; Edwin L. Mechem of Las Cruces, N.M., District of New Mexico; Edward R. Becker of Philadelphia, Pa., Eastern District of Pennsylvania; J. William Ditter, Jr., of Norristown Pa., Eastern District of Pennsylvania; Daniel H. Huyett III of Reading, Pa., Eastern District of Pennsylvania; William K. Knox of Erie, Pa., Western District of Pennsylvania; Malcolm Muir of Williamsport, Pa., Middle District of Pennsylvania; Donald W. Van Arsdale of Doylestown, Pa., Eastern District of Pennsylvania; and L. Clure Morton of Knoxville, Tenn., Middle District of Tennessee.

Also confirmed as district judges are: Carl O. Bue, Jr., of Houston Texas, Southern District of Texas; Gordon Thompson, Jr., of San Diego, Calif., Southern District of California; J. Clifford Wallace of San Diego, Calif., Southern District of California; Peter T. Fay of Miami, Fla., Southern District of Florida; James L. King of Miami, Fla., Southern District of Florida; Gerald B. Tjoflat of Jacksonville, Fla., Middle District of Florida; Charles A. Moye, Jr., of Atlanta, Ga., Northern District of Georgia; William C. O'Kelley of Atlanta, Ga., Northern District of Georgia; Samuel Conti of Martinez, Calif., Northern District of California; C. Rhodes Bratcher of Owensboro, Ky., Western District of Kentucky; Robert B. Krupansky of Cleveland, Ohio, Northern District of Ohio; Nicholas J. Walinski, Jr., of Toledo, Ohio, Northern District of Ohio; Robert H. Schnacke of San Francisco, Calif., Northern District of California; James R. Miller, Jr., of Rockville, Md., District of Maryland; Nauman S. Scott of Alexandria, La., Western District of Louisiana; Clarkson S. Fisher of Freehold, N.J., District of New Jersey; John L. Kitchen of Woodbury, N.J., District of New Jersey; and Frederick B. Lacey of Newark, N.J., District of New Jersey.

New Law Permits Halfway House Treatment for Probationers and Parolees

House bill H.R. 2175, authorizing the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released, became Public Law 91-492 on October 22.

As soon as the Attorney General makes the required certification of availability of facilities, personnel, and programs, the Probation Division will inform the judges of the district courts and the probation officers. Guidelines will be developed in cooperation with the Bureau of Prisons and the Board of Parole.

Seminars Held for Referees in Bankruptcy

The eastern regional seminar for referees in bankruptcy was held November 6 and 7 at the New York University Law

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BANKRUPTCY SEMINARS *(Continued from p.4)*

School. The program was arranged by Co-Chairmen Roy Babbit of New York City; Saul Seidman of Hartford, Conn.; and William Lipkin of Camden, N.J. The Administrative Office was represented by Berkeley Wright and Thomas A. Beitelman, Jr.

On the west coast, a regional seminar was held in San Francisco November 12 and 13 with more than 40 referees from 15 states (including Alaska and Hawaii) in attendance. Guests included Judge Shirley M. Hufstедler of the Ninth Circuit Court of Appeals and Royal E. Jackson and H. Kent Presson of the Bankruptcy Division. The seminar was chaired by Referees Daniel R. Cowans of San Jose, Calif., Jacob Dim of St. Paul, Minn., and Jerrold L. Strasheim of Omaha, Neb.

CALENDAR OF CIRCUIT CONFERENCES

District of Columbia Circuit Conference, White Sulphur Springs, W. Va., April 4 and 5, 1971

Sixth Circuit Conference, Mackinac Island, Mich., July 1, 2, and 3, 1971

Second Circuit Conference, Manchester, Vt., September 10 and 11, 1971

Note: Chief judges of circuits are requested to advise when dates are set for circuit conferences.

KIRKS *(Continued from p. 1)*

great responsibility. The citation concluded: "A citizen-soldier of the first order, General Kirks' dedication to duty, outstanding ability, and exceptional accomplishments were in the finest traditions of the military service and reflect great credit upon himself and the United States Army."

CALENDAR OF MEETINGS

Nov. 17-20 State-Federal Appellate Judges Conference
Dolley Madison House, Washington, D.C.

Nov. 18-21 Advisory Committee on Bankruptcy Rules,
Room 22C, Supreme Court Bldg.,
Washington, D.C.

Nov. 23-25 Chief Probation Officers Seminar, Dolley
Madison House, Washington, D.C.

Dec. 2-5 District Court Clerks Seminar, Dolley
Madison House, Washington, D.C.

Dec. 3-4 Judicial Conference Committee To Imple-
ment the Criminal Justice Act. 725 Madison
Place, N.W. Washington, D.C.

PERSONNEL

Appointments

John K. Adams, Clerk, U.S. District Court, Western District of New York, September 14

William H. Bechtel, U.S. Probation Officer, Eastern District of Michigan, August 10

Dan Richard Beto, U.S. Probation Officer, Southern District of Texas, October 5

C. Rhodes Bratcher, U.S. District Judge, Western District of Kentucky, October 16

Dean M. Gandy, Referee in Bankruptcy, Northern District of Texas, August 1

Charles F. Hengstebeck, Jr., U.S. Probation Officer, Western District of Michigan, August 10

Cornelia G. Kennedy, U.S. District Judge Eastern District of Michigan, October 7

Edward Joseph Kennedy, U.S. Probation Officer, District of Columbia, July 27

William E. Miller, U.S. Circuit Judge, Sixth Circuit, July 13 (former Chief Judge, U.S. District Court, Middle District of Tennessee)

Howard K. Phillips, Clerk, U.S. Court of Appeals, Tenth Circuit, September 1

John Glenn Richardson, U.S. Probation Officer, Southern District of Texas, August 3

Omar G. Rios, U.S. Probation Officer, Western District of Texas, September 7

Melvin Charles Smith, U.S. Probation Officer, Middle District of North Carolina, August 17

Ernest L. Thompson, U.S. Probation Officer, Eastern District of Michigan, August 4

Charles Gleason Venz, U.S. Probation Officer, Southern District of California, July 27

James C. Walker, U.S. Probation Officer, Northern District of Illinois, October 5

Ray Watson, U.S. Probation Officer, Northern District of California, August 3

John L. White, U.S. Probation Officer, District of South Carolina, October 5

Promotions

William T. Hogan, Jr., Chief Probation Officer, District of Massachusetts, October 1

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PERSONNEL (Continued from p.5)

John A. McQueeney, Clerk, U.S. District Court, District of Rhode Island, August 1

Senior Judges

Jean S. Breitenstein, U.S. Senior Circuit Judge, Tenth Circuit, July 31

Thurmond Clarke, U.S. Senior District Judge, Central District of California, September 1

George B. Harris, U.S. Senior District Judge, Northern District of California, July 31

Girard E. Kalbfleisch, U.S. Senior District Judge, Northern District of Ohio, September 30

Retirements

Harold W. Anderson, Clerk, U.S. District Court, Western District of Washington, July 31 (reemployed annuitant, August 4)

Finley Cook, Chief Probation Officer, Southern District of West Virginia, July 31

George H. Gilpin, Chief Probation Officer, Western District of Texas, July 31

John P. Jarvis, Chief Probation Officer, Eastern District of Kentucky, July 31

Roland E. Logel, Clerk, U.S. District Court, Western District of New York, July 31

Neale D. Murphy, Clerk, U.S. District Court, District of Rhode Island, July 31

Robert E. Scott, U.S. Probation Officer, Northern District of California, July 24

Robert Stearns, Clerk, U.S. District Court, District of Columbia, July 31 (reemployed annuitant, August 1)

Elmore Whitehurst, Referee in Bankruptcy, Northern District of Texas, July 31 (reemployed annuitant August 1)

Resignation

William L. Whittaker, Clerk, U.S. Court of Appeals, Tenth Circuit, August 31

Deaths

John M. Cashin, U.S. Senior District Judge, Southern District of New York, October 21

Arthur J. Doran, Referee in Bankruptcy, Southern District of New York, August 25

Johnson J. Hayes, U.S. Senior District Judge, Middle District of North Carolina, October 22

John J. Hickey, U.S. Circuit Judge, Tenth Circuit, September 22

William Boyd Sloan, U.S. Senior District Judge, Northern District of Georgia, October 22

George A. Welsh, U.S. Senior District Judge, Eastern District of Pennsylvania, October 22



THE THIRD BRANCH

THE FEDERAL JUDICIAL CENTER

DOLLEY MADISON HOUSE

1520 H STREET NW.

WASHINGTON, D.C. 20005

OFFICIAL BUSINESS



**POSTAGE AND FEES PAID
UNITED STATES COURTS**

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A Bulletin of the Federal Courts



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December 1970

A Message from the Chief Justice

As another year closes, I pause to express thanks to all members of the Federal Judiciary and to all supporting staff members for their labors and loyalty during the past year and for their cooperation in an effort to bring improvement to our judicial system.

It seems sometimes that men and women who work in our courts are looked upon as solemn robots instead of as human beings. Happily, the "image" is not a correct reflection of the fact.

Together, we have made strides during this past year toward many major goals, including some we hope will produce greater efficiency in court management and the handling of trials and appeals in a way to bring justice fairly and more swiftly to all. If we persevere more success will come in 1971.

In this Holiday Season, in place of the ancient and fabled "partridge, a pear tree, and two turtle doves," I send to each of you heartfelt thanks and warm wishes for joy, happiness, and much peace in the year ahead.



Chief Justice Burger, who commended him for his "untiring work on behalf of the federal judiciary, and a truly unique record."

Minnesota District Court Orders Six-Member Juries

In an endeavor to expedite the handling of civil cases, as well as to bring about savings of time and money, the District Court of Minnesota will start using six-member juries, Chief Judge Edward J. Devitt has announced. An order of that court will make the truncated panels mandatory in approximately 80 percent of the civil cases starting January 1, 1971. The federal rules of criminal procedure specifically require 12-member juries in criminal trials.

In the past, juries of fewer than 12 have been used by stipulation of the parties to a trial, but this is more the exception than the rule. The costs to continue this practice in the federal courts are now astronomical. In 1960 jury fees paid out were \$3,884,545, whereas now they run over \$14,500,000 a year, with a steady increase indicated. This is only one consideration; the time factor involved to call and impanel a jury has great significance in a busy court.

Chief Judge Devitt's order was accompanied by a memorandum which referred to the June 22, 1970, opinion of the Supreme Court of the United States, in the case of *Williams v. Florida*, (399 U.S. 78) which reversed the long-standing contention that the Sixth Amendment's requirement of trial by jury meant nothing short of a 12-member panel. The opinion recites an interesting history of the number 12 and calls attention to Lord Coke's explanation that the "number of 12 is much respected in holy writ, as 12 apostles, 12 stones, 12 tribes, etc." But Mr. Justice White, writing for the Court, concluded that "this accidental feature of the jury" was not codified into our Constitution. The opinion states that though the jury at common law was composed of precisely 12, this number is not necessary to effect the purposes of the jury system, and is "wholly without significance except to mystics."

And Chief Justice Burger, in an exhortative portion of a speech delivered last month in Philadelphia, said we would do well to take a closer look at the English procedures. They are not only trying civil cases without juries, but, in complex business-economic litigation they often have economists or other specialists join them as lay judges. (Continued on p. 2)

Oklahoma Bar Honors Judge Alfred P. Murrah

The Oklahoma State Bar Association on December 4 honored one of its most illustrious and beloved members, Judge Alfred P. Murrah. Judge Murrah, on May 1, 1970, left the office of Chief Judge of the Tenth Circuit to become Director of the Federal Judicial Center.

Mr. Justice Byron White, of the U.S. Supreme Court, and Circuit Justice for the Tenth Circuit, addressed the dinner gathering of several hundred people who assembled in Tulsa to honor the judge. He spoke eloquently of Judge Murrah's 33-year record as a federal judge and applauded his many contributions in the field of judicial administration, and reminded those present that the man they honored this date was in fact "the father of a great many of our trial procedures we have today."

At the conclusion of the dinner Tom R. Brett, president of the Oklahoma Bar, presented Judge Murrah with a set of cuff links and a tie clasp bearing the seal of the Oklahoma Bar Association, and a bound volume of congratulatory letters from federal and state judges and lawyers, including one from

SIX-MEMBER JURIES *Continued from p. 1*

All of this has not gone without notice of the Congress. Congressman Emanuel Celler, (D. N.Y.) Chairman of the House Judiciary Committee, has said he wants his committee to look deeply at all phases of the criminal justice system and possibly "consider a constitutional amendment to curtail or even abandon jury trials in some cases." The Congressman did say that as a civil libertarian it would disturb him to limit the constitutional rights of individuals, but went on to comment that "all these rights are relative . . . [and you have to] consider also the overriding right to a speedy trial." In a recent interview to discuss this, Congressman Celler made it patently clear that he shares the concern of the judiciary for overcrowded dockets and the need to meet the accompanying problems. Congressman William McCulloch (R. Ohio), also a member of the Committee, has spoken out on this subject, and has obviously given our jury system much thought. His comment is that the system, "while the best ever devised, has picked up some defects." The two congressmen are a potent force on any legislation and it seems fair to say that with this backing something significant will evolve from this area soon.

State-Federal Judicial Councils Over Halfway Mark

Last August in his State of the Federal Judiciary speech, the Chief Justice urged that there be constituted in each state a State-Federal Judicial Council to "maintain continuing communications on all joint problems." He pointed to the friction which unfortunately exists in many jurisdictions, and which cause serious problems to both courts. It brought forth an immediate response from the judiciary and today the count of the states which have constituted such councils is over the halfway mark. The Fifth Circuit was in the forefront in this move, with Chief Judge John R. Brown joining the council formed by Chief Justice Robert W. Calvert of the Supreme Court of Texas and currently Chairman of the Conference of Chief Justices.

At the November State-Federal Appellate Judges Conference at the Center, this was discussed and Circuit Judge Griffin B. Bell of Atlanta, a member of the conference's planning committee, reported that at the conclusion of the meeting eight states had agreed to constitute state-federal councils and two more were in the stages of making final plans.

Chief Justice Richard W. Ervin, of the Supreme Court of Florida, and one of the conferees, released a per curiam dated November 25, 1970, outlining the formation of Florida's State-Federal Judicial Council. Judge David W. Dyer, of the Fifth Circuit (Miami), has agreed to appoint a committee of federal judges who are resident in Florida, and of course Chief Justice Ervin will appoint the state judges. The purpose of the council is set out in the following language: "to harmonize the

relationship between the state and federal judiciary; to eliminate or minimize as far as possible tensions and abrasions that have resulted or can result from the operation of the dual federal and state judicial systems, . . . formulate recommendations for the purpose of curtailing and eliminating tensions, . . . suggest legislation to the state legislature and to the Congress and court rules which the Council believes will further such objectives and which will otherwise improve the administration of justice in such court systems in Florida."*

At the formal dinner concluding the conference, Judge Murrah proposed a toast to the state judges and their ladies and thanked the judges for what he termed "meaningful and helpful discussions." Mr. Justice Louis H. Burke, speaking for the state judges, proposed a toast to the Chief Justice and Mrs. Burger, Director and Mrs. Murrah, and the federal judiciary. He said he wanted to express the appreciation of the state judges for "the wonderful reception accorded us by the Center," and concluded his remarks by saying: "We leave Washington not only with warm memories of the fine friendships we have formed during our deliberations, but with new understanding of our mutual problems, and the inspiration to solve them." Chief Justice Burger addressed the gathering and made particular reference to the state-federal judicial councils. The Chief Justice said it bodes well for the future of American jurisprudence when state and federal judges can work harmoniously toward a common goal: the best judicial administration possible.

The next State-Federal Appellate Judges Conference, which will include the remainder of the states, is tentatively set for April 1971.

*Copies of Chief Justice Ervin's per curiam available at the Federal Judicial Center.

Probation Officers and District Clerks Seminars Completed

As reported in previous issues of *The Third Branch*, a series of six seminars were scheduled for chief probation officers and district court clerks. The third in the series for probation officers was held in November, and the third clerks' seminar was held in early December, both in Washington.

The seminars for clerks brought to the Center 100 clerks of District Courts, the clerk of the U.S. Court of Customs & Patent Appeals, the clerk of the Court of Claims, the clerk of the newly created Superior Court of the District of Columbia, and the clerk of the Supreme Court of the United States. James F. Davey, newly appointed clerk of the District Court for the District of Columbia, wrote Director Murrah after the seminar and reported that he found the seminar "tremendously helpful." He listed three things he considered the most beneficial: "I got acquainted with a number of outstanding people; I obtained specific answers to questions that had been bothering me; and I was stimulated by a number of presenta-

(Continued on p. 3)



DISTRICT COURT CLERKS AND DIRECTORS KIRK AND MURRAH AT DECEMBER SEMINAR

Front Row, Seated L to R:

Wesley R. Thies, James H. Wallace, Jr., James F. Davey, Leo C. De Voto, Jr., Mary Prater, Virginia M. Ayers, Rowland F. Kirks, Judge Alfred P. Murrah, Ruth W. La Fave, Elva McKnight, Elbert A. Wagner, Jr., Frank N. Bell.

2nd Row, Standing L to R:

Frederick W. Johnson, William J. Srstka, James A. McWhorter, William E. Davis, William J. Littell, John A. McQueeney, Cletus J. Schmidt, John R. Adams, Alton L. Curtis, Samuel A. Howard, E. A. Riddle, John C. Truman, Joseph I. Bogart, Nathan J. Paulson.

Back Row, Standing L to R:

Edward L. G. Aguon, Andrew J. Brennan, Charles Schaaf, Carmon J. Stuart, August Winkenhofer, Jr., Robert C. Thomas, J. R. Fallquist, G. Walter Bowman, Louis E. Aenchbacher, William W. Luddy, Rex B. Hawks, John K. Adams.

SEMINARS COMPLETED *(Continued from p. 2)*

tions, especially those urging the clerks to take charge and manage.”

The series of management seminars for chief probation officers was completed with the third seminar for 32 officers held November 23-25, 1970. A total of 93 chiefs attended the series. In their respective districts they manage staffs composed of more than 600 professionals and 448 supporting personnel. The seminars were organized and offered in recognition of the fact that many members of the judicial system have gradually been given extensive management responsibilities over and above the professional responsibilities arising from their basic positions.

Organized Crime Control Act of 1970 Enacted

The Organized Crime Control Act was enacted on October 15 as Public Law 91-452. Title I of the Act provides for a special grand jury which can perpetuate itself for up to 36 months, and issue presentments charging public officers with noncriminal misconduct, malfeasance, or misfeasance in office, as well as reports on organized crime conditions in the district. Title II of the Act is a general immunity provision, Title III a civil contempt provision, and Title IV punishes false declarations. Title V provides protected facilities for housing government witnesses and potential witnesses in organized crime cases.

Title VI of the Act provides that in exceptional circumstances and after the filing of an indictment or information, either the defendant or the government may move for the taking of a deposition of a witness (if the government so moves it must certify that the legal proceeding is against a person who is believed to have participated in “an organized criminal activity”). Provision is made for due notice of the taking to the other party, and the production of the defendant and retained or assigned counsel at the taking. The deposition procedures shall be the same as in civil cases, and on request or waiver by the defendant, the deposition may be taken on written interrogatories. At the trial or upon the hearing the deposition, if otherwise admissible, may be used if the witness is unavailable, and may also be used to impeach the deponent as a witness.

Title VII provides that on a hearing or trial a motion to suppress evidence cannot rely on alleged illegality occurring (1) before June 19, 1968, and (2) over 5 years before the event sought to be proved. [The date of June 19, 1968, refers to the date of passage of the Federal Wiretapping and Electronic Surveillance Law (chapter 119, Title 18, U.S. Code).] Title VIII broadly extends federal jurisdiction over syndicated gambling, provides penalties for conducting gambling businesses, and establishes a Commission on the Review of the National Policy Toward Gambling. The Act in Title IX provides both civil and criminal remedies directed against racketeer influenced and corrupt organizations. Criminal features

(Continued on p. 4)

ORGANIZED CRIME (Continued from p. 3)

of this title provide for imprisonment for up to 20 years, large fines, and forfeiture of any interest in the business. Civil remedies include divestment proceedings initiated by the government.

Another major feature is Title X ("Dangerous Special Offender Sentencing") which prescribes special sentencing procedures for habitual offenders, and professional or organized crime offenders. The title would provide that after plea or finding of guilty to a charge of felony, a hearing could be held before the trial judge on prior application of the prosecutor, to determine whether such person is a "dangerous special offender." If on the basis of information submitted on the trial, or on the special hearing, or in the presentence report that the person is such, the court could sentence up to 25 years.

Either the defendant or the government would be entitled to seek review of the sentence in the court of appeals. The court of appeals could affirm the sentence or impose a sentence which the sentencing court would have originally imposed, except that a sentence could be increased or changed to the disadvantage of the defendant, only on review taken by the government and after hearing.

Title XI of the Act provides for the regulation of explosives. Title XII establishes a National Commission on Individual Rights, to study the operation of various features of this Act, as well as wiretapping and electronic surveillance, bail reform, preventive detention, no-knock search warrants, and accumulation of data on individuals by federal agencies.

Two Innovations at Supreme Court

Headnotes

The Supreme Court of the United States for the first time is relasing headnotes simultaneously with written opinions as they are announced from the bench and released in proof copy form.

Use of the headnotes is being tried on an experimental and selective basis during the October 1970 Term of Court. The advanced headnotes appeared on the Court's first full-length opinion of the Term, on November 23, in the case of *North Carolina v. Alford*, with the following comment: "NOTE: Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337."

Prepared by Henry Putzel, Jr., the Court's Reporter of Decisions, the headnotes are similar to those found over earlier cases in the published volumes of the *United States Reports*.

The headnotes heretofore were not compiled until after opinions were announced publicly and they did not appear in print until the bound volumes of the *U.S. Reports* were published.

The headnotes are printed preceding each majority opinion, and are not considered a legal part of the opinion. They represent the Reporter's analysis of the Court's holdings. They are expected to give useful assistance to readers who must try to understand the opinions at the outset, including the public, the bench, the bar, and the press.

Advance release also allows the headnotes to be printed with the "slip" opinions which are available in pamphlet form within a day or so after an opinion is announced from the bench.

Votes Made Public

An additional change this term is the announcement of the justices' votes in the cases in which opinions are written. Opinions will now carry a statement of votes of all the justices. This information is expected to further facilitate analysis of opinions and will enable readers to readily determine how each justice voted without leafing through all pages of an opinion.

Published immediately following the headnotes, will be the names of all members of the Court joining in the majority, as well as a listing of those who concur, dissent, or those not participating. Concurring or dissenting opinions not susceptible to absolute characterization will be designated as "separate" opinions. During the course of the Term, it is expected that some opinions will be released without being headnoted, but all will carry the voting lineup.

IN MEMORIAM

Elbert A. Wagner, Jr.
1904 - 1970

WHEREAS, the Clerks attending the District Court Clerks' Seminar, held in Washington, D.C., December 2-5, 1970, are deeply saddened by the sudden and tragic loss of Elbert A. Wagner, Clerk of the United States District Court for the Northern District of Illinois, on December 4, 1970; and

WHEREAS, Elbert A. Wagner gave his life to further the cause of improved administration of justice; and

WHEREAS, Elbert A. Wagner was a prominent and effective leader among the supporting personnel of the federal judiciary, and was the prime architect of the clerks' training program;

BE IT RESOLVED that a plaque in his memory be appropriately inscribed and hung at the Federal Judicial Center, as a fitting reminder of his many contributions to the cause of justice, and of the affection and admiration of his fellow clerks.

The Courts: The Need of Change*

By ALEXANDER M. BICKEL

Nothing, at least nothing that is secular, changes more slowly than the ways of courts. Judges are traditionalists, and they ought to be. After all, the continuity of the society's commitments is substantially in their keeping.

This is, however, an explanation of why judicial procedures change slowly, not an argument against changing and improving them. And if, responding to Chief Justice Burger's address before the American Bar Association in St. Louis, judges, legislators and lawyers now organize an effort at reform, they can hardly be accused of piling change upon change with undue velocity. Over the past decade, the Supreme Court has reformed the long-neglected body of law applicable to police practices and to criminal trials. But "the major procedural change of this century," as the Chief Justice said, "was the development of the Federal Rules of Civil Procedure a generation ago." And the last significant administrative innovation was introduced in the Federal judicial system nearly fifty years ago.

The Supreme Court's decisions concerning the trial of crimes and proceedings before trial did, of course, achieve a certain velocity. In the aggregate they constitute, as Chief Justice Burger emphasized in St. Louis, a reform that calls urgently for other reforms, if it is not to fall of its own weight, or have unintended and possibly catastrophic consequences. Exigent new demands for more judicial and prosecutorial man-hours have been generated, and there is an imperative need, not only for more judges, but for better management, new methods of administration, and a more efficient division of labor between state and Federal courts.

To say all this is not to imply an adverse judgment on the Supreme Court's criminal law

decisions. It is simply and quite neutrally to assess what they have wrought. Chief Justice Burger did so, bluntly and directly, and if there was a note of alarm in his description of the mass of criminal defendants squeezing, in the slow motion of a dream, through the bottleneck of the Federal courts in the District of Columbia on their way to an ineffective, indeed counter-productive, correctional system — if there was a note of alarm, it was justified.

Decisions of the Supreme Court do not cause people to commit crimes, and they do not cause prisons to be inadequate. But they have caused greater pains to be taken and more time to be spent in the disposition of criminal cases. Meanwhile the number of cases has been on the rise. Judicial action, which is never responsible for increased crime rates, will never help reduce them either, as the Chief Justice said, so long as months and years elapse between crime and punishment. There is a chance that punishment will deter crime, but only if it is just and is decently administered, so that it can be identified with the moral order it is supposed to vindicate, and only if, while just, it is swift and sure.

Criminal cases are a crushing problem for the federal courts in the District of Columbia. They are a problem for other Federal courts as well, but not the only one. These courts were intended to be, and can in a country of the size and diversity of ours only be, a relatively small, specialized institution. Their special mission has naturally varied over our history. Thus originally, when the country was less unified than it is now, perhaps the main function of the Federal courts was to provide an impartial forum for civil litigation between citizens of different states who might have encountered parochial prejudices in the state courts. Today the principal mission of the Federal courts is the interpretation and harmonization of a large corpus of

Federal statute law, and the protection of individual rights in the relationship between a much more pervasive government than we knew before, and its citizens.

But when the essential function of the specialized Federal courts changed, we asked them to perform their new function without relieving them of any part of their obsolescent one.

Reductions are called for, and drastic ones. We overuse—to the point of vanished returns—the criminal law as an instrument of regulation, and the civil law suit as the basic, all-purpose instrument of social and individual justice. We overuse all our courts, and the Federal courts above all. We clog them, for example, with automobile negligence, employers' liability and bankruptcy reorganization cases. Not to speak of patent litigation. When are they to find the time and summon the energy to be the palladium of our liberties?

The last Chief Justice of the United States who pressed with marked success for reform of judicial administration was William Howard Taft in the 1920's. He directed the attention of Congress to the problems of courts, including the Supreme Court itself, which was creaking badly at the time, and he got results. As Chief Justice Burger takes up the task, it is not enough to hope that he will equal Taft's success, and stand with him among the Chief Justices as a great administrative reformer. The problems are worse, the needs greater. Chief Justice Burger will have to outdo Taft, and he will need the help of Congress and the bar.

Alexander M. Bickel, Professor of Law at Yale University, is author of "The New Age of Political Reform."

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A.O. — F.J.C. CALENDAR

Jan. 5	Meeting of the Board of the Center. At the Center, Washington, D.C. 10:00 a.m.	Feb. 23–24	Criminal Law Committee, 725 Madison Place, N.W., Washington, D.C.
Jan. 11–13	Criminal Rules Committee, 725 Madison Place, N.W., Washington, D.C.	Feb. 28–Mar. 6	First Seminar for Newly Appointed District Court Judges. At the Center, Washington, D.C.
Jan. 28–30 (tentative)	Trial Practice and Technique Committee, 725 Madison Place, N.W., Washington, D.C.	Mar. 28–Apr. 3	Second Seminar for Newly Appointed District Court Judges. At the Center, Washington, D.C.
Feb. 5	Probation Committee, 725 Madison Place, N.W., Washington, D.C.	May 4–7	Fifth Circuit Conference, San Antonio, Texas. [Circuit Conferences for Dist. Col., Second and Sixth Circuits listed Nov. 1970 issue of <i>The Third Branch</i> . Chief Judges are requested to advise when dates are set for other Circuit Conferences.]
Feb. 17	Bankruptcy Committee, 725 Madison Place, N.W., Washington, D.C.		
Feb. 19	Magistrates Committee, 725 Madison Place, N.W., Washington, D.C.		

PERSONNEL

Appointments

Carl O. Bue, Jr., U.S. District Judge, Southern District of Texas, November 6

Peter T. Fay, U.S. District Judge, Southern District of Florida, October 30

Clarkson S. Fisher, U.S. District Judge, District of New Jersey, October 23

William T. Kelly, U.S. Probation Officer, District of Massachusetts, November 30

James Lawrence King, U.S. District Judge, Southern District of Florida, October 30

John J. Kitchen, U.S. District Judge, District of New Jersey, October 30

William W. Knox, U.S. District Judge, Western District of Pennsylvania, October 30

Frank J. McGarr, U.S. District Judge, Northern District of Illinois, October 27

Robert H. McWilliams, U.S. Circuit Judge, Tenth Circuit, November 5

Edwin L. Mechem, U.S. District Judge, District of New Mexico, November 2

James R. Miller, Jr., U.S. District Judge, District of Maryland, November 16

L. Clure Morton, U.S. District Judge, Middle District of Tennessee, October 26

Charles A. Moye, Jr., U.S. District Judge, Northern District of Georgia, October 23

Malcolm Muir, U.S. District Judge, Middle District of Pennsylvania, November 6

Nicholas B. Murphy, U.S. Probation Officer, Central District of California, October 30

William C. O'Kelley, U.S. District Judge, Northern District of Georgia, October 23

Sam C. Pointer, Jr., U.S. District Judge, Northern District of Alabama, November 6

Paul H. Roney, U.S. Circuit Judge, Fifth Circuit, November 23

Max Rosenn, U.S. Circuit Judge, Third Circuit, November 2

Charles A. Schaaf, Clerk, U.S. District Court, Western District of Washington, November 2

Robert H. Schnacke, U.S. District Judge, Northern District of California, October 28

Nauman S. Scott, U.S. District Judge, Western District of Louisiana, October 17

John Paul Stevens, U.S. Circuit Judge, Seventh Circuit, November 2

Louis S. Sutherland, Jr., U.S. Probation Officer, Western District of Kentucky, November 2

Gordon Thompson, Jr., U.S. District Judge, Southern District of California, October 29

Gerald B. Tjoflat, U.S. District Judge, Middle District of Florida, October 29

Nicholas J. Walinski, U.S. District Judge, Northern District of Ohio, November 6

J. Clifford Wallace, U.S. District Judge, Southern District of California, October 29

Warner W. Waters, Jr., U.S. Probation Officer, Southern District of New York, November 30

Promotion

James F. Davey, Clerk, U.S. District Court, District of Columbia, November 2

Retirements

J. J. Dawes, Referee in Bankruptcy, District of Kansas, December 31

Henry A. Hirshberg, Referee in Bankruptcy, Western District of Texas, December 31

William E. Kyle, Referee in Bankruptcy, Eastern District of Virginia, December 31

Deaths

Howard C. Colvard, U.S. Probation Officer, Middle District of North Carolina, November 8

Joseph P. McCormick, U.S. Probation Officer, District of New Jersey, November 10

Peter Woodbury, U.S. Senior Circuit Judge, First Circuit, November 17

THE THIRD BRANCH
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1520 H STREET, N.W.
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A Bulletin of the Federal Courts



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January 1971

Institute for Court Management Graduates First Class

Thirty-one student-executives, who made up the first class of the Institute for Court Management, were graduated with impressive ceremonies at the United States Supreme Court on December 12, 1970. The charter class of men (and one woman), carefully selected from hundreds of applicants, included experienced court administrators, lawyers, public administrators, college professors, former career military officers, and graduates of schools of Public Administration and Law.

The Institute, headquartered at the University of Denver Law Center, was organized after Chief Justice Burger expressed alarming concern for the courts, and placed a major portion of the blame for this on the lack of qualified court executives or managers. At the annual meeting of the American Bar Association in 1969, the Chief Justice said, "Only by the adoption of sound administrative practices will the courts be able to meet the increased and increasing burdens placed on them. The time has passed when the court system will carry its load, if each judge 'does his job,' there must also be . . . a system . . . [which will] leave the judge to his job of judging."

Before receiving their certificates the students and audience, made up of families and friends, and distinguished Board members who serve in an advisory capacity to the Institute, heard remarks from the Chief Justice, Herbert Brownell, and Ernest C. Friesen, Jr., Director of the Institute. Mr. Brownell, former U.S. Attorney General and Chairman of the Board of the Institute, said "The graduates of this program will be uniquely qualified to work in the courts. They have been exposed to the administration of the courts in all of its aspects. They understand how modern business equipment can be adapted to the needs of the courts. They understand the relevance of the social sciences to the problems of administering large complex organizations. Perhaps most of all they understand their role as an administrator in a world which is necessarily dominated by judges."

Mr. Friesen, in his remarks, said he took great pride in presenting this class "made up of a corps of executive officers who are eminently qualified to help with the administrative details which now burden busy judges in multijudge courts."

As now designed, the students are initiated into the program by a 2-week immersion in the court environment. All participants are required to survey a given court, focusing attention on its problems and studying in detail its administra-



Chief Justice Burger, Herbert Brownell, and Ernest Friesen congratulating Donald E. Fuller of Pittsburgh, Pa., as he receives I.C.M. certificate.

tive operations. For the 9 weeks which follow the students are engaged in intensive classroom study on court organization, judicial responsibility for management, legal method and the adversary process, financial management of the courts and government, personnel management, and operations research. The third phase of the program requires each student to sit in on a specific court system to study it and to make recommendations related to that court. These field studies are particularly important since they provide essential, practical knowledge and can serve the basis for more comprehensive inquiries by the Institute which will point to the real causes of court problems—congestion, delay, and inefficiency in management.

Finally, the students are brought together in a 2-week seminar for a review session and to derive every possible benefit through an exchange of experiences in the field.

The Institute's next class will begin in June of 1971, and will be graduated at the end of the year. It continues under the joint sponsorship of the American Bar Association, the American Judicature Society, and the Institute of Judicial Administration. Accepted candidates are provided with monthly stipends, travel reimbursement, and living subsistence, made possible through a grant from the Ford Foundation. Applications are being accepted now and should be submitted to Mr. Friesen at the University of Denver Law Center, Denver, Colorado.

Comprehensive Drug Abuse Prevention and Control Act of 1970

Title I (Rehabilitation Programs Relating to Drug Abuse) provides new and expanded authority to the Department of Health, Education, and Welfare to deal with the problems of drug abuse and drug dependence, as well as addiction. Additional funds are authorized for several existing programs, and the Secretary will be authorized to make grants and to enter into contracts in a program of drug abuse information and education. The Secretary will also be authorized to make grants to public or nonprofit private agencies for treatment and rehabilitation of addicts or drug dependent persons.

Title II (The "Controlled Substances Act") begins with a statement of finding and policy by the Congress. The new law is founded in the commerce power, as well as in treaty obligations. The Attorney General is given authority to add to the schedules of controlled substances, to transfer between such schedules, or to remove a drug to other substance if he finds that it does not meet the requirements for inclusion in the schedule. Any such rules are to be made pursuant to the Administrative Procedure Act. The Attorney General, before adding to the schedules or removing a drug or other substance, must request the advice and recommendations of the Secretary of HEW. A recommendation that a drug or other substance not be controlled is binding upon the Attorney General, as are the Secretary's scientific and medical evaluations.

Five schedules of controlled substances are established, together with the criteria applied in determining in which schedule a substance should be placed. This title also establishes a system administered by the Attorney General which provides for the registration of manufacturers, distributors, and dispensers of controlled substances.

Under the penalty provisions of the law, persons convicted of offenses involving controlled substances would be generally subject to the imposition of a special parole term (ranging from 2 to 6 years) in addition to any term of imprisonment, and in addition to any other parole. If the conditions of the special parole term are violated, the term of imprisonment is increased by the period of the special parole term, without reduction for the time spent on special parole.

The technical violations of the system of registration would be generally punishable by the assessment of a civil penalty, except as to knowing or second violations, in which instances a term of imprisonment and fine are authorized.

Provision is made in the case of first offenders, for the placing of such persons on probation, after verdict or plea of guilty, but without entry of a judgment of conviction. If probation is successfully completed, an individual under 21 at the time of the offense may apply to the court for an order to expunge the official records, except a non-public record to be retained by the Department of Justice.

"Continuing criminal enterprises" carry minimum penalties of not less than 10 years, up to life imprisonment, \$100,000 fines and forfeiture of the profits from the enterprise and interests in such enterprise. (Second and subsequent offenses carry minimum terms of 20 years, fines up to \$200,000 and forfeiture.) Neither probation nor parole may be granted. "Continuing criminal enterprises" are defined by the Act and extend to continuing series of violations undertaken by an individual in concert with five or more other persons with respect to whom the individual is an organizer, supervisor, or other management position and from which the individual derives substantial income or resources.

The Act also contains a provision parallel to that included in the Organized Crime Act of 1970 (reported on in the last issue of *The Third Branch*), providing for dangerous special drug offender sentencing. The U.S. Attorney must file a notice with the court stating that he believes the defendant is such an offender. Upon conviction or plea of guilty, a hearing is held before sentence is imposed, by the court sitting without a jury. If the court finds by a preponderance of the information that the defendant is such a dangerous special drug offender, he may be sentenced to a term not exceeding 25 years and not disproportionate to

the maximum term otherwise authorized. These sentences may be appealed by the defendant or the government to a court of appeals, which has the authority to affirm, or impose any sentence which might originally have been imposed, or remand for further sentencing proceedings. Section 410 provides that there will be no limitations placed on the information as to background, character, and conduct of a person convicted which the courts may consider in imposing sentence under the legislation.

Provision is made for proceedings to establish prior convictions in those instances where an increased punishment is authorized for second and subsequent offenses. No prior conviction occurring more than 5 years before the date of the information alleging the prior conviction, may be challenged.

Search warrants may be served any time of day or night if the judge or U.S. magistrate is satisfied that there is probable cause for its service at such time. The law includes the "no-knock" provision which requires an explicit finding by the judge or U.S. magistrate that the property sought will be easily destroyed or disposed of, or the life or safety of the officer or another person would be endangered if notice was given. Administrative inspections and warrants are also authorized with respect to premises where required records are kept or premises or establishments where persons registered under the Act conduct business related to controlled substances.

Controlled substances and all raw materials and equipment existing or used in violation of the Act, conveyances used in violation (except common carriers not involved and stolen vehicles), books, and research and data used or intended for use in violation of the Act are subject to forfeiture to the United States and no property right is declared to exist in them.

The district courts are given jurisdiction to enjoin violations, and trial by jury is provided where a violation is charged.

Before the Bureau of Narcotics and Dangerous Drugs can report a violation to the U.S. Attorney for criminal proceedings, the Bureau may require that the person be given notice and an opportunity to present his views orally or in writing. An immunity provision is included which is parallel to that enacted in the Organized Crime Control Act of 1970. A further section (515) would shift the burden of proof as to compliance in a number of instances to the persons involved in the proceedings.

A commission is established on Marihuana Drug Abuse to conduct a study of marihuana and to present within 1 year of funding its recommendations and proposals for legislation, and within 2 years, to complete a similar study on drug abuse.

Title III concerns importing and exporting of controlled substances. Registration of importer and exporter is provided for under section 1007. Among the acts prohibited is the manufacture or distribution of Schedule I and II substances, intending or knowing the substances will be illegally imported, thereby reaching extra-territorial acts. The penalties under this title also include provisions for the special parole term, civil penalties, and prior offender sentencing.

The effective date for most provisions of the Act is May 1, 1971.

Court Executives Act Signed by President

On January 5 President Nixon signed into law the Court Executives Act (Public Law 91-647) which authorizes the judicial council of each federal judicial circuit to appoint a trained court executive to efficiently manage the circuit's administrative responsibilities. The bill, H.R. 17901, had been passed by the House on October 5 and was passed and cleared for the President's signature by the Senate on December 22.

A Message from the Chief Justice

We begin 1971 with a small but significant step toward improved management of the Federal courts with the signing of the Court Executives Bill by the President on January 5. This bill was enacted by Congress at the urging of the Judicial Conference of the United States. Small though it be, it is the most important statutory development in court administration since the creation of the Administrative Office of the United States Courts a generation ago. This, unfortunately, is at once a measure of the glacial rate of our progress in court management and of the magnitude of the tasks ahead.



When we consider this development along with creation of the Institute for Court Management last year with the first class of trained court administrators in history, we can see hope for the future. We have lagged far behind business administration and public administration techniques and we must now press forward. Judges and lawyers can no longer tolerate the old ways and the old processes that Roscoe Pound condemned as outmoded 65 years ago.

The implementation of the Court Executives Act will be a test of whether we who are responsible for the courts can be trusted to put our own house in order. The beginning must be a frank recognition that lawyers and judges are, perhaps more than most, creatures of habit. But all things are changing and we must change with them.

Congress wisely narrowed the Court Executive Bill from 29 positions to 11, so that in a sense we are put "on trial." I have no doubt that if we show that these positions can be useful the number will be increased to cover the large district courts. The quality of those appointed as court executives will be closely watched. We are well aware that it will be extremely difficult to find qualified persons to fill the positions in those circuits where the council desires a court executive. The key to success will be to make sure the court executive performs the new functions contemplated by Congress and the sponsors of the law. Neither we nor Congress can or should permit this position to become merely another bureaucratic layer of government. It is not only a new position but a new concept and we must make sure that we, as judges, understand this and make certain it is understood by everyone in the judicial system.

This, then, will be one of our challenges of 1971, and I ask your support to assure the success of this development.

Rules for Operation of Amended Criminal Justice Act Distributed

Rules and regulations adopted by the Judicial Conference of the United States for the operation of the amended Criminal Justice Act have now been distributed to all federal judges, magistrates, and clerks of court, together with guidelines for use in the daily implementation of the Act. Also transmitted were two model plans to assist district judges in redrafting their own plans for the operation of the statute. The Act, as amended, becomes effective February 11, 1971.

Guest Editorial*

-On Rendering, Not Delaying Justice -

There is no problem in the legal world as troubling and menacing as congestion and delay in courts and Chief Justice Burger is quite right in focusing his interest and the prestige of his office on ways of dealing with it. His year-end report to the federal judges, although probably designed more to gain public support for attacks on the problem than to inform the judges about what is going on, rightly gauges the public attitude toward delay as one almost of despair. There is simply no excuse in these days of modern management techniques for the nation's courts to continue with a system of administering justice that wastes incredibly large amounts of time and manpower.

The passage by Congress last week of legislation authorizing the 11 federal circuit courts to hire professional administrators to take over from the judges the task of running the non-judicial operations of the courts is certainly a step forward. So was the creation of the Institute for Court Management in Denver which has already graduated its first class of professionally trained court executives. There will be some troubles, no doubt, in integrating these new executives into a tradition-bound branch of government. But the judges would be wise to seize upon new ideas in managing their courts even if that means they must give up some of the prerogatives that now characterize the handling of judicial business.

The immediate problems, of course, are in the handling of criminal cases where too much time elapses between indictments and trials and between convictions and appellate decisions. The Chief Justice hopes to have some specific suggestions on how to crack these bottlenecks later this year. But these alone are only part of the much broader problem. Courts in which civil cases do not come to trial for two or three or more years hardly render justice to those whose affairs are bogged down while decisions are awaited. It may well be that to get efficiency into the courts something will have to be taken out of them and that means that the whole question of the kind of matters the judges decide needs to be re-considered. We hope that in the months to come there will be more and more public discussion of proposals to shift automobile accident cases from the courts to arbitration panels or compensation boards, for instance, to shift divorce and adoption matters from the courts to some other branch of government, and to find better ways of handling such business matters as bankruptcies. Only some basic change in the jurisdiction of the courts is likely to bring an end to increasing congestion of court dockets and an end to the growing public feeling that courts exist to delay rather than to render justice.

*The *Third Branch* will hereafter carry guest editorials, and the above editorial of Jan. 5, 1971, is reprinted with the permission of *The Washington Post*.

Final F.J.C. Post Conviction Report Released

In 1969 the Federal Judicial Center contracted with William and Mary Law School to conduct a research study on state post conviction remedies and federal habeas corpus. The objective was to summarize and report on existing post conviction procedures in the state especially as they relate to increased habeas corpus filings the federal courts.

Two preliminary drafts were released after submission to Center staff and members of the F.J.C. State-Federal Relations Advisory Committee. The third and final report, 83 pages in length, has been submitted to the Center and is reprinted in the *William and Mary Law Review* (Vol. 12, No. 1). It contains a comprehensive statement on all state procedures reviewed as well as statistics on case filings and dispositions. (Copies are available on request to the Center.)

As Others See Us*

[Reprinted from the *London Telegraph* of Oct. 11, 1970]

SUNDAY MORNING WITH MANDRAKE

American courts what does go on?

Among the cliches of Anglo-American relations is the constant reminder that the American system of justice is "based on English Common Law." *Based*, perhaps, but they have given it some gorgeous embellishments since 1776, as anyone who spent 140 minutes watching "The Chicago Conspiracy Trial" on B.B.C. I last Sunday must have decided.

To those who were amused, chilled, infuriated by the juridical shenanigans in Chicago, it is worth making the point that all this occurred in the most solemn branch of American justice, the Federal Court system. At least it *had* been renowned for its dignity, until Bobby Seale, Jerry Rubin and company began their four-letter-word revolt.

Beneath the Federal Court system, in the labyrinth of state, county and municipal courts, anything can happen—and quite frequently does.

One of my American correspondents once bought a two dollar tie in California Superior Court in Los Angeles. The trial was one of the most celebrated ones in recent times, the criminal libel charges brought by the State against the publishers of *Confidential Magazine*.

Although the public queued eagerly all night to gain admission to the court, a pedlar, selling gaudy ties from a tray suspended in front of him from neck straps, had no difficulty getting into the court.

Non-Californians in the court assumed he would be speedily ejected. Instead, one of the pistol-toting deputy sheriffs came up, hailed the pedlar as "Joe" and pointed out to him some potential customers: "Talk to the Limey newspapermen over there—they look as if they could use some new neckties."

During the same trial, two women members of the Press corps found themselves playing a more active role in court than that of journalistic observers. The judge asked them to volunteer for a little demonstration before the bench. Three chairs were lined up to determine whether it was feasible, as *Confidential Magazine* had alleged, for a famous movie star to enjoy sexual union with a boyfriend in three rear seats of Grauman's Chinese Theatre.

California is as good a place as any for a connoisseur of courtroom hi-jinks. Only this past week there was Charles Manson lunging at the judge in the Sharon Tate murder trial and suggesting loudly that someone should cut off his honour's head. As a musical backdrop Manson's three girl co-defendants burst into a chorus of "The old grey mare she ain't what she used to be."

Defendants in an American criminal trial are given what, by British or European standards, appear exceptional privileges. There is no dock in which the prisoner is made to stand. Instead, his civil rights intact, he is allowed to sit by his lawyer at the defence table, read newspapers, stick pins into a potato doll of the judge if he wishes, and in some courts, he may smoke.

Often an accused murderer sits through a trial only a chair's distance from a close relative of the victim. This occurred in the '30s during the country's most famous kidnapping trial. Bruno Hauptman, the man convicted of abducting and murdering the infant Lindbergh, sat throughout the trial almost next to Charles Lindbergh.

Gagging and shackling particularly obstreperous defendants did not begin and end with Bobby Seale in Chicago. As criminal trials in America involving Black Panthers and leaders of the New Left increasingly take on political overtones, more judges are faced with the problem of subduing violent outbursts by defendants determined to make protests that will receive maximum coverage.

Silencing a defendant with a gag and positioning him to a chair with handcuffs and legirons appear, however, to be going out of favour. Most judicial authorities believe that the judge in the Sharon Tate trial did the right thing—he ejected the defendants from the court and continued with the proceedings, with Manson and his three hippie disciples following the trial over loudspeakers in a detention room.

The rather staggering informality of American court proceedings is not a recent phenomenon. In 1949, Judge Medina was presiding over the trial of 11 Communists charged with conspiracy to teach and advocate the overthrow of the United States Government by force and violence. The trial lasted from January to October. When a British newspaper publisher visited the court, Medina promptly adjourned the hearing, invited his visitor to join him in his chambers, and spent the better part of an hour discussing differences between the British and American judicial systems.

Lawyers, witnesses and everyone else involved were left to cool their heels until he was ready to carry on.

*From time to time we will publish comments of others, hopefully favorable to our judiciary, but in any event, favorable or not.

*We should not be concerned
with computers thinking like people,*

*But we should be concerned
with people thinking
like computers.*

Hon. Stanley Draper,
Okla. City, Okla.

A.O. — F.J.C. Calendar

Jan. 21–22	Regional Seminar for Referees in Bankruptcy, New Orleans, La.	Mar. 14–19	Refresher Course for Probation Officers, Chicago
Jan. 22	Jury Committee, 725 Madison Pl., N.W., Washington, D.C.	Mar. 15–16	Judicial Conference of the United States Supreme Court Building, Washington, D.C.
Jan. 22	Supporting Personnel Subcommittee, Lafayette Building, Washington, D.C.	Mar. 17	Meeting of Circuit Chief Judges, at the Center, Washington, D.C.
Jan. 22	Statistics Subcommittee, New Orleans	Mar. 22–26	Seventh National Seminar for Newly Appointed Referees in Bankruptcy, Washington, D.C.
Jan. 26	Criminal Law Committee, 725 Madison Pl., N.W., Washington, D.C. (Previously scheduled for Feb. 23-24)	Mar. 27–Apr. 3	Seminar for Newly Appointed District Judges, at the Center, Washington, D.C. (Previously scheduled for Mar. 28-Apr. 3)
Jan. 29	Meeting of the Board of the Federal Judicial Center, Washington, D.C.	Apr. 4–5	District of Columbia Circuit Conference, White Sulphur Springs, W. Va.
Feb. 5	Probation Committee, 725 Madison Pl., N.W., Washington, D.C.	Apr. 18–23	Orientation Class for Newly Appointed Probation Officers, 725 Madison Pl., N.W., Washington, D.C.
Feb. 5–6	Advisory Committee on Judicial Statistics, Chicago	Apr. 21–23	Sentencing Institute, Sixth and Seventh Circuits, Dearborn, Mich.
Feb. 7–12	Refresher Course for Probation Officers, Chicago	May 4–7	Fifth Circuit Conference, San Antonio, Texas
Feb. 17	Bankruptcy Committee, 725 Madison Pl., N.W., Washington, D.C.	May 16–21	Refresher Course for Probation Officers, Chicago
Feb. 18–19	Court Administration Committee, 725 Madison Pl., N.W., Washington, D.C.	May 23–26	Regional Inservice Training Institute for Probation Officers in the Great Lakes Area, Carousel Motel, Cincinnati, Ohio
Feb. 19	Magistrates Committee, 725 Madison Pl., N.W., Washington, D.C.	July 1–3	Sixth Circuit Conference, Mackinac Island, Mich.
Feb. 27–Mar. 6	Seminar for Newly Appointed District Judges, at the Center, Washington, D.C. (Previously scheduled for Feb. 28-Mar. 6)	Sept. 10–11	Second Circuit Conference, Manchester, Vt.
Mar. 3–6	Bankruptcy Rules Committee, 725 Madison Pl., N.W., Washington, D.C.		Note: Chief judges of circuits are requested to advise when dates are set for circuit conferences.
Mar. 11–14	National Conference on the Judiciary, Williamsburg, Va.		

Multidistrict Panel Magnafax Experiment

The Federal Judicial Center is supporting a pilot program which will evaluate the use of facsimile transmission equipment. The Judicial Panel on Multidistrict Litigation has recently assigned more than 60 antitrust cases pending in the Southern District of New York to Judge Miles Lord of the District of Minnesota. The staff of the Judicial Panel is assisting Judge Lord in processing these cases and it is frequently necessary to transmit pleadings and papers between Washington, D.C., Minneapolis, Minn., and New York, N.Y. In

an attempt to reduce the delays which normally occur in mailings between these three cities, the Center has had a Magnafax Facsimile Transmission device installed in each of these three locations. These devices transmit documents over standard telephone lines at a speed of approximately six minutes per page. This equipment would be especially useful where the judge and the clerk's office are not located in the same city. The staff of the Panel will submit a report on its usage of this equipment when the 1-year trial period has been completed.

PERSONNEL

Appointments

Edward R. Becker, U.S. District Judge, East Dist. of Pa., Dec. 11
Hal J. Bonney, Jr., Referee in Bankruptcy, East Dist. of Va., Jan. 4
Samuel Conti, U.S. District Judge, North. Dist. of Calif., Dec. 11
J. William Ditter, Jr., U.S. District Judge, East. Dist. of Pa., Dec. 2
Frederick Joseph Eder, U.S. Probation Officer, East. Dist. of N.Y., Nov. 30
John Feikens, U.S. District Judge, East. Dist. of Mich., Dec. 14
William C. Frey, U.S. District Judge, Dist. of Ariz., Dec. 11
Halsey W. Heslop, U.S. Probation Officer, Dist. of Col., Dec. 7
Robert M. Hill, U.S. District Judge, North. Dist. of Tex., Dec. 18
Daniel H. Huyett, 3rd., U.S. District Judge, East. Dist. of Pa., Nov. 30
Paul G. Hyman, Referee in Bankruptcy, South. Dist. of Fla., in Jan.
Robert B. Krupansky, U.S. District Judge, North. Dist. of Ohio, Nov. 30
Philip Pratt, U.S. District Judge, East. Dist. of Mich., Dec. 14
Donald J. Sheehan, U.S. Probation Officer, East. Dist. of N.Y., Dec. 17
Walter K. Stapleton, U.S. District Judge, Dist. of Del., Nov. 30
John M. Sullivant, Referee in Bankruptcy, Dist. of Kans., Jan. 4
Bert W. Thompson, Referee in Bankruptcy, West. Dist. of Tex., Jan. 4
Donald W. VanArtsdalen, U.S. District Judge, East. Dist. of Pa., Dec. 2

Promotion

H. Stuart Cunningham, Clerk, U.S. District Court, North. Dist. of Ill., Dec. 18

Retirement

Earle H. Nordquist, U.S. Probation Officer, Dist. of Minn., Jan. 15

Deaths

William H. Kirkpatrick, U.S. Senior District Judge, East. Dist. of Pa., Nov. 28

Theodore Levin, U.S. District Judge, East. Dist. of Mich., Dec. 31

PUBLICATIONS AVAILABLE ON REQUEST

Administrative Office

Annual Report of the Director of the Administrative Office of the United States Courts (Preliminary Report), 1970
The Case Record and Case Recording, Publication No. 102
Federal Offenders in the United States District Courts, 1968
Federal Probation (Quarterly)
General Information Concerning Bankruptcy
General Information Concerning Chapter XIII
Judiciary Salary Plan, 1961
Jury System in the Federal Courts: A Report of the Jury Committee to the Judicial Conference of the United States
Persons Under the Supervision of the Federal Probation System, 1968
The Presentence Investigation Report, Publication No. 103
Quarterly Report of the Director of the Administrative Office of the United States Courts, July 1 through September 30, 1970
Report on Applications for Orders Authorizing or Approving the Interception of Wire or Oral Communications
Report on Voir Dire Procedures
Seminar on Practice and Procedure Under the Federal Rules of Civil Procedure (Boulder Seminar)
Seminar on Procedures for Effective Judicial Administration (Dallas Seminar)
Tables of Bankruptcy Statistics (annual)

Federal Judicial Center

The Presentence Report: An Empirical Study of its Use in the Federal Criminal Process. Reprinted From Vol. 58, No. 3, *Georgetown Law Journal*, Feb., 1970.
State Post-Conviction Remedies and Federal Habeas Corpus. A Study for the Federal Judicial Center, reprinted in *William & Mary Law Review*, Vol. 12, No. 1, Fall, 1970
Summary of A Management and Systems Survey of U.S. Courts. An overview study of five courts of appeals and five district courts. Prepared for the Federal Judicial Center by the North American Rockwell Co., November 1969.

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UNITED STATES COURTS

The Third Branch

1520 H Street, N.W., Washington, D.C. 20005

A Bulletin of the Federal Courts



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February 1971

Revised Court System in Nation's Capital Begins Operation

Operation of an almost totally reconstructed court system for the Nation's Capital began the first of February, highlighted by appropriate ceremonies attended by leaders of the Judiciary, the legal profession and the Federal Government.

The court reorganization plan was included in a sweeping legislative package passed last year by the Congress as an anti-crime measure, a 196-page code generally referred to as the D.C. Crime Act. Besides reorganizing and expanding the District of Columbia's court system, the new legislation strengthened the city's 5,000-man police force and added "tools" for the use of law enforcement officers and prosecutors in their drive to reduce crime in the streets.

Under the new laws, police have the right, with court permission, to enter premises unannounced in an effort to better secure evidence. This is the so-called "no-knock" law. By another provision, courts have the right to order "dangerous offenders" held without bail up to 60 days prior to trial.

As now constituted, Washington has a D.C. Superior Court—a court of general jurisdiction—and an expanded D.C. Court of Appeals. They function in much the same manner as trial and appellate courts in the 50 States. Appeals from their decisions go directly to the U.S. Supreme Court.

The Superior Court replaces a Court of General Sessions, which had served along the lines of a Municipal Court with limited jurisdiction and it also incorporates in its functions the duties of the D.C. Juvenile and Tax Courts. The new tribunal will certainly be one of the Nation's largest in numbers.



Attorney General John N. Mitchell speaking at D.C. Superior Court dedication (photo—*The Washington Post*).

Eventually, it will have 44 judges, all housed in one building and serving one community. A court executive, professionally trained in court management, will serve the judges of the Superior Court and handle the Court's administrative affairs.

For the first 18 months, the Superior Court will have limited jurisdiction over felonies (penalties up to 15 years in jail), but after this transitional period it will assume jurisdiction over all felony cases, including murder and rape.

Besides misdemeanor crimes, small civil suits, and its new felony jurisdiction, the Superior Court is given civil damage cases, including personal injury, in amounts up to \$50,000; limited equity jurisdiction; and land condemnation, change of name, local habeas corpus petitions, drug commitments, and D.C. tax cases. In the long run, the revised court system is expected to relieve part of the heavy workload and case backlog of the U.S. District Court for the District of Columbia where disposition of the average criminal case runs into months and the backlog of civil cases stands at more than 4,500.

Court Executive Board Named

Chief Justice Burger in late January announced the appointments to the five-member Board of Certification under the new Circuit Court Executives Act, which became law January 5, 1971.

Elected to the Board by the Judicial Conference of the United States were: Judge Roger Robb, U.S. Court of Appeals for the District of Columbia; Chief Judge Frank M. Johnson, Jr., U.S. District Court, Middle Alabama; and John W. Macy, Jr., President, Public Broadcasting Corp., Washington, D.C., and former Chairman of the U.S. Civil Service Commission. The other two Board members, required to serve by Statute, are Judge Alfred P. Murrah, Director of the Federal Judicial Center, and Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts. Judge Murrah was designated Board Chairman.

The new law (P.L. 91-647) permits the judicial council in each of the Nation's 11 judicial circuits to hire a Court Executive for the Circuit if they so elect. Applicants are to be chosen from a list of names certified by the Board, a provision recommended by the Judicial Conference. This is to insure that appointees possess such qualifications as special training in court management, executive ability, and experience in administration. They do not need to be lawyers.

The Board is already drawing up and publishing standard qualifications for the position. It must consider all who apply and it must maintain a roster of all persons certified.

Federal Criminal Law Commission Completes Study

After 3 1/2 years of study, the National Commission on Reform of Federal Criminal Laws submitted to Congress a final report. The Commission was authorized by a Congressional Act of November 8, 1966, and was made up of three members from the Senate appointed by the President of the United States; and one Circuit Judge and two District Judges, appointed by the Chief Justice of the United States.

Under the Act the Commission was charged with the responsibility of making a complete review and study of the statutory and case law of the United States which constitutes the federal system of criminal justice, "for the purpose of formulating and recommending to the Congress legislation which would improve the federal system of criminal justice." Included in the mandate was the duty to make recommendations to Congress for revision, recodification or repeal of all criminal laws of the United States.

Sweeping changes are recommended in the report and include the abolition of capital punishment for any federal crime, including treason and the assassination of a president. The vote on this and other recommendations was not disclosed, but individual members have stated publicly that the death penalty portion was highly controversial and split the Commission. Some members still favor retention of capital punishment for heinous crimes.

Included in the 364-page report were other controversial changes pertaining to handguns, narcotics, and obscenity laws.

Significantly the Commission pointed to the need for a clarification of the relationship between federal and state laws. Instances where this could be accomplished: Prosecutors could be relieved of the burden of proving that a defendant in a fraud case knew his crime would involve crossing state lines; and, the federal government could directly attack state-based crimes (such as murder) if committed in the course of a federal violation.

But what they were all agreed on, was the fact that federal criminal laws need to be both simplified and clarified. Prosecutors, judges, and lawyers all hail this as a common goal highly desirable and long overdue.

President's Prayer Breakfast

The Chief Justice delivered the principal remarks at the President's Prayer Breakfast on February 2. Following is a two-paragraph quote taken from his message:

"The terrifying magnitude and complexity of the problems within our own country, and our responsibilities over the world, are such that our national response sometimes tends to be complex and even confused. In this respect, notwithstanding all of the sophistication, education and technology of our age, we are relatively in not very much better position than the simple peasants of centuries ago who first heard the message of The Lord in parables and psalms.

"The world of that day may seem to us now as small and simple but in truth those who inhabited that tiny area on the shores of the Mediterranean Sea were as overwhelmed by their problems and burdens as we are today. Our relative capabilities are much the same."

Six-Month Criminal Trial Rule Set in Second Circuit

Speedy trials—within a 6-month trial limit—have been ordered by the Second Circuit Court of Appeals for defendants in criminal cases in a set of new rules issued in January and scheduled to take effect on July 5 of this year.

Promulgated at a time when the whole Nation has become concerned about delays in court proceedings and prompt dispensing of justice, the rules apply to criminal trials in the Federal District Courts of the Second Circuit, covering the states of New York, Connecticut, and Vermont.

The rules pointedly order that charges be dropped in any criminal case where the prosecution is not ready to go to trial within the 6-month period, or any period thereafter where extensions have been granted for good cause by a district court. Cases delayed beyond the time limit shall be dismissed under the rules upon the application of the defendant or upon the motion of the district judge following an opportunity for argument. At the same time, the new rules call for the release of defendants from jail whenever it is deemed feasible.

The Second Circuit Council, in announcing the rule revisions, called on the district courts to take "firm control of criminal prosecutions," adding that this is the best way to protect the interests of the public and defendants.

Criminal cases awaiting trial 6 months or longer have been increasing percentage-wise in the three states, and the procedures for handling them has resulted in delays in consideration of thousands of civil suits, it was noted in the rules announcement.

Under the revisions, U.S. attorneys in each district are to file bi-weekly and monthly reports on the status of criminal cases, both as to persons in jail awaiting trial and as to nonjail defendants. The interim period before the rules take effect allows time for Government attorneys to decide which long-delayed cases should be tried and which dropped.

More Six-Member Juries

On January 21, the United States District Court for the Southern District of Illinois promulgated Local Rule 18 providing for six-member juries in civil cases. This rule, which will go into effect on May 1, 1971, provides that "in all jury cases, except as may be otherwise expressly required by law or controlling rule, the jury shall consist of six members."

Six-member juries are being used in civil cases in the new Washington, D.C., Superior Court, which began operating February 1 under a broad crime-prevention, court-reform program for the Nation's Capital. The new procedure sets all civil jury trials before six jurors unless demands are made for the traditional 12.

Southern Illinois and the District of Columbia are two of several jurisdictions adopting the "mini jury." Chief Judge Devitt advises that following the story on the truncated juries in the December 1970 issue of *The Third Branch*, over 20 judges have contacted him to make further inquiry of his procedure or to advise they are also using the six-member juries.

Computerized Case Information System in Operation in D.C.

A new computerized management information system developed by the Federal Judicial Center is now in its initial operational phase in the U.S. District Court for the District of Columbia. A series of eight criminal case information reports is produced on the third working day following the end of each month and includes such data as case number, defendant's name, offense, judge to whom case is assigned, indictment date, current status of case, defendant's location, and age of case in days from indictment.

Designed for use by judges and their staffs, clerk's office personnel, and other agencies in the criminal justice system, the reports list pending cases and their status for each judge's individual caseload and for the court as a whole; terminated cases for each judge and for the entire court; a statistical report on pending cases by category of offense; and an alphabetical listing of defendants in pending cases.

System reports will be used to substitute for manual preparation of pending calendars, to compile monthly statistical summaries of filings and terminations, to identify cases which have been inactive for long periods and need attention, to keep track of plea rates and trial rates and other significant trends, to provide quick reference to status of cases in answering inquiries, and to identify categories of cases that need special attention by other agencies in the criminal justice system. For example, lists of fugitive cases are provided to the U.S. marshal and U.S. attorney and lists of cases awaiting sentencing are being furnished to the Probation Office.

A key characteristic of the computer software is "modular design." This represents a significant advance over previous computer systems in that it provides flexibility so the system can be adapted for use in other courts and so that a wide variety of report formats can be programmed to meet the specific information needs of courts. Modular design also facilitates changes and makes it relatively easy to add additional data elements to the file. For example, prosecutors' names are being added now and defense attorneys' names will be added in the near future. The addition of other data elements will permit this system to be linked with other computerized information systems under development in the District of Columbia. Work is now being done to provide the future capability for developing time profile analyses for criminal cases. In this respect, the system is different from many current court systems since it is designed to give a capability for research and analysis of court processes.

The system now handles approximately 5,000 transactions (new cases, status changes, court action, etc.) each month. All information is keypunched in the clerk's office and the actual reports are produced on a remote computer on a time rental basis. A total of 1½ hours of computer time is required to produce the present eight reports.

The primary purpose of the project is to determine exactly how computers can best be used in federal courts. Related objectives are to determine the types of information which are most helpful to judges and clerks' offices, and to

develop experimental findings which can assist in planning the Administrative Office judicial management information system of the future. During the coming year, the system will be expanded to handle civil cases. The civil case management information system will be based upon the research conducted last year in New Orleans and on the learning which is now occurring in the use of the present reports.

Please write the Federal Judicial Center if detailed information about the system is desired.

U.S. Magistrate Rules Adopted

Revised rules applying to the trial of minor offenses before United States magistrates were ordered into effect by the U.S. Supreme Court on Wednesday, January 27, 1971.

The Court ordered the rules prescribed pursuant to Section 302 (b) of the Federal Magistrates Act, a recently passed part of the U.S. Code. The rules take effect immediately and supersede interim rules which the Supreme Court had approved on May 19, 1969.

Mr. Justice Black, joined by Mr. Justice Douglas, dissented from the Court's adoption of the revisions on the general grounds that some of the rules infringed on the Constitutional rights to jury trial and others were covered either by the Constitution, statutes, the existing Federal Rules of Criminal Procedure, or the "common everyday practice of courts all over the country."

The revised rules were sent to the Supreme Court in November with a recommendation from the Judicial Conference of the United States that they be adopted. It is anticipated that the trials before magistrates will be mostly for traffic violations, which are petty offenses.

Other criminal proceedings before magistrates, including preliminary hearings, will continue to be governed by the Federal Rules of Criminal Procedure. The practice of allowing forfeiture of collateral in petty offense cases also will be continued. Minor offenses are described as encompassing both petty offenses and certain misdemeanors carrying up to 1-year sentences or \$1,000 fines, or both. Provisions for the right to counsel are set forth in Rules 2 and 3.

Bankruptcy Seminars

A regional seminar for referees in bankruptcy in the Southeastern States was held January 21 and 22 at New Orleans, La., co-chaired by Referees Percy M. Flanagan of New Orleans, Harvey H. Posner of Baton Rouge, La., and David C. Doten of Memphis, Tenn. Chief Judge E. Gordon West of the Eastern District of Louisiana delivered the opening remarks; Royal E. Jackson, chief of the Bankruptcy Division, spoke on "Bankruptcy Immunity Under the Organized Crime Control Act of 1970 (P.L. 91-452)"; and Referees Asa S. Herzog and Roy Babitt of New York City presented a "Dialogue on Chapter XI" which they have given at several previous seminars with excellent results. A seminar for referees in the Southwestern Area will be held April 29 and 30 at the Camelback Inn, Scottsdale, Ariz.

The Seventh National Seminar for Newly Appointed Referees in Bankruptcy will be held the week of March 22 at the Federal Judicial Center.

A Message from the Chief Justice

THE OLD WAYS ARE NOT GOOD ENOUGH

On this first day of this month, I attended an event in the Nation's Capital that is all too rare in this country—the launching of a new or reorganized court system. The reorganized court that began operations that day is part of President Nixon's broad anticrime program that has been adopted for the District of Columbia. The performances of both will be watched closely in the coming months by the Nation at large and by the Congress.



The crime rate in Washington for the first time in many years has shown signs for the better, dropping by 5.2 percent in 1970. This is the first reduction the figures have shown in 14 years. It is hoped that the new program, designed to afford speedier trials and to place District of Columbia courts on a parity with the state courts, will cut further into crime totals by swift dispositions of criminal cases.

The new court program provides the District of Columbia with a "Superior Court"—a court of general jurisdiction in place of what formerly was a Municipal Court. The task facing the members of this court is enormous in the terms of efficient administration and management. Few courts in the United States can match its dimensions. It will consist of 44 judges, all eventually under one roof and serving one community.

Administratively, the situation is critical, as it is with most overburdened court systems in this Nation. The old ways will not be good enough for this new court to accomplish its work. Because of its size, there must be strong leadership. There must be established patterns of operation. There must be schedules and procedures and fixed hours. The very creation of this new court comes from the public demand on the Congress and the belief of the Congress that the old ways are no longer good enough.

The same cry for modernization is being heard anxiously in judicial circles everywhere. I hold high expectations that the new court will be able to rise to the occasion and meet the public need.

Legislation

The Omnibus Crime Control Act of 1970 (P.L. 91-644), signed into law on January 2, contains some basic amendments to the Omnibus Crime Control and Safe Streets Act of 1968, as well as other features. Most noteworthy is its provision authorizing the Law Enforcement Assistance Administration to grant up to \$120 million for state prison reform programs. Besides money for correctional facilities, funds are made available for Criminal Justice Coordinating Councils within certain local government units, and the development and operation of community-based delinquent prevention and correctional programs (e.g., halfway houses, rehabilitation centers, community service centers, and expanded probationary programs, including paraprofessional and volunteer participation, etc.). Altogether the Act provides for expenditures in the total amount of over \$3½ billion in the next 3 years.

Title II of the Act provides heavier extra penalties for persons who use or carry a firearm in the commission of a federal felony. In addition to the penalty for the felony itself, the offender may be sentenced to a term of imprisonment for not less than 1 year nor more than 10 years (2 and 25 for repeaters, not to run concurrently with the felony sentence, and no probation). Title III extends the government's right to appeal orders suppressing evidence to all criminal proceedings. Other titles of this Act provide for protection of members of Congress (Title IV), and the President (Title V).

On January 29 Representative McClory introduced a bill (H.R. 2588) to provide for the appointment of a district court executive for each district court having six or more authorized permanent judges. This bill was referred to the House Committee on the Judiciary.

Guest Editorial

—Basis of Civilization Itself—

"You stand here convicted of seeking to corrupt the administration of justice. You stand here convicted of having tampered really with the very soul of this nation. You stand here convicted of having struck at the very foundation upon which everything else in this nation depends, the very basis of civilization itself, and that is the administration of justice, because without a fair, proper and lawful administration of justice nothing else would be possible in this country. If a conviction of such an offense were to go unpunished and this type of conduct and this type of offense permitted to pass without action by the court, it would surely destroy this country more quickly and more surely than any combination of any foreign foes that we could possibly have."

These pointed words were enunciated by Chief Judge Frank Wilson (E. Dist. Tenn.) as he pronounced sentence upon James R. Hoffa at the end of his trial on charges of attempted bribery of a jury. *Judicature*, a publication of the American Judicature Society, reprinted a portion of Judge Wilson's sentencing statements, and in editorial comment asked some significant questions any federal judge might ask himself: "Were his words too strong? Is it actually possible that corruption of the administration of justice could destroy America?" Chancellor Kurt Schuschnigg of Austria visited this country in 1950 and said the corruption of the administration of justice in his country was the very thing which brought about the downfall of Austria. And within this sphere which he talked about was the jury system. It continued to function but under all kinds of political pressure. Dr. Schuschnigg described the pressure as being "by intimidation, emotional appeal to foreign loyalty, bribery, confusion of all kinds, and even infiltration into law enforcement agencies. Poor legislatures and incompetent administration are bad, but far worse, and nothing less than a catastrophe in time of national emergency, is a weak judiciary. Once the courts cease to function fairly and impartially, nothing can stop general demoralization."

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Journal of the American Judicature Society

PERSONNEL

Appointments

Ronald J. Blask, U.S. Magistrate, South. Dist. of Tex., Jan. 18
Peter J. Bourque, U.S. Magistrate, Dist. of N.H., Jan. 4
Dudley R. Carr, U.S. Magistrate, North. Dist. of Miss., Dec. 15
Vincent A. Catoggio, U.S. Magistrate, East. Dist. of N.Y., Jan. 1
Robert M. Christ, Clerk, U.S. Dist. Court, Dist. of Ore., Jan. 14
William N. Church, U.S. Magistrate, West. Dist. of Wash., Jan. 1
Robert E. Cooper, U.S. Magistrate, West. Dist. of Wash., Jan. 1
Owen D. Cox, U.S. District Judge, South. Dist. of Tex., Dec. 18
Joseph Russell Cruciani, U.S. Magistrate, West. Dist. of N.C., Jan. 1
George Patrick Davis, Jr., U.S. Magistrate, West. Dist. of N.C., Jan. 1
Howard V. Doherty, U.S. Magistrate, West. Dist. of Wash., Jan. 1
Franklin T. Dupree, Jr., East. Dist. of N.C., Jan. 4
Albert J. Engel, U.S. District Judge, West. Dist. of Mich., Jan. 21
Wm. R. Ford, U.S. Magistrate, North. Dist. of Miss., Dec. 15
Alan Lee Froelich, U.S. Magistrate, West. Dist. of Wash., Jan. 4
Paul Game, Jr., U.S. Magistrate, Mid. Dist. of Fla., Jan. 4
Bernard J. Ghiglieri, Jr., U.S. Magistrate, South. Dist. of Ill., Jan. 2
William M. Giffin, U.S. Magistrate, South Dist. of Ill., Jan. 2
James H. Gorbey, U.S. District Judge, East. Dist. of Pa., Dec. 23
John E. Gormley, U.S. Magistrate, Dist. of N.H., Jan. 4
Gunder Gunhus, U.S. Magistrate, Dist. of Minn., Jan. 2
Charles N. Haskell, Clerk, U.S. Dist. Court, East. Dist. of Okla., Jan. 18
Joseph W. Hatchett, U.S. Magistrate, Mid. Dist. of Fla., Jan. 4
Wendell Y. Henning, U.S. Magistrate, Dist. of Minn., Jan. 2
George Hnatiuk, U.S. Magistrate, Dist. of Minn. Jan. 2
Carroll Leonard Jackson, U.S. Probation Officer, Dist. of Col., Jan. 25
George E. Juba, U.S. Magistrate, Dist. of Ore., Jan. 14
Alfred H. Kaye, U.S. Magistrate, Dist. of N.J., Jan. 1
W. Wallace Kent, U.S. Circuit Judge, 6th Cir., Jan. 6
Edward J. Kiernan, U.S. Probation Officer, Dist. of N.J., Jan. 25
David B. King, U.S. Magistrate, North. Dist. of Miss., Dec. 15
Dennis Raymond Knapp, U.S. District Judge, South. Dist. of W. Va., Dec. 22
Clarence E. Layton, U.S. Magistrate, West. Dist. of Wash., Jan. 4
William Lewis, Jr., U.S. Magistrate, North. Dist. of Miss., Dec. 15
William Maurice Mallet, U.S. Magistrate, South. Dist. of Tex., Jan. 18
James C. Martin, U.S. Magistrate, South. Dist. of Tex., Jan. 18

Gerald E. McCullough, U.S. Probation Officer, Dist. of Md., Jan. 11
Joseph McElroy, Jr., Clerk, U.S. Dist. Court, North. Dist. of Tex., Jan. 20
William H. McMillan, U.S. Magistrate, West. Dist. of N.C., Jan. 1
Patrick J. McNulty, U.S. Magistrate, Dist. of Minn., Jan. 2
George G. McPartlin, U.S. Magistrate, Dist. of Minn., Jan. 2
Percy M. Meehl, U.S. Magistrate, Dist. of Minn., Jan. 2
Ronald C. Mottaz, U.S. Magistrate, South. Dist. of Ill., Jan. 2
J. David Orlansky, U.S. Magistrate, North. Dist. of Miss., Dec. 15
Leon L. Porter, Jr., U.S. Magistrate, North. Dist. of Miss., Dec. 15
Romaine R. Powell, U.S. Magistrate, Dist. of Minn., Jan. 2
Donald R. Ross, U.S. Circuit Judge, 8th Cir., Jan. 25
Max Schiffman, U.S. Magistrate, East. Dist. of N.Y., Jan. 1
Thomas P. Simpson, U.S. Magistrate, Dist. of S.C., Jan. 1
William M. Steger, U.S. District Judge, East. Dist. of Tex., Dec. 29
Donald C. Steiner, U.S. Magistrate, Dist. of Minn., Jan. 2
David H. Sutherland, U.S. Probation Officer, South. Dist. of Ind., Feb. 8
George T. Swartz, U.S. Magistrate, Mid. Dist. of Fla., Jan. 4
Hubert I. Teitelbaum, U.S. District Judge, West. Dist. of Pa., Jan. 11
H. Kenneth Wangelin, U.S. District Judge, East. & West. Dists. of Mo., Jan. 5
William H. Webster, U.S. District Judge, East. Dist. of Mo., Jan. 11
Harry W. Wellford, U.S. District Judge, West. Dist. of Tenn., Jan. 13
Lloyd C. Wilson, U.S. Probation Officer, Mid. Dist. of Fla., Feb. 8
Bestor F. Witter, U.S. Magistrate, South. Dist. of Ill., Jan. 2
John H. Wood, Jr., U.S. District Judge, West. Dist. of Tex., Jan. 15
Bernard G. Zimpfer, U.S. Magistrate, Dist. of Minn., Jan. 2
James Allen Zuehl, U.S. Probation Officer, Dist. of Minn., Jan. 18

Retirements

Edwin B. Cunningham, U.S. Probation Officer, Mid. Dist. of Fla., Jan. 24

Clarence A. Swainson, Referee in Bankruptcy, Dist. of Wyo., Jan. 15 (reemployed annuitant until appointment of successor)

Death

John B. Fink, Clerk, U.S. Dist. Court, East. Dist. of Okla., Jan. 13

Correction

Bert W. Thompson, listed in Jan. issue as entering on duty Jan. 4 as Referee in Bankruptcy, West Dist. of Tex., has not yet been formally appointed.

New Publication

A new edition of *The Constitution Annotated* is in the works and is projected for completion by the end of next year. This work, published under the auspices of the U.S. Senate, lists sections of the Constitution and U.S. Supreme Court

opinions construing them. The new revision is expected to cover the Court's decisions through the October 1971 Term. Five formal annotated editions have been published, the last in 1964. Volumes are distributed to Members of Congress and are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401.

A.O. — F.J.C. Calendar

Feb. 17	Bankruptcy Committee, 725 Madison Pl., N.W., Washington, D.C.	Apr. 4-5	District of Columbia Circuit Conference, White Sulphur Springs, W.Va.
Feb. 18-19	Court Administration Committee, 725 Madison Pl., N.W., Washington, D.C.	Apr. 18-23	Orientation Class for Newly Appointed Probation Officers, 725 Madison Pl., N. W., Washington, D.C.
Feb. 22	Criminal Justice Act Committee, 725 Madison Pl., N.W., Washington, D.C.	Apr. 21-23	Sentencing Institute, Sixth and Seventh Circuits, Dearborn, Mich.
Feb. 25	Standing Committee on Rules of Practice and Procedure, 725 Madison Pl., N.W., Washington, D.C.	Apr. 29-30	Regional Seminar for Referees in Bankruptcy, Scottsdale, Ariz.
Feb. 26-27	Magistrates Committee, 725 Madison Pl., N.W., Washington, D.C. (Previously scheduled for Feb. 19)	May 4-7	Fifth Circuit Conference, San Antonio, Tex.
Feb. 27-Mar. 6	Seminar for Newly Appointed District Judges, at the Center Washington, D.C.	May 10-12	Seventh Circuit Conference, Chicago
Mar. 3-6	Bankruptcy Rules Committee, 725 Madison Pl., N.W., Washington, D.C.	May 16-21	Refresher Course for Probation Officers, Chicago
Mar. 11-14	National Conference on the Judiciary, Williamsburg, Va.	May 23-26	Regional Inservice Training Institute for Probation Officers in the Great Lakes Area, Carousel Motel, Cincinnati, Ohio
Mar. 14-19	Refresher Course for Probation Officers, Chicago	June 9-12	Bankruptcy Rules Committee, 725 Madison Pl., N.W. Washington, D.C.
Mar. 15-16	Judicial Conference of the United States, Supreme Court Building, Washington, D.C.	June 14-16	Criminal Rules Committee, 725 Madison Pl., N. W., Washington, D.C.
Mar. 17	Meeting of Circuit Chief Judges, at the Center, Washington, D.C.	June 28-30	Eighth Circuit Conference, Lutsen Resort, Duluth, Minn.
Mar. 22-26	Seventh National Seminar for Newly Appointed Referees in Bankruptcy, Washington, D.C.	June 28-30	Ninth Circuit Conference, Portland, Oreg.
Mar. 27-Apr. 3	Seminar for Newly Appointed District Judges, at the Center, Washington, D.C.	July 1-3	Sixth Circuit Conference, Mackinac Island, Mich.
		Sept. 10-11	Second Circuit Conference, Manchester, Vt.
			Note: Chief judges of circuits are requested to advise when dates are set for circuit conferences.

THE THIRD BRANCH
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A Bulletin of the Federal Courts



Vol. 3, No. 5

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March 1971

President, Chief Justice Address National Conference on the Judiciary

Historic Williamsburg, Virginia, was the site of a national conference which brought together 600 state and federal judges, lawyers, attorneys general, prosecutors, legislators, court administrators, law professors and civic leaders. The four-day conference which started March 11, the first of its kind, was the result of a concept of Governor Linwood Holton to invite to his state those who were interested in seeing what Virginia has done to restructure its courts and to discuss among themselves what could be done throughout the country to assure all Americans that justice would be administered on the highest possible level.

Mr. Justice Clark, at the invitation of Governor Holton, served as Conference Chairman. The Justice opened and closed the conference with challenging statements which called for continued efforts, no matter how high the cost, to bring about better judicial administration in our courts.

criminal cases, but especially referred to the administration of civil justice in this country. "This unhappily is becoming the stepchild of the law as criminal justice once was," he commented. He went on to say that "Americans will totally lose patience with the cumbersome system that makes people wait two, three, four or more years to dispose of an ordinary civil claim while they witness flagrant defiance of law by a growing number of law-breakers who jeopardize cities and towns and life and property of law-abiding people, and monopolize the courts in the process. The courts must be enabled to take care of both civil and criminal litigants without prejudice or neglect of either. *This is why we are here today.*"

National Center for State Courts.

The Chief Justice joined the proposal of President Nixon that there be created a national center to serve the state



Official White House Photograph.

No conference has brought together as many top leaders for a common cause. The conference was sparked by a major address from President Nixon, who urged a series of reform measures, and the theme of the conference was established the following day by Chief Justice Warren Burger, who criticized delays and backlogs, and urged that the conferees concentrate on bringing about speedy trials, effective settlement procedures, and better use of improved management techniques. The Chief Justice did not rest his remarks on just the

judiciary much as the Federal Judicial Center serves the federal courts. He urged that the need of such an organization was so great that it called for immediate action of the conference to implement such a plan, possibly through a steering committee who could empower a larger group to perfect such an organization. At the conclusion of the conference a resolution to this effect was passed unanimously and the steering committee will meet at the Federal Judicial Center April 5th. Concluding his

(Continued on p. 2)

NATIONAL CONFERENCE (Continued from p. 1)

speech, the Chief Justice said that he offers "the full cooperation of my own office and the temporary facilities of the Federal Judicial Center and the Administrative Office of the United States Courts. But, bearing in mind my own concepts of federalism, I will participate only when you ask me to do so."

The Administrative Office was represented by Director Rowland F. Kirks, Judge Murrah, Center Director, was chairman of a panel on "Organization of a Judicial System," and Alice O'Donnell, Coordinator of Inter-Judicial Affairs at the Center, served as one of the group leaders for discussions on the structure of an appellate court, the role of a state court administrator, and the role of the Chief Justice in a state court system.

At the conclusion of the conference the reporters announced the consensus reports from the workshops. Written statements of the consensus reporters will be formalized and released in the near future.

Darwin H. Anderson Retires

On March 24 Darwin H. Anderson, chief of the Division of Business Administration, retired from the Administrative Office of the United States Courts and from federal service.

Mr. Anderson joined the Administrative Office in 1940 as a clerk in the Budget and Accounting Section and served later in the Service Section and Office of Assistant Director. Following military duty, he returned to the Administrative Office in 1947 as assistant chief auditor in the Audit Section. Subsequent positions held by him include assistant budget and accounting officer, budget and accounting officer, assistant chief of business administration, and chief of business administration.

In announcing Mr. Anderson's retirement, Rowland F. Kirks, Administrative Office Director, said: "His loyalty, devotion and dedication to the Administrative Office and the business affairs of the federal judiciary have built for him a reputation admired and respected by all who have been privileged to work with him."

Judicial Administration Handbook Published

The Section of Judicial Administration of the ABA has announced the publication of the fifth edition of its handbook, *The Improvement of the Administration of Justice*. The first edition came out in 1938 when the late Judge John J. Parker was Section chairman, and in the interim period three others followed, the last one ten years ago.

The book covers a myriad of subjects of interest to those working in the courts, including chapters on court structures, court administration, judicial councils, judicial selection, tenure and removal, and rule making powers. An appendix includes reprints of the Section's Model Judicial Article for State Constitutions and a Model Act to Provide for an Administrator for the State Courts.

On the publications committee were Alice O'Donnell, FJC staff member, Chairman, C. Frank Reifsnnyder, of Washington, D.C., Ernest C. Friesen, Jr., now Director of the Institute for Court Management, and Professor Geo. Neff Stevens, Revision Editor, assisted by Judge Philbrick McCoy.

A Message from the Chief Justice

WE MUST CLOSE OUR OWN "KNOWLEDGE GAP"

We are being reminded constantly that the demands of modern life expose a "knowledge gap" because Man's total knowledge is so vast that no single mind is able to grasp it all, even in one subject, the law for example.

In an effort to breach this gap, Man is turning to an almost infinite range of machines, the newest of which is in electronics and computers. All around us today this new science is expanding so rapidly that it boggles the mind. A whole new vocabulary is evolving—printouts, retrieval, keyword, programming, grads, matchups, magnetic tapes. Computer uses mushroom daily.

We of the courts have found ourselves with our own "knowledge gap" in terms of adapting modern tools to our own needs. Since we are the presumed judicial experts, we must now see that if we are to stay above the tide we must also turn to the new ways and new tools for administering court business, for record-keeping, for accounting, for information retrieval, and for such instantaneous responses as to how many jurors will be needed for 2 weeks by 15 judges trying criminal cases and six judges trying civil cases.

Fortunately, some of the courts, especially the busiest metropolitan courts, are beginning to test out at least a primitive form of this new generation of "business machines." Judicial information systems and other electronic aids such as high-fidelity recording and computer consoles are emerging. Every judiciary meeting or conference of recent vintage has listed computer and electronic techniques as a major topic. It has been on the agenda of the Federal Judicial Center and most recently on the agenda of the National Conference on the Judiciary held this month in Williamsburg, Va. It was one of the eight major, serious problems found to be confronting courts by judges and administrators from 20 states at another recent conference, also held in Williamsburg. Computer techniques have revolutionized the methods of business and industry in solving their mass problems.

Just how much of this new and revolutionary development can be adapted to the use of courts we do not know as yet. We must not glibly say this is our salvation, but neither must we say it is not adaptable to our administrative problems. That some of it is potentially useful has been demonstrated in studies and pilot projects. The crucial factor is that we keep open minds, as we do when a case is opened, and let the evidence come in without judgment until we have heard the whole case.

As the resources of the Center and the Administrative Office of the U.S. Courts permit and as fast as busy judges on committees can study, we will acquire enough evidence to make informed, reasoned decisions on these problems. But our minds must be open to new ways.





Recently appointed U.S. District Judges in attendance at FJC seminar
Seated: Chief Judge Edw. Devitt, The Chief Justice, Mr. Justice Clark, and Chief Judge Ralph M. Freeman

Center Holds Seminar for District Judges

For eight days 33 United States District Judges attended sessions at the Federal Judicial Center, discussing all facets of their work, listening to suggestions from their brethren who preceded them on the federal bench, and getting acquainted with staff members of the Administrative Office and the Center.

The seminar started February 27th with opening remarks from the Chief Justice, Mr. Justice Clark, Judge Alfred P. Murrah, Center Director, and Rowland F. Kirks, Director of the Administrative Office. Following this the judges started their closely timed schedule which called for talks and discussions on trials of civil and criminal cases, the use of para-judicial personnel, the role of the Magistrates, and judicial ethics. The theme of the seminar which guided all phases of the planning was management: Management of the courts, judicial responsibility for management of the case flow from filing to disposition, and management of records and paper work.

Judge Hubert Will, Chief Judge Wm. H. Becker, Judge Harry Pregerson, Judge Roy W. Harper, Judge Alvin B. Rubin were discussion leaders for the presentation on the handling of civil cases. Criminal cases involved a series of speakers. From the judiciary were: Judges Harold R. Tyler, Gerhard Gesell, Oliver Gasch, Walter E. Hoffman, and Thomas Lambros. Sentencing and corrections discussions took all of one morning and brought to the conference room Norman Carlson and Eugene Barkin from the Bureau of Prisons, and Geo. J. Reed, Chairman of the Board of Parole.

As in the past three electives were offered at one afternoon session: antitrust cases (Judges Milton Pollock and Joe E. Estes), admiralty (Judge Fred J. Cassibry), and patent and copyright laws (Judge Giles S. Rich). In order to complete the program night sessions were necessary and the judges returned to the Center one evening to hear Judge Frank J. Murray talk about the handling of the trials of unruly defendants. Because he has had extensive experience in this area, Wayne B. Colburn, Chief of the United States Marshals, was asked to join this session.

Highlights of the seminar were three luncheons. Guest Speakers were: Chief Judge Devitt, who spoke on "Judicial Behavior," Judge Sherman Christensen who addressed the group on "Jury Instructions," and Hamilton Lokey, Esq., a practicing lawyer of Atlanta, Georgia, who delivered a thought provoking talk on what the courts might expect in the way of litigation in the years ahead.

It was not all work. The ladies who accompanied the judges visited such places as the White House, the Supreme Court, the National Gallery of Art and the Capitol and joined the judges at two evening functions. A reception was held at historic Anderson House, home of the Society of the Cincinnati, and on the closing evening a "black tie" dinner was held at the Supreme Court. In addition to the seminar participants the dinner was attended by Chief Justice and Mrs. Burger and Mr. Justice Stewart and Mrs. Stewart.

A second seminar for District Judges recently appointed to the federal bench will start March 27th.

Attorney General Cities Reform Needs

Attorney General John N. Mitchell, speaking in mid-February at the dedication of a Courthouse in Pasadena, Calif., urged the Nation to adopt uniform standards for a criminal justice system that will meet the needs of the 20th century.

Mr. Mitchell said that officials at all levels of government—local, state and federal—should join in a drive to update and modernize police agencies, courts, and prison systems. He

called the American criminal justice system, at this stage in our history, "an astonishing tale of neglect."

The most critical problems of criminal justice lie on the state and local level, the Attorney General pointed out. Nationwide surveys, he added, show that police in many states are underpaid and receive little basic training; lower court judges and prosecutors in some places are not attorneys; and that state and local jails for the most part do not have programs for the rehabilitation of convicts.

Guest Editorial

Jail House Blues

That Depression lament, "The Jail House Blues," isn't a favorite anymore, but the jails are bluer than ever. Most Americans rarely give them a thought, and hence it is gratifying that their wretchedness has been illuminated.

The Census Bureau has completed a novel census of the nation's city and county lockups, and it was long past due. Nobody even knew how many jails there were in the country, or roughly how many people were in them. It develops that there were 4,037 as of last March, lodging 160,863 people. A fourth of the cells are more than 50 years old, and some of the jails would qualify as museum quarters. Examples: The ones in Albemarle County, Va., and Hagerstown, Md., were built in 1705 and 1776, respectively. Historical values possibly are not uppermost in the minds of presentday lodgers, although it shouldn't be assumed that the oldest jails are necessarily the worst. Probably the worst are those urban multilevel pressure-cooker pokeys into which the incarcerated are packed like sardines. New York City's jail riots of last summer are still a vivid memory.

One must be careful not to refer to people behind municipal and county bars as wrongdoers or "the convicted," because in fact 52 percent of them at the time of the census hadn't been convicted of anything. That majority was awaiting either trial or arraignment. So it is quite possible for a respectable citizen to find himself sharing accommodations with some most unpleasant people. An official commenting on the census bore down on that aspect: "There are many cases where inmates—children, mental incompetents and hardened felons—are all lumped together in less than human conditions of overcrowding and filth." Most urban jails are "terribly overcrowded," he said.

More miscreants pass through jails than prisons, yet only a very few jails have any recreational or educational facilities. They are simply places in which to keep people locked up—often in virtually forgotten misery. And of course many are sort of elementary crime schools, from which young losers graduate to continue their higher education in that field in the penitentiaries.

At least there is a beginning of corrective action. The census was conducted for the Law Enforcement Assistance Administration, which will dispense about \$100 million for jail and prison improvements in the next six months. Some exceptional cities and counties already have built modern jails or rejuvenated old ones. But local jails can sink rapidly into putrid circumstances, and the only antidote is a concerned citizenry. Wonders might be worked if enough citizen groups showed up at jails, unannounced, saying they had come to inspect.

Reprinted from *The Washington Evening Star* of January 20, 1971. *The Third Branch* is carrying such editorial messages as a regular feature, with credit to the newspaper or publication from which they are taken.

Legislative Report

91st Congress

Legislation passed by the last Congress and approved by the President includes P.L. 91-563 which authorizes court leave for federal employees appearing as witnesses on behalf of a state or local government, allows an employee to appear in his official duty status when testifying in his official capacity or producing records, and extends the authority to pay travel expense.

The Civil Service Retirement law is liberalized under P.L. 91-658 in several respects: placing widower coverage on the same basis as widow coverage, permitting certain retirees unmarried at retirement to provide an annuity for a current spouse, providing a survivor annuity for the second, or third, etc., spouse of a retiree, and permitting a reemployed annuitant to use his supplemental annuity to increase the spouse's survivor benefit.

P.L. 91-656, The Federal Pay Comparability Act of 1970, provides machinery under which the rates of pay of employees in the judicial branch whose pay is fixed by administrative action pursuant to law, as well as any maximum limit on such rates of pay, may be adjusted in accordance with procedures fixed by the Act. Statutory pay systems may be adjusted annually by the President.

92nd Congress

H.R. 3805, introduced by Congressman Celler, chairman of the House Judiciary Committee, embodies a proposal of the Judicial Conference to abolish the requirement of three-judge courts in cases to enjoin the enforcement of state or federal statutes for repugnancy to the Constitution.



Mr. Justice Black

Associate Justice Hugo L. Black, who celebrated his 85th birthday on February 27, is the third oldest justice to sit on the Supreme Court of the United States. Justice Oliver Wendell Holmes retired at 90 in 1932 and Chief Justice Roger B. Taney died in office in 1864 at 87. Mr. Justice Black has served on the Court for more than 33 years, since August 19, 1937.

State-Federal Judicial Councils

Following the suggestion of Chief Justice Burger that state-federal judicial councils be established to work on matters of mutual concern to the dual judicial systems, 33 such councils have been announced, the latest at the National Conference on the Judiciary.

Delaware

Justice Daniel L. Herrmann, of the Delaware Supreme Court, held a meeting February 23rd and in addition to Judge Andrew D. Christie two federal judges make up the membership of this council: Judges James L. Latchum and Walter K. Stapleton. The Council has established semi-annual meetings to be held in September and March. Already these judges have taken up such important subjects as habeas corpus proceedings, exchange of opinions on cases of particular interest, and certification of questions of Delaware law to the Delaware Supreme Court. The Council has approved unanimously, in principle, the adoption of constitutional or statutory authority for the Supreme Court of Delaware to receive certified questions of Delaware law from the United States District Court for the District of Delaware and the U. S. Court of Appeals for the Third Circuit, "under such circumstances as shall be set forth in the rules of these courts."

California

Chief Justice Donald R. Wright and Justice Louis H. Burke, of the Supreme Court of California, will be joined by federal judges on the California-Federal Judges' Coordinating Council. Chief Judge Richard H. Chambers and Judge Walter Ely will represent the Ninth Circuit, and the U. S. District Courts will be represented by Chief Judge Thos. J. MacBride, and Judge Warren J. Ferguson. Chief Justice Wright will act as Council Chairman for the first year but the chairmanship will be rotated annually between state and federal members. In announcing the new Council, Chief Justice Wright noted that the group will provide a means for insuring continuance of harmonious relations between the California state judges and the judges of the federal judicial system. The Council plans to meet regularly to discuss means for expediting cases, to eliminate duplicative procedures, and to set up judicial seminars and programs for judges of both courts. Specific attention is already being given to the establishment of a data bank for central clearance by state and federal courts of applications for habeas corpus.

Wisconsin

Chief Justice E. Harold Hallows, of the Supreme Court of Wisconsin, has announced the formation of his state's State-Federal Judicial Council, and that U. S. Circuit Judge Thos. E. Fairchild will be the first chairman of this eight-member group. Mr. Justice Horace W. Wilkie, also of the Wisconsin Supreme Court, will be vice-chairman, and take on the chairmanship of the Council next year.

Youngest Federal Clerk Appointed

Thirty-one-year-old H. Stuart Cunningham has been appointed Clerk of the United States District Court for the Northern District of Illinois, the third largest Clerk's Office in the country. He succeeds Elbert A. Wagner, Jr., who died last December.

Mr. Cunningham, the youngest federal court clerk in the Nation, began as a filing clerk with the District Court in Chicago in 1959.

Judges, Administrators Discuss Problems

Sixty judges and court administrators from 20 states met in late February at Williamsburg, Va., in a 5-day exchange on problems of modern management that face courts of the Nation in the 1970's.

Sponsored by the National College of State Trial Judges and with the help of the Institute of Court Management in shaping the program, the seminar functioned in the unique manner of limiting the number of speakers and their time to talk to one-half hour each, thus allowing the judges and administrators time to explore each subject more fully in discussion groups. All of the discussions were put on tapes—most on video-tapes-for replay.

At the outset of the sessions, the judges and administrators compiled a list of 559 problems confronting courts but these were narrowed down to eight of major and general significance. They include: court congestion and the expeditious scheduling of cases, record-keeping and control, adequate funding, defining and establishing lines of authority and responsibility, applying the newest technology effectively, management of court personnel, and communicating with the public.

As solutions and corrections were considered, the conferees discussed accompanying corollary questions, including how to select the court administrator and whether he should be a lawyer or management expert, the role of the lawyer in the courts, methods of setting up an effective records system, and the use of computers.

Sponsors of the seminar plan to send information garnered there to courts in other sections of the country and officials of the College and the Institute already are formulating plans for a second judge-administrator conference this summer.

Six-Member Juries

The District of New Mexico in February promulgated a local rule (Rule 25) providing for six-member juries in all civil jury cases, applicable to all civil cases filed in the district on or after May 1, 1971.

The December and February issues of *The Third Branch* have reported the use of six-member juries by the District of Minnesota, Southern District of Illinois, and the D.C. Superior Court.

Chief Judge Devitt, in a recent visit to the Federal Judicial Center, reported that numerous calls and letters had come to him following the announcement of the new rule of his court which calls for six-member juries.

Current Articles and Publications

"*Legal Questions in a Computer Society*," by Roy N. Freed, *Trial Magazine*, January/February 1971; "*Computer-Based Information Systems Can Help Solve Urban Court Problems*," by Gerald S. Blaine, *Judicature*, November 1970; *Modern Court Management: Trends in the Role of the Court Executive*, by David J. Saari, Law Enforcement Assistance Administration, July 1970.

Appointments

Jamie C. Boyd, U.S. Magistrate, West. Dist. of Tex., Feb. 8
 Thomas E. Bryan, U.S. Probation Officer, Cen. Dist. of Calif., Feb. 16
 Ralph J. Geffen, U.S. Magistrate, Cen. Dist. of Calif., Jan. 18
 John P. Giles, U.S. Magistrate, West. Dist. of Tex., Feb. 8
 Ingard O. Johannesen, U.S. Magistrate, East. Dist. of La., Jan. 25
 Charles R. Jones, U.S. Magistrate, West. Dist. of Okla., Jan. 28
 Robert J. Kelleher, U.S. District Judge, Cen. Dist. of Calif., Jan. 29
 Paul J. Komives, U.S. Magistrate, East. Dist. of Mich., Feb. 12
 Frederick B. Lacey, U.S. District Judge, Dist. of N.J., Feb. 1
 Arthur H. Latimer, U.S. Magistrate, Dist. of Conn., Jan. 25
 Harry Lee, U.S. Magistrate, East. Dist. of La., Jan. 25
 William B. Leffler, Referee in Bankruptcy, West. Dist. of Tenn., Mar. 15
 Thomas F. Maher, U.S. Probation Officer, South. Dist. of N.Y., Feb. 8
 Lawrence S. Margolis, U.S. Magistrate, Dist. of Col., Jan. 18
 Edmund F. Maxwell, U.S. Magistrate, West. Dist. of N.Y., Feb. 1
 Barron P. McCune, U.S. District Judge, West. Dist. of Pa., Jan. 22
 Harley A. Miller, U.S. Magistrate, Dist. of P.R., Jan. 25
 Patrick H. Mulloy, Jr., U.S. Magistrate, North. Dist. of Tex., Jan. 20
 Michael J. Osman, U.S. Magistrate, South. Dist. of Fla., Jan. 15
 Peter R. Palermo, U.S. Magistrate, South. Dist. of Fla., Jan. 15
 James J. Penne, U.S. Magistrate, Cen. District of Calif., Jan. 18
 H. Lingo Platter, U.S. Magistrate, South. Dist. of Tex., Feb. 4
 Bailey F. Rankin, U.S. Magistrate, North. Dist. of Tex., Jan. 20
 Jerome D. Schwitzer, U.S. Magistrate, Dist. of N.J., Feb. 1
 Venetta S. Tassopoulos, U.S. Magistrate, Cen. Dist. of Calif., Jan. 18
 R. Macey Taylor, U.S. Magistrate, North. Dist. of Ala., Feb. 8
 Bert W. Thompson, Referee in Bankruptcy, West. Dist. of Tex., Feb. 9
 Fred M. Winner, U.S. District Judge, Dist. of Colo., Feb. 1

Retirements

Carl R. Graves, Referee in Bankruptcy, West. Dist. of Tenn., Mar. 18
 Henry A. Hirschberg, Referee in Bankruptcy, West. Dist. of Tex., Feb. 8
 Howard C. Vaught, U.S. Probation Officer, South. Dist. of Tex., Mar. 15

Mar. 22-26 Seventh National Seminar for Newly Appointed Referees in Bankruptcy, Washington, D.C.
 Mar. 27-Apr. 3 Seminar for Newly Appointed District Judges, at the Center, Washington, D.C.
 Apr. 5-6 District of Columbia Circuit Conference, White Sulphur Springs, W.Va. (previously listed for Apr. 4-5)
 Apr. 13-16 State-Federal Appellate Judges Conference, at the Center, Washington, D.C.
 Apr. 18-23 Orientation Class for Newly Appointed Probation Officers, 725 Madison Pl., N.W., Washington, D.C.
 Apr. 21-23 Sentencing Institute, Sixth and Seventh Circuits, Dearborn, Mich.
 Apr. 29-30 Regional Seminar for Referees in Bankruptcy, Scottsdale, Ariz.
 May 1-5 Seminar for U.S. Magistrates, at the Center, Washington, D.C.
 May 4-7 Fifth Circuit Conference, San Antonio, Tex.
 May 10-12 Seventh Circuit Conference, Chicago
 May 16-21 Refresher Course for Probation Officers, Chicago.
 May 23-26 Regional Inservice Training Institute for Probation Officers in the Great Lakes Area, Carousel Motel, Cincinnati, Ohio
 May 27-28 Judicial Panel on Multi-District Litigation, Washington, D.C.
 June 5-9 Seminar for U.S. Magistrates, at the Center, Washington, D.C.
 June 14-16 Criminal Rules Committee, Washington, D.C.
 June 28-30 Eighth Circuit Conference, Lutsen Resort, Duluth, Minn.
 June 28-30 Ninth Circuit Conference, Portland, Oreg.
 July 1-3 Sixth Circuit Conference, Mackinac Island, Mich.
 Aug. 19-21 Tenth Circuit Conference, Salt Lake City, Utah
 Aug. 30-Sept. 1 Probation Committee Meeting, Salishan Lodge, Gleneden Beach, Oreg.
 Sept. 10-11 Second Circuit Conference, Manchester, Vt.

Note: Chief judges of circuits are requested to advise when dates are set for circuit conferences.

THE THIRD BRANCH
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OFFICIAL BUSINESS



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 UNITED STATES COURTS

The Third Branch

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A Bulletin of the Federal Courts



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April 1971

Second Seminar Held For District Judges

The second in a series of seminars for District Judges was held at the Center March 27 to April 3rd and brought to Washington 30 judges recently appointed to the federal bench.

The format for the seminar was identical to that held just a month previous. Chief Judge Noel P. Fox (Western Dis-

trict of Michigan) and Chief Judge Edward S. Northrop (District of Maryland) both made presentations on The Role of the Judge in the Settlement Process, a new subject on the District seminars. The discussions at this session would indicate that it bears repeating.

As has been customary in the past, the seminar was concluded with a formal dinner at the Supreme Court, attended by the Judges and their ladies.



Federal Judges photographed at Supreme Court

Board of Certification Established

The Board of Certification created by Congress to certify persons eligible for the new position of circuit executive has promulgated standards for certification as required by Subsection (f) of the new law. In formulating these standards, the Board has consulted extensively with experts outside the judiciary such as representatives of the Business Council. The standards and the prescribed application forms have been widely disseminated through organizations with special concern and responsibility to the judicial system. The application form is available from the Federal Judicial Center. Completed forms should be submitted to R. F. Kirks, Secretary of the Board, and Director of the Administrative Office, U.S. Courts, Washington, D.C., 20544. The standards and accompanying memorandum follow:

An applicant must:

1. Possess executive ability, demonstrated by substantial experience in progressively more responsible management positions in government or the private sector;

2. Have experience in modern business and management techniques, including use of automatic data processing;
3. Have demonstrated capability to plan and conduct studies designed to improve the management of the business of the circuit court and of the district courts within the circuit, to prepare recommendations and reports to appropriate higher authorities and to implement such recommendations when approved;
4. Possess a very high degree of judgment, understanding and tact; exceptional ability to meet with and maintain proper relationships with other courts and officials of the state and federal governments, and with members of the bar and the public;
5. Possess ability to conduct conferences and meetings, and to express himself clearly in

(Continued on p. 2)

Board of Certification (Continued from p. 1)

- writing and orally before the council, the judges of the courts and representatives of government agencies, industry and the public;
6. Detailed familiarity with court procedures is not indispensable. Formal training in court management and managerial experience is particularly relevant;
 7. Possess creative leadership, planning and organizing ability, initiative, decisiveness, dedication and independence to make significant contributions toward productive change in methods of operating;
 8. Have acquired an undergraduate degree; a graduate degree in business or public administration or a degree in law is desirable.

MEMORANDUM STATEMENT OF QUALIFICATIONS

These standards have been established to the end that a circuit executive shall be fully competent to perform all the duties committed to him by the statute and such other duties as may from time to time be delegated to him by the Circuit Council. It is contemplated that the circuit executive shall act as the arm of the Circuit Council to conduct or supervise all delegable functions of court business. With the cooperation and assistance of the Administrative Office of the U. S. Courts and The Federal Judicial Center, he will collect, compile and analyze statistical data and will prepare and present reports and recommendations based upon such studies and data to enable the council to make all necessary orders for the effective expeditious administration of the courts within the circuit. It is contemplated that this cooperative effort will result in an integrated working relationship between the Circuit Council, the Administrative Office of the U. S. Courts and The Federal Judicial Center. The maintenance of this relationship is deemed to be essential to the efficient operation of the courts and the administration of justice.

D.C. Tenure Commission Named

A five-man Commission on Judicial Disabilities and Tenure has been established under the court reform and criminal procedure law that went into effect on February 1 and covers courts of the District of Columbia.

The Commission is composed of two lawyers, an undertaker, a businessman, and a federal judge. The appointments, announced early this month, were made by President Nixon, Mayor Walter E. Washington, and Chief Judge Edward M. Curran of the District Court for the District of Columbia.

The Commission, under the law, holds authority to censure, remove, or retire judges of the District of Columbia courts for conduct or incapacitation that is prejudicial to the best interests of the administration of justice.

A Message from the Chief Justice

The Williamsburg Conference may well become identified in future times as a watershed with respect to problems of the courts. Although the principal emphasis of the program was on state courts and the majority of those in attendance were state judges and state officials, the problems treated were common to all courts. The details of the Conference were related in the March issue of *The Third Branch*.

It was the first such judicial meeting at which a President of the United States ever addressed himself and added the prestige of his office to the ferment for change and improvement in the judicial systems. His promise of federal assistance to the States is significant.

"We are at a point in our history when each branch of government must analyze the extent to which it is fulfilling its purposes. The executive branch of the federal government is now assessing its own structural adequacy for meeting the needs of our people. This conference of judicial officers is a welcome opportunity to begin a considered self-evaluation and to launch plans for the rejuvenation of the judicial system. It is my hope that this new look at our basic institutions of government will be a continuing and productive process."

Forty-four State Supreme Courts were represented by their Chief Justice or his designee. This number, combined with over 500 national leaders of the bench and bar, at a conference under the chairmanship of Mr. Justice Clark, gave the meeting an impressive standing.

The proposed center for state courts has been followed by a two-day meeting in Washington under the chairmanship of Chief Justice Holden of Vermont, Chairman-Elect of the Conference of Chief Justices. Three nationally prominent lawyers attended to manifest the support of major organizations which join the Conference of Chief Justices in planning this new center: Earl F. Morris, former President of the American Bar Association, represented that organization; Orison Marden, also a former ABA President, represented the Institute of Judicial Administration; and Gerald C. Snyder represented the American Judicature Society. Mr. Justice Clark and I were invited to participate.

In a period when we must, in my view, curtail some of the existing burdens on federal courts, to make way for new impending burdens, we share an obligation to the system of justice to see to it that state courts can enlarge their capability. The problems are unitary and the solutions must embrace improved performance of all courts.

The program of the Conference covered the entire spectrum of problems of justice and I am confident that the substance of the meeting, combined with the newly-aroused spirit sparked at Williamsburg, will have an enormous impact on the courts in the years ahead.

Our task now is to harness the momentum of the Williamsburg Conference and keep it in motion. Chief Justice Holden, not a man given to extravagant rhetoric, spoke movingly at the recent Washington meeting of the "Spirit of Williamsburg." We must make that spirit a reality.



Recruit Chief Judges Hold Semi-Annual Meet

Following their established pattern, the eleven Circuit Chief Judges met at the Center in March at the conclusion of the meeting of the Judicial Conference of the United States. A number of subjects were discussed, including screening, geographical reorganization of the circuits, and the use of para-judicial personnel.

Circuit Executives

Of particular interest to the Chief Judges was the discussion of the newly created positions of Court Executives. To afford the judges an opportunity to learn more about tried programs, Judge Murrah invited to the meeting two state Chief Justices and their court administrators: Chief Justice Donald R. Wright of the Supreme Court of California, who was accompanied by Ralph N. Kleps, and Chief Justice Joseph Weintraub of the Supreme Court of New Jersey, who was accompanied by Edward B. McConnell. All have had extensive experience with court administration programs in large courts. They briefed the Chief Judges on their procedures and

* * *

The Fifth World Conference on World Peace Through Law will take place this summer in Belgrade, Yugoslavia. The dates are July 21 to 25 and judicial leaders from Nations throughout the world are expected to attend, including a possible delegation of jurists from the Soviet Union.

* * *

There's such a thing as being too blindfolded



Le Pelly in The Christian Science Monitor © TCSPS

answered inquiries on the details and problems likely to be encountered in establishing a court management system in the federal circuits.

Stressed at the discussions was the role of the Circuit Executive and the fact that he need in no way take over the duties of the clerks. He would, instead, function in a more regional capacity and serve as liaison to the many parts of his circuit. Also, his overall administrative duties will ultimately encompass additional responsibilities not currently being done in the circuits.

Federal Rule Amendments Announced

Certain amendments to the Federal Rules of Civil, Criminal, and Appellate Procedure were adopted by the U.S. Supreme Court on March 1, 1971, and an order was entered authorizing their transmittal to the Congress by the Chief Justice.

The Rules, as amended, become effective on July 1, 1971. The amendments deal with the computation of filing times, depositions, and legal holidays in the operations of federal court clerks' offices. Justices Hugo L. Black and William O. Douglas dissented.

Legislation

A bill seeking to establish an Institute for Continuing Studies of Juvenile Justice has recently been introduced (H.R. 45). This and related bills would create an independent Institute to provide for one coordinating and unifying force in the Federal Government representing all agencies working in the field of juvenile delinquency.

The bill provides for an Advisory Commission whose members would include its own Director, the Attorney General (or designee), the Director of the Federal Judicial Center (or designee), the Secretary of Health, Education, and Welfare (or designee), the Director of the National Institute of Mental Health (or designee), and 14 persons to be appointed by the President from various disciplines concerned with the subject. The Institute would serve as a clearinghouse or data bank for relevant information on the subject of juvenile justice.

Other pending bills include:

H.R. 6360-6363, to amend the Economic Opportunity Act of 1964 to authorize a legal services program by establishing a National Legal Services Corporation (referred to House Committee on Education and Labor).

H.R. 6617, to facilitate the collection of statistics with respect to the incidence of crime and to provide for the establishment of a National Crime Statistics Center (referred to House Judiciary Committee).

H.R. 7105 and 7106, to assist in combating crime by reducing the incidence of recidivism, providing improved Federal, State, and local correctional facilities and services, strengthening administration of Federal corrections, strength-

(Continued on p. 4)

Legislation (Continued from p. 3)

ening control over probationers, parolees, and persons found not guilty by reason of insanity, and for other purposes (referred to House Judiciary Committee).

H.R. 7107 and 7108, to assist in reducing crime by requiring speedy trials in cases of persons charged with violations of Federal criminal laws, to strengthen controls over dangerous defendants released prior to trial, to provide means for effective supervision and control of such defendants, and for other purposes (referred to House Judiciary Committee).

H.R. 6953, to create the Office of Administrative Assistant to the Chief Justice of the United States (to House Judiciary Committee).

S. 1394 and H.R. 4816, to abolish bankruptcy referees' salary and expense fund (each referred to respective Judiciary Committee).

S. 1396 and H.R. 4815, to permit full-time referees in bankruptcy to serve as part-time U.S. magistrates (each referred to respective Judiciary Committee).

S. 1395 and H.R. 4510, to increase trustees' and receivers' fees (each referred to respective Judiciary Committee).

Small Juries Endorsed For U.S. Civil Suits

The use of smaller juries in civil trials in the U.S. District Courts received the blessing of the Judicial Conference of the United States at its spring meeting held March 15 and 16 at the Supreme Court Building in Washington.

In an announcement by Chief Justice Warren E. Burger, the presiding Chairman, the Conference said it approved "in principle" a Committee recommendation for the use of reduced-sized civil juries for the federal system. The Conference further stated that it has referred the matter to its Civil Rules and Jury Committees for decision as to the best method of carrying out the plan.

Seven other Districts have announced they are or will use the truncated juries: Minnesota, Southern Illinois, Northern Indiana, Southern Indiana, Kansas, New Mexico, and Southern Florida. Substantial savings in court time in complex civil suits and in jury fees have been anticipated from a more wide-spread use of less than 12-man juries in more than 3,000 civil suits each year.

These other actions also were publicly announced at the Conference:

1. Approved the transmittal of a bill to Congress calling for a new commission to study and recommend possible changes in the structure of the federal judiciary, now divided into 11 judicial circuits. Four members of the Commission would be appointed by the President, two each by the President of the Senate and the Speaker of the House, and four by the Chief Justice.

2. Approved "in principle" proposed legislation for a federal judiciary council designed mainly to study the impact of new legislation on future caseloads in the federal courts and report the findings to Congress

and the courts. The Council would have six members, two named by Congress, two by the President, and two by the Judicial Conference.

3. Approved establishment of the Office of Administrative Assistant to the Chief Justice, as proposed in a bill before Congress. The Office would provide assistance to the Chief Justice in such administrative functions as Chairman of the Judicial Conference, Chairman of the Federal Judicial Center and others. At the same time, the Conference endorsed a proposal to allow an active federal judge to serve as either Director of the Administrative Office of the U.S. Courts, Director of the Federal Judicial Center, or the proposed Administrative Assistant to the Chief Justice without loss of seniority or precedence in his own district or circuit.

4. Directed that legislative recommendations on diversity and federal question jurisdiction—under study by the American Law Institute for 9 years—be sent to Congress for examination. The Conference ordered their transmittal without passing upon the merits of the ALI proposals.

The Conference, a 25-man group composed of the Chief Justice, the Chief Judges of the 11 circuit courts of appeals, a district court judge elected by fellow judges in his circuit for a 3-year term, and the Chief Judges of the Court of Claims and Court of Customs and Patent Appeals, were guests of honor while in Washington at a reception at the National Lawyers' Club under the sponsorship of the Federal Bar Association.

Six-Member Civil Juries Adopted for D.C.

Beginning July 1, the U.S. District Court for the District of Columbia will empanel only six-member juries for all civil cases, instead of the usual 12.

The development, in line with what other federal trial courts have done recently, was announced by U.S. District Judge Gerhard A. Gesell at the 32nd annual Judicial Conference of the District of Columbia held early this month at White Sulphur Springs, W. Va.

The Conference, in another development, called for the "emergency construction" of a new court building to house Washington's expanded and reorganized court system, which went into effect February 1 of this year.

Current Articles and Publications

Law and Judicial Systems of Nations, detailed facts of courts and law systems of more than 100 countries, published (1971) by the World Peace Through Law Center, 75, rue de Lyon, Ch-1211 Geneva 13, Switzerland (\$5.00 U.S. Currency); "Are Courts Going the Way of the Dinosaur?", by Edward Allen Tamm, *American Bar Association Journal*, March 1971; "Group Procedures in Sentencing: A Decade of Practice," by Charles T. Hosner, Chief Probation Officer, U.S. District Court, Detroit, *Federal Probation Magazine*, December 1970.

National State Court Center Planned

Under the chairmanship of Chief Justice James S. Holden of Vermont, a nine-man steering committee met in Washington April 4-5, 1971, to discuss plans for the establishment of a National Center for State Courts. The plans are an outgrowth of the National Conference on the Judiciary held at Williamsburg last month. A resolution endorsing the proposals of President Nixon and Chief Justice Burger that such an organization be established was unanimously adopted at the conclusion of the conference.

Chief Justice Holden, Chairman-Elect of the Conference of Chief Justices, announced after the meeting that the new Center would include representatives of major organizations currently functioning in the field of judicial administration, with strong emphasis on judge-oriented groups. The purpose of such a Center will be to serve as a clearinghouse and service organization for all of the state courts, in many respects in the same manner the Federal Judicial Center now serves the courts in the federal system.

Drafts of the proposal for the new Center include a series of functions and purposes directed at assisting the state courts -- "to supplement and coordinate, but not to supplant, the activities of organizations presently functioning in the field of judicial administration." As the committee envisions the purposes, they should be beamed toward studies and research aimed at solving problems common to all courts, as well as assistance in implementing any solutions which might evolve from studies and research. The committee members point out that a central office, drawing on national judicial administration leaders, working cooperatively with lay and professional men from various disciplines, could be a potent force to study, appraise and innovate procedures to improve and accelerate the administration of justice in this country.

In addition to Chief Justice Holden, committee members are: Chief Justice William S. Richardson, Justice Louis H. Burke, Justice Paul C. Reardon, Judge Morell E. Sharp, and Messrs. William Frederick, Orison Marden, Earl Morris and Gerald C. Snyder, Jr.

IJA To Study Juvenile Justice

The Institute of Judicial Administration has received an award of \$164,541 to conduct from February 15, 1971, to April 15, 1972, a Pilot Project To Formulate Standards for Juvenile Justice. The project, funded by the National Institute of Law Enforcement and Criminal Justice (a branch of the Law Enforcement Assistance Administration), is chaired by U.S. Circuit Judge Irving R. Kaufman, who is also president of the Institute. A project director and committee are presently being appointed.

The purpose of the study is to determine the best way to formulate and put into practice a set of nationwide standards for juvenile justice. The project is modeled after the American Bar Association's Standards for Criminal Justice Project which began in 1964 and is now drawing to a close after publishing 15 volumes of standards.

"Public Interest" Firms Given Ad Rights in D.C.

Non-profit "public interest law firms" are being permitted to use a form of advertising in newspapers and on radio and television in searching for clients in the District of Columbia as a result of a D.C. Bar Association ruling in March, the first of its kind in the nation.

The ruling, which rejected complaints against the Stern Community Law Firm in Washington, applies only to those firms whose members are working in the public or community interest and whose lawyers do not receive fees from clients. Such non-profit firms are offering free legal assistance to the poor, minorities, consumers, and environmental groups.

"It's perfectly logical that it would happen first in Washington, with the seat of government here, where there are lots of groups representing people against the government. I'm sure this decision will have a larger scope as time passes," Raymond Garrity, executive-director of the D.C. Bar Association said. The ruling specifies that advertisements must be clearly labeled "public service legal opinions" and that names of individual lawyers not be used.

ABA Expecting 12,000 on London Trip

The 94th annual meeting of the American Bar Association this summer will be a split affair, an opening part scheduled for New York City July 4-7, and a closing portion set for London July 14-20.

Based on present registrations, the ABA is estimating that upwards of 12,000 persons—lawyers and their families—will journey to England for the London business sessions, social events, and sightseeing trips.

The annual meeting opens in New York on Sunday, July 4, with what has now become a tradition, the prayer breakfast. The Chief Justice will deliver his 1971 State of the Judiciary message the next morning (July 5) from the Grand Ballroom of the Americana Hotel. House of Delegates meetings and other business sessions begin that day. A closing luncheon for all registrants is scheduled for Wednesday, July 7, at the New York Hilton.

In London, three plenary sessions are on the calendar of events, the first scheduled for historic Westminster Hall on July 14. Amid much pomp and ceremony with British judges in wig and gown, addresses will be delivered at the plenary sessions by top-ranking judicial, legal and government officials from both countries.

* * *

A 70-page Register of Frankfurter Papers has become available in the Manuscript Division of the Library of Congress. Prepared by LC employee Anita Nolen, the Register details the contents of the large collection of papers of the late U.S. Supreme Court Justice which the Library has in its possession.

* * *

PERSONNEL

A.O. - F.J.C. Calendar

Appointments

James Timothy Balog, U.S. Magistrate, North. Dist. of Ill., Mar. 12
 Dale R. Booth, U.S. Magistrate, West. Dist. of Ky., Mar. 10
 Morris L. Bradford, U.S. Magistrate, North. Dist. of Okla., Feb. 15
 Aaron Brown, Jr., U.S. Magistrate, West. Dist. of Tenn., Feb. 16
 Robert M. Coffey, U.S. Probation Officer, North. Dist. of Calif., Mar. 15
 Willie J. Davis, U.S. Magistrate, Dist. of Mass., Mar. 1
 Richard S. Goldsmith, U.S. Magistrate, North. Dist. of Calif., Mar. 1
 Richard C. Gormley, U.S. Magistrate, Dist. of Ariz., Mar. 1
 Paul E. Jennings, U.S. Magistrate, Mid. Dist. of Tenn., Mar. 3
 Olga Jurco, U.S. Magistrate, North. Dist. of Ill., Mar. 12
 Peter W. Princi, U.S. Magistrate, Dist. of Mass., Mar. 1
 Bernhard Schaffler, U.S. Magistrate, West. Dist. of Pa., Mar. 15
 Ila Jeanne Sensenich, U.S. Magistrate, West. Dist. of Pa., Mar. 15
 Royce D. Sickler, U.S. Magistrate, Dist. of Colo., Mar. 1
 Carl B. Sussman, U.S. Magistrate, North. Dist. of Ill., Mar. 12
 Raymond T. Terlizzi, U.S. Magistrate, Dist. of Ariz., Mar. 1
 Thomas J. Weadock, Jr., U.S. Probation Officer, North. Dist. of Ill., Apr. 5
 Owen E. Woodruff, Jr., U.S. Magistrate, North. Dist. of Calif., Mar. 1

Deaths

Thurmond Clarke, U.S. Senior District Judge, Cen. Dist. of Calif., Feb. 28
 Abraham L. Freedman, U.S. Circuit Judge, 3rd Cir., Mar. 13
 Albert L. Reeves, U.S. Senior District Judge, West. Dist. of Mo., Mar. 24

Apr. 18-23 Orientation Class for Newly Appointed Probation Officers, 725 Madison Pl., N.W., Washington, D.C.
 Apr. 21-23 Sentencing Institute, Sixth and Seventh Circuits, Dearborn, Mich.
 Apr. 29-30 Regional Seminar for Referees in Bankruptcy, Scottsdale, Ariz.
 May 1-5 Seminar for U.S. Magistrates, at the Center, Washington, D.C.
 May 4-7 Fifth Circuit Conference, San Antonio, Tex.
 May 10-12 Seventh Circuit Conference, Chicago
 May 16-21 Refresher Course for Probation Officers, Chicago
 May 23-26 Regional Inservice Training Institute for Probation Officers in the Great Lakes Area, Carrousel Motel, Cincinnati, Ohio
 May 27-28 Judicial Panel on Multi-District Litigation, Washington, D.C.
 June 5-9 Seminar for U.S. Magistrates, at the Center, Washington, D.C.
 June 21 Supporting Personnel Committee, Washington, D.C.
 June 24-26 Fourth Circuit Conference, Hot Springs, Va.
 June 28-30 Eighth Circuit Conference, Lutsen Resort, Duluth, Minn.
 June 28-30 Ninth Circuit Conference, Portland, Ore.
 July 1-2 Court Administrative Officers, Charleston, S.C.
 July 1-3 Sixth Circuit Conference, Mackinac Island, Mich.
 July 7-10 Bankruptcy Rules Committee, Washington D.C.
 Aug. 19-21 Tenth Circuit Conference, Salt Lake City, Utah
 Aug. 30-Sept. 1 Probation Committee Meeting, Salishan Lodge, Gleneden Beach, Ore.
 Aug. 30-Sept. 1 Criminal Rules Committee, Washington, D.C.
 Sept. 10-11 Second Circuit Conference, Manchester, Vt.
 Sept. 19-22 Regional Inservice Training Institute for Probation Officers in the Western Area, Riviera Hotel and Country Club, Palm Springs, Calif.
 Sept. 27 Bankruptcy Committee Meeting, Washington, D.C.

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A Bulletin of the Federal Courts



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May 1971

Second State-Federal Appellate Judges Conference Held At Center

A second state-federal appellate judges conference was held at the Center last month, bringing to the Dolley Madison House the balance of the states not represented at the November state-federal conference. Twenty-five state appellate judges, many of them Chief Justices, met with five federal circuit judges April 13-16 to talk over common problems inherent to courts functioning under a dual court system.

In his introductory remarks Judge Murrah, Director of the Center, welcomed the judges to what he referred to as a "meaningful gathering which could bring about lasting solutions helpful to all of us." Directing his comments especially to the state judges, Judge Murrah urged that they communicate freely with their counterparts on the federal bench, and offered the facilities of the Federal Judicial Center whenever they felt the Director and his staff could be of assistance.



State-Federal Conferees: Mr. Justice Louis H. Burke, Supreme Court of California (left) and Judge Walter Ely of the U.S. Circuit Court for the Ninth Circuit, discussing state-federal matters at the Center.

The first day was devoted to a discussion of federal habeas corpus and related problems, federal injunctions in state court proceedings, and the impact of federal civil rights cases. Judge Griffin Bell of the Fifth Circuit was in charge of this presentation. A discussion of the impact of Supreme Court decisions took up the second day, with Justice Harry A. Spencer (Sup. Ct. Neb.), Judge Floyd R. Gibson (CA-8) and Justice Albert Tate (Sup. Ct. La.) in charge. Bernard A. Witkin, Esq., of Berkeley, California, and Justice Louis H. Burke (Sup. Ct. Calif.) took up opinion writing the third day and advised on style of writing, length of opinions, clarity of expression, and general content. The final day was on court management, control of calendars, screening, statistical reporting, and use of modern equipment in the courts. Presentations on this phase of the conference were made by Center staff members William Eldridge and Joseph Ebersole, Chief Judge T. John Lesinski (Michigan), Justice Winslow Christian (Calif. Court of Appeal), and Joseph Spaniol (Admin. Office, U.S. Courts).

Two luncheon speakers were Solicitor General Griswold, who discussed Supreme Court cases he argues, particularly those from the states, and Hon. Jerris Leonard, newly appointed Administrator of LEAA. Mr. Leonard explained how programs could be instituted in the states with LEAA grants and answered questions on how to apply for the grants.

The judges and their ladies were guests at historic Decatur House one evening for a cocktail-buffet party, and the
(Continued on p. 2)

Tuttle, Lumbard Head Rules Committees

The Chief Justice announced May 10 that Judge Elbert P. Tuttle, a Senior judge on the Court of Appeals for the Fifth Circuit and former Chief Judge there, has been appointed Chairman of the Advisory Committee on Civil Rules and Chief Judge J. Edward Lumbard of the Court of Appeals for the Second Circuit has been appointed Chairman of the Advisory Committee on Criminal Rules.

Judge Tuttle succeeds Dean Acheson, former Secretary of State, who was Chairman of the Civil Rules Committee for 10 years. Judge Lumbard succeeds Judge Alfonso J. Zirpoli of the U.S. District Court for Northern California.

Both Advisory Committees report to the standing Committee on the Rules of Practice and Procedure of the Judicial Conference of the United States, chaired by Senior Judge Albert B. Maris of the Court of Appeals for the Third Circuit.

In making the announcement the Chief Justice said: "There is much to be done to improve procedures in both civil and criminal litigation, and we are fortunate to be able to have the services of two of the most distinguished jurists in the country for these important assignments."

Second State-Federal Conference *(Continued from p.1)*

conference was concluded April 16th with a formal dinner at the Supreme Court Building. Mr. Justice Blackmun represented the U.S. Supreme Court and in responding to a toast to the federal judiciary by Mr. Justice Burke, Conference Chairman, said he felt their attendance at the Conference was one of the most helpful things they could do to bring about better understanding and thus better administration of justice in this country. The Justice received the guests in chambers after the dinner and showed the visitors pictures and memorabilia which are in his chambers at the Court.

The conference was co-sponsored by the Appellate Judges Conference (ABA) and the Federal Judicial Center. Unlike the fall conference, this one was mainly funded by a grant from LEAA with the Federal Judicial Center contributing assistance from staff member Alice O'Donnell, who worked with the planning committee in setting up the conference, and the use of Center facilities as the site of the conference.

Alaska, New York Form State-Federal Councils

At least two more State-Federal Councils have been constituted. Chief Justice George F. Boney, of the Supreme Court of Alaska, recently advised Chief Justice Burger that a 12-member council was appointed on April 29, 1971, by Order No. 126 of that Court. The order sets out that "the Alaska State and Federal Judicial Council shall be established to work on matters of mutual concern to the dual judicial systems." The order calls for a yearly rotation of the chairmanship of the council and designates the following as members: Chief Justice Boney, Justice John H. Dimond, Justice Jay A. Rabinowitz, Justice Roger G. Connor, and Justice Robert C. Erwin of the Alaska Supreme Court; Chief Judge Raymond Plummer and Judge James D. Von der Heydt, both of the U.S. District Court for the Dist. of Alaska; Judge Victor Carlson of the Superior Court for Alaska; Millard Ingraham, Esq., President of the Alaska Bar Association, and William Boggess, Esq., member of the Alaska Bar; G. Kent Edwards, U.S. Attorney for Alaska; and John E. Haverlock, Attorney General of Alaska. Chief Judge Plummer is designated to be the initial chairman.

A joint announcement of the New York State-Federal Judicial Council was released May 5, 1971, by Chief Judge Stanley H. Fuld of the Court of Appeals of New York and Chief Judge J. Edward Lumbard of the U.S. Court of Appeals for the Second Circuit. The Council puts on a formal basis informal discussions of mutual problems initiated in 1968. The two chiefs said, "The general objectives of the Council will be to improve and expedite the administration of justice by the federal and state courts in New York, to promote and encourage the judicial relationships between these court systems and to modify or eliminate any conflicts or misunderstandings which could develop from the operation of the dual judicial systems within the state. Both court systems share a deep concern and have a single purpose: The prompt, efficient administration of justice. . . . It is our feeling, shared by many judges and lawyers, that a continuing dialogue between the two court systems will benefit both systems and, more importantly, the public and the litigants who utilize the federal and state courts."

A steering committee has been appointed consisting of: Circuit Judge Wilfred Feinberg, District Judge Harold R. Tyler, Jr., Justice James D. Hopkins, of the New York Appellate Division, Justice Bernard S. Meyer of the New York Supreme Court, and Thos. F. McCoy, Court Administrator for the New York courts. The committee's first meeting is set for June 4 in New York City.

Guest Editorial

A Challenge to Confidence in the Courts

Mounting discontent with injustices in our society—particularly among the young, the poor, racial and minority groups, all of whom feel unfairly repressed—has led to the violence and turmoil we now witness.

Many, out of a feeling of futility, despair and impatience, are no longer willing to strive for evolutionary lawful and peaceful change.

Some are turning to violence and symbolic destruction of property. Where their conduct brings them into the courts, they are striving to frustrate the functioning of the courts and the determination of their responsibility for their conduct. They reject our system of trial by court and jury.

As defendants in criminal cases these persons have engaged in irresponsible and disruptive behavior in the courtroom. Their conduct has brought into sharp focus, for the courts and lawyers alike, the need to determine how best to cope with such tactics so as to insure these dissidents a fair trial while at the same time preserving inviolate our cherished methods of protecting the rights of accused persons and of a free society.

What is the best use of judicial contempt powers? What other methods are possible to preserve unimpaired the essence of an impartial jury trial?

The right to a trial by a jury of one's peers has historically been regarded, under Anglo-Saxon law, as the shield of the people—rich and poor alike—against unbridled tyranny and power of the state. It has been coupled with certain usual safeguards—including the right to be represented by competent counsel, the right to confront and cross-examine the witnesses for the state, the right to know the charges, the right to a prompt trial.

It is indeed ironic that those who should dedicate themselves to the last to defend this right to an impartial trial are the "tools" seeking to undermine and destroy it.

We are evidently going through far-reaching social change. Retention of just and dispassionate trial procedures for resolving and disposing of the criminal charges against disruptive individuals is a challenge that must be met in a way to inspire and keep alive confidence in the courts.

The obligation to support, protect and preserve the usefulness of this democratic institution unimpaired, rests most strongly on the courts and the lawyers.

Reprinted from *Trial Magazine*, January-February, 1971.

Legislation

Hearings have been held by the House Committee on the Judiciary on H.R. 6953, to create the Office of Administrative Assistant to the Chief Justice of the United States, and H.R. 7377, to provide for the appointment of justices and judges to the offices of Administrative Assistant to the Chief Justice; Director, Administrative Office of the United States Courts; and Director, Federal Judicial Center. Testimony was received from Justices Stewart and Clark and Rowland F. Kirks, Director, Administrative Office. *(Continued on p.5)*

ABA Launches Four Corrections Projects

A nationwide effort to eliminate restrictions on the hiring and employment of rehabilitated prisoners was one of four major projects that a special American Bar Association Commission on Correctional Facilities and Services launched last month as part of a planned program to bring about far-ranging reforms in American penology.

The Commission, a 17-member group drawn from all fields interested in corrections, met in April at the U.S. Supreme Court in an all-day session called by its Chairman, Richard J. Hughes, former Governor of New Jersey. Chief Justice Burger joined the meeting during the day and Edward L. Wright, ABA President, attended along with Bernard G. Segal, immediate past president of the ABA. The Commission was established last year in response to the Chief Justice's plea that the ABA accept leadership in a correctional revitalization program.

Secretary of Labor James D. Hodgson also appeared before the Commission, outlining the Labor Department's



Federal Judge A. Leon Higgenbotham, Jr. (U.S. Dist. Court, E. Pa.) photographed with the Chief Justice (left) during a luncheon break at last month's meeting of the American Bar Association's Commission on Correctional Facilities and Services. Judge Higgenbotham represents the federal judiciary on the 17-member Commission.

plans for offering help to rehabilitated criminal offenders. He reported that the Labor Department now stands ready to provide performance bonds to former convicts who cannot take jobs because bonding from regular insurance channels is not available. The Department's "pretrial intervention" program, tested in Washington and New York, assists arrested persons who appear to be good risks to find jobs and serve a probationary period in lieu of incarceration. The program will be expanded to Atlanta, Boston, Cleveland, Minneapolis, San Antonio, Baltimore, and San Francisco.

The project to help ex-prisoners find employment has as a major goal the removal of barriers which keep them from government jobs, from entering certain trades and businesses, and from obtaining certain licenses and job clearances.

"Surely this is one of the most important steps we can take if we are to make progress against the appalling rate of recidivism that tells how badly we are failing in our current efforts at rehabilitation," the Commission asserted.

Other Commission projects announced by Governor Hughes call for plans to (1) provide volunteer lawyer manpower, recruited from among the 50,000 members of the ABA Young Lawyer Section, to assist the Nation's overburdened parole system, (2) launch a national program for the remodeling of correctional institutions, aimed at bringing them up to modern standards in such areas as housing, subsistence, medical care, physical activity, treatment and training programs, personal safety, and disciplinary procedures, and (3) promote college training among the Nation's 50,000 correctional workers through a cooperative program with the American Association of Junior Colleges and the American Correctional Association.

Besides Chairman Hughes, the Commission's members are: Myrl E. Alexander, and James V. Bennett, both former Directors, U.S. Bureau of Prisons; Peter B. Bensinger, Director, Illinois Department of Corrections; Federal Judge A. Leon Higgenbotham, Jr., U.S. District Court, Eastern Pennsylvania; Florence M. Kelly, Judge, Family Court, New York City; Robert J. Kutak, Lawyer, Omaha, Nebraska; Carl M. Loeb, Jr., Chairman, National Council on Crime and Delinquency; Richard A. McGee, president, Institute for the Study of Crime and Delinquency; Robert S. McNamara, president, The World Bank; George Meany, president, AFL-CIO; Dr. Karl Menninger, psychiatrist and founder of Menninger Clinic; Norval Morris, law professor, University of Chicago; Lawrence W. Pierce, Chairman, New York State Narcotic Addiction Control Commission; John M. Price, District Attorney, Sacramento, California; Noah S. Sweat, Jr., State Circuit Judge, Mississippi; and Marvin E. Wolfgang, professor of sociology, University of Pennsylvania.

Daniel L. Skoler, formerly with the Department of Justice, is serving as staff director of the Commission, which has a grant of \$250,000 from the Ford Foundation to help fund its programs.

Current Articles and Publications

The English Legal System, Second Edition, by R.J. Walker and M.G. Walker, Butterworths, London, 1970; "Miranda Warnings in Criminal Tax Investigations," by John K. Lynch, *Taxes Magazine*, May 1971; "Injunctions Against Speech and Writing: A Re-evaluation," by William O. Bertelsman, *Kentucky Law Journal*, Vol. 59, No. 2, 1970-71.

A Message from the Chief Justice

I would like to take this month's space to mention a Bethesda, Maryland, woman who was concerned enough about the courts and lawyers to insert paid advertisements, two columns by seven inches, in *The Washington Post* and the *New York Times*, under the bold-face heading: "Seven Questions for Lawyers on This Law Day, 1971."



Since the ads in metropolitan dailies are an expensive proposition, the lady from Bethesda, a Mrs. Lois Smallwood, is entitled to some answers. Her questions, while generally critical of the legal profession, are intelligent and fair, and they represent in a broad way what Americans are asking about lawyers and judges in our modern society.

In a way Mrs. Smallwood's questions are an echo of some of the things Roscoe Pound put to the legal profession 65 years ago. Because the legal profession did not do much about Dean Pound's warnings in 1906, a lady in Maryland in 1971 speaks her mind and is puzzled by the same failings in the American system of justice that have plagued us for so long.

Here are the questions Mrs. Smallwood presents:

- (1) - Why are our courts (traffic, juvenile, divorce, probate and criminal) so often termed "a disgrace"?
- (2) - Is court reform a real first step, or must we begin with bar reform?
- (3) - Has law deteriorated from a profession to a subsidized business?
- (4) - Why is the Canon of Ethics (Code of Professional Responsibility) not enforced?
- (5) - Who protects the dishonest lawyer, the incompetent lawyer?
- (6) - Can court or prison reform succeed when most lawyers are content with the status quo?
- (7) - How many lawyers are helping to clean the Augean stables of the bar?

Certainly the thrust of these questions does not fairly characterize all courts, all judges, or all lawyers but they are too close to the target to warrant complacency on our part. All of us are aware that great efforts and programs are underway to correct weaknesses and inequities. But the questions are valid and they show among other things, that troubled and concerned citizens do not know what is being done to correct obvious weaknesses in our system.

I urge every reader to formulate his own answers to these questions and if so moved, send them to *The Third Branch*. Lawyers and judges need not accept all the implied criticism as correct by giving thoughtful attention to these challenges. Each of us is sworn to serve the people and the courts; as beneficiaries of any trust they are entitled to an accounting.

In a brief response to the Annual Dinner of the Federal Bar Council in New York on the day after these questions appeared in the two newspapers, I gave my own answers. I will not burden these pages with those answers except with my concluding thought which was:

"So, to the lady from Bethesda, I paraphrase Voltaire's aphorism that 'if all is not well, it is passable'—if all is not well in the courts and with the law, we are trying to make it so."

DONALD L. CHAMLEE AWARDED HARVARD LAW SCHOOL FELLOWSHIP

Donald L. Chamlee, assistant chief of probation in the Administrative Office of the United States Courts, has been awarded a fellowship by the Center for the Advancement of Criminal Justice at Harvard Law School for the academic year 1971-1972.

The fellowship program offers courses and seminars exploring various aspects of the administration of criminal justice. The primary aim of the program is to provide training in research techniques and administration.

Chamlee joined the staff of the Administrative Office in September 1969. A graduate of the University of California, he received a master's degree in criminology from the same University and entered the federal probation service in 1961 as an officer on the Sacramento, Calif., staff. Before becoming a federal probation officer he had been a probation officer with the San Mateo County Adult Probation Division and an employee with the California Youth Authority.

CLERK TO RETIRE

Carl W. Reuss has announced his retirement as Clerk of the Court of Appeals for the Sixth Circuit, effective in the late spring or early summer, 1971. His career as Clerk and Deputy Clerk span a period of 45 years.

Of the thirty-three circuit judges who have served on the Sixth Circuit since its creation in 1891, Mr. Reuss has served under all except seven. He has served under eleven Chief Judges. In accepting Mr. Reuss' application for retirement Chief Judge Phillips said, "The career of Mr. Reuss has been marked by the highest degree of dedication to the duties of his office. By his efficiency and unflinching courtesy he has endeared himself to lawyers and litigants throughout the four states of the Sixth Circuit. All the judges of our Court hold him in the highest esteem."

The federal judiciary will lose a valuable public servant when Mr. Reuss retires, but everyone joins in pointing with considerable pride to his outstanding record.

JUDGE AINSWORTH RECEIVES MEDAL

Robert A. Ainsworth, Jr., U.S. Circuit judge at New Orleans, was awarded the St. Mary Dominican College Medal on May 10. He was selected for the school's highest honor for his "integrity in political and judicial office, his dedication to the promotion of spiritual brotherhood, his exemplary personal conduct, and his significant contributions to legislative reform."

A law graduate of Loyola University, Judge Ainsworth was appointed to the Fifth Circuit judgeship in 1966, having served since 1961 as U.S. district judge for the Eastern District of Louisiana. He is chairman of the Committee on Court Administration and a member of the Board of Directors of the American Judicature Society.



Photographed with Judge Murrah and Probation Division staff members are recently appointed U.S. probation officers who attended a week-long orientation class April 19 to 23 at the Federal Judicial Center. The class was the first held in Washington.

Class for New Probation Officers Held at Center

An orientation course for U.S. probation officers was held April 19 to 23 at the Federal Judicial Center. The class was an innovation, being the first held in Washington instead of at the Federal Probation Training Center at Chicago, and was attended by 34 newly appointed probation officers from 21 districts.

The officers were welcomed on the first day by Directors Alfred P. Murrah and Rowland F. Kirks and by Chief of Probation Merrill A. Smith who spoke on the administration of the probation system. They were introduced to Administrative Office Deputy Director William E. Foley; Assistant Directors William R. Sweeney and Joseph F. Spaniol,

Jr.; and General Counsel Carl H. Imlay, who discussed some legal concerns of federal probation officers.

Included in the week-long session were overviews of the Federal Bureau of Prisons and the U.S. Board of Parole presented by Prisons Director Norman A. Carlson and Board Chairman George J. Reed, respectively. On Wednesday, April 21, the group participated in an all-day field trip to the Federal Reformatory at Petersburg, Va.

On the final day of the course the officers heard a report on Federal Judicial Center research programs by Director of Research William B. Eldridge.

Federal Public Defender Appointed in Arizona

Arizona is the first federal judicial district to operate under the Federal Public Defender provisions of the 1970 amendments to the Criminal Justice Act. Tom Karas, a former assistant United States attorney and more recently a public defender operating under a privately financed grant, has been named by the Judicial Council of the Ninth Circuit as the Federal Public Defender in Phoenix and was sworn in on April 30. He has three assistant public defenders in the Phoenix office and two in the Tucson office.

Eight other federal judicial districts (California, Northern, Eastern, and Central; Connecticut; Florida, Southern; Missouri, Western; New Mexico; and South Carolina) have thus far elected to operate under the Federal Public Defender provisions of the Act and are in the process of selecting staffs.

Legislation (Continued from p.2)

Legislation to create a Legal Services Corporation Act has been proposed by the Administration. A bill to accomplish this has been introduced as S. 1769. This measure would establish a separate independent corporation to administer the grants for the program of neighborhood legal services now funded by OEO. The proposal has been referred in the Senate to the Committee on the Judiciary, and in the House to the Committee on Education and Labor.

Other bills of interest which are pending include:

H.R. 7800 to provide that petit juries in U.S. district courts shall consist of six jurors, except in trials for capital offenses (to Judiciary Committee).

H.R. 7378, to establish a commission on revision of the juridical circuits of the United States (to Judiciary Committee).

May 23-26	Regional Inservice Training Institute for Probation Officers in the Great Lakes Area, Carrousel Motel, Cincinnati, Ohio
May 27-28	Judicial Panel on Multi-District Litigation, Washington, D.C.
June 5-9	Seminar for U.S. Magistrates, at the Center, Washington, D.C.
June 18	Federal Judicial Center Board Meeting, Supreme Court Building, Washington, D.C.
June 21	Supporting Personnel Committee, Lafayette Building, Washington, D.C.
June 24-26	Fourth Circuit Conference, Hot Springs, Va.
June 28-30	Eighth Circuit Conference, Lutsen Resort, Duluth, Minn.
June 28-30	Ninth Circuit Conference, Portland, Oreg.
July 1-3	Sixth Circuit Conference, Mackinac Island, Mich.
July 7-10	Bankruptcy Rules Committee, Washington, D.C.
July 22-23	Committee on the Administration of the Criminal Law, Denver, Colo.
Aug. 16-17	Jury Committee, Los Angeles, Calif.
Aug. 19-21	Tenth Circuit Conference, Salt Lake City, Utah
Aug. 30-Sept. 1	Probation Committee Meeting, Salishan Lodge, Gleneden Beach, Oreg.
Aug. 30-Sept. 1	Criminal Rules Committee, Washington, D.C.
Sept. 10	Budget Committee, Washington, D.C.
Sept. 10-11	Second Circuit Conference, Manchester, Vt.
Sept. 19-22	Regional Inservice Training Institute for Probation Officers in the Western Area, Riviera Hotel and Country Club, Palm Springs, Calif.
Sept. 27	Bankruptcy Committee Meeting, Washington, D.C.
Oct. 21-22	Regional Seminar for Referees in Bankruptcy, Cleveland, Ohio

The National Conference of Court Administrative Officers (State) will be held June 30 to July 2 at Charleston, S.C.

PERSONNEL

Appointments

Federal Judges

James Barrett, U.S. Circuit Judge, 10th Cir., May 4
 Robert V. Denney, U.S. District Judge, Dist. of Nebr., Mar. 19
 Richard C. Freeman, U.S. District Judge, North. Dist. of Ga., Apr. 29
 Walter T. McGovern, U.S. District Judge, West. Dist. of Wash., May 14
 Thomas R. McMillen, U.S. District Judge, North. Dist. of Ill., Apr. 30
 Donald Stuart Russel, U.S. Circuit Judge, 4th Cir., May 1
 Robert Edward Varner, U.S. District Judge, Mid. Dist. of Ala., Apr. 30

Supporting Personnel

G. Fred Allen, U.S. Probation Officer, North. Dist. of Ill., Apr. 18
 John W. Devine, U.S. Magistrate, Dist. of N.J., Mar. 22
 Robert L. Fenner, U.S. Probation Officer, Dist. of Col., Apr. 12
 Edward W. Furia, U.S. Magistrate, East. Dist. of Pa., Mar. 12
 Mrs. Jane P. Gordon, Clerk, U.S. Dist. Court, Mid. Dist. of Ala., Apr. 1
 William C. Hall, U.S. Probation Officer, Dist. of Col., Apr. 5
 Tullio Gene Leomporra, U.S. Magistrate, East. Dist. of Pa., Mar. 12
 Leslie D. Lucas, Jr., U.S. Magistrate, North. Dist. of W. Va., Mar. 22
 Robert W. McCoy, U.S. Magistrate, Dist. of N.M., Apr. 1
 Richard A. Powers, III, U.S. Magistrate, East. Dist. of Pa., Apr. 1
 Howard Schwartzberg, Referee in Bankruptcy, South. Dist. of N.Y., Apr. 19
 Lewis Trammel, U.S. Probation Officer, Mid. Dist. of Tenn., Apr. 19

Retirements

John C. Carbo, Jr., Chief Probation Officer, North. Dist. of Ga., May 31
 James W. Carmichael, U.S. Probation Officer, East. Dist. of Mo., May 31
 Robert C. Dobson, Clerk, U.S. Dist. Court, Mid. Dist. of Ala., Mar. 31
 Felice M. Forno, U.S. Probation Officer, South. Dist. of N.Y., May 28
 Marcus N. Hosenfeld, Deputy Chief Probation Officer, West. Dist. of Pa., May 31
 C. Alexander Rheiner, Chief Probation Officer, Dist. of N.J., May 31

Death

Frederick V. Follmer, U.S. Senior District Judge, Mid. Dist. of Pa., May 3

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A Bulletin of the Federal Courts



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Richard A. Green Appointed Deputy Director, F.J.C.

On May 3d the Chief Justice, Chairman of the Center Board, and Judge Alfred P. Murrah, Center Director, issued a joint statement, announcing the appointment of Richard A. Green as Deputy Director of the Center. The position has been vacant since the Center started functioning in 1968, and the appointment is the culmination of a national search to bring the best possible talent to this high post.



Judge Alfred P. Murrah, FJC Director (L) and newly appointed Deputy Director Richard A. Green photographed at the Center.

The new Deputy was born in Springfield, Massachusetts 45 years ago and was educated at Harvard College and at Harvard Law School, where he graduated in 1952. For more than 10 years he was engaged in trial practice in New York City, principally in the federal courts. Three years of that period—1957 to 1960—he was an Assistant United States Attorney in the Southern District of New York. Since October, 1964 he has been Director of the American Bar Association Project on Standards for Criminal Justice—on a part-time basis since September, 1967—when he became Deputy Director of the National Commission on Reform of Federal Criminal Laws. Last January the Commission submitted to the President and Congress a proposed new federal criminal code. More recently he has served as a Lecturer in Law at the University of Virginia School of Law. Mr. Green is a member of the American Law Institute and its Advisory Committee on a Model Code of Pre-Arrest Procedure, a former chairman of the Committee on Criminal Courts, Law and Procedure of the Association of the Bar of the City of New York, and a former member of the Board of Directors of the National Association of Criminal Defense Lawyers.

National Conference on the Judiciary Consensus

The format of the National Conference on the Judiciary, held at Williamsburg March 11-14, 1971, called for addresses and papers, but of equal importance to the conference were the workshop discussions. The workshops were designed to permit, through small group discussions, individual comment and a free exchange of ideas and philosophies. At the conclusion of the conference four reporters, all professors or deans of law schools, summarized the sense of each workshop and presented them at the closing Plenary Session.

Since that time Dr. Wm Swindler, of the Law School at William & Mary, and Prof. Delmar Karlen of the Institute of Judicial Administration, have worked with the executive committee of the conference to develop a Consensus Statement. That statement is now in print in brochure form and is available at Dr. Wm. Swindler's office.

The other papers which were prepared for delivery at the conference have been edited for publication in book form under the title "Justice in the States" and should be available by August.

Report on Wiretaps Released by Director of Administrative Office

On April 30 Director Rowland F. Kirks made his annual report to the Congress on applications for orders authorizing or approving the interception of wire or oral communication. The report, which covered calendar year 1970, was the third report submitted under the Wiretapping and Electronic Surveillance provisions of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, which was approved on June 19, 1968 (82 Stat. 218).

Overall there were 597 reports on applications for intercept orders made in 1970 to State and Federal judges. This can be compared to 304 applications filed during calendar year 1969, and 174 applications filed in the 6-month period of 1968 when the Federal Act came into effect.

Reports on wiretaps in 1970 were filed by 12 of the 19 jurisdictions which had laws authorizing courts to issue orders permitting wiretapping of eavesdropping. The jurisdictions and number of applications granted were: Federal Government, 183; Arizona, 7; Colorado, 1; Florida, 12; Georgia, 11; Maryland, 24; Massachusetts, 7; Minnesota, 3; New Hampshire, 1; New Jersey, 132; New York, 215; and Wisconsin, 1. States with wiretap laws which did not record any applications were Kansas, Nebraska, Nevada, Oregon, Rhode Island, South Dakota, and Washington.

A copy of the Director's report can be obtained by writing the Director, Administrative Office of the United States Courts, Washington, D.C. 20544.

A Message from the Chief Justice

At the Williamsburg Conference in March there was such an "embarrassment of riches" in terms of distinguished speakers and important messages that some were overlooked.

One important speech deserves more attention than it received not only because of its content but also because of the background and standing of the speaker. In my own remarks I had alluded briefly to the lessening public confidence in courts and lawyers and referred to the spectacle of lawyers monopolizing precious judicial resources for weeks and more in the relatively simple process of selecting a jury.

Mr. Edward Bennett Williams, a lawyer of long experience at the trial bar and particularly in the representation of defendants in criminal cases, had this to say:

"Next, I suggest that we eliminate once and for all what I regard as the shameful process that has wasted 12 weeks and more in selecting a jury for several cases that have attracted national attention. I suggest that this is the judicial counterpart of the legislative filibuster. It is time that we put an end to it.

There is no case, I suggest to you, that should require more than a day of jury selection. I watched the jury picked in a case that attracted more attention than any other on the face of the globe in the 1960's—the Stephen Ward case arising out of the Lord Profumo scandals in England. It took 30 minutes. I have never taken more than a day in any case to get a jury, and I have never lost a case because I didn't have time enough for jury selection."

Verbum sat sapienti



Redrafted Code of Judicial Ethics Distributed Nation-Wide for Study

Judges, lawyers, legal scholars, news representatives, and other interested individuals across the country are studying the revised draft of the Canons of Judicial Ethics that was released last month in Chicago by the Amn. Bar Association's Special Committee on Standards of Judicial Conduct.

More than 15,000 persons were mailed copies of the tentative changes in the code of judicial conduct, and all are invited to submit suggestions or to recommend changes in writing by October 1, 1971 to the Select Committee's Reporter, Professor E. Wayne Thode, University of Utah College of Law, Salt Lake City, Utah 84112. In addition, those invited to study the proposed revisions may present their views orally at a public hearing of the Special Committee scheduled for 10 a.m. on October 30, 1971 at the House of the Association of the Bar of the City of New York, 42 West 44th Street, New York.

Representing a comprehensive redrafting of the current Canons of Judicial Ethics, which were first formally adopted nearly a half-century ago, the work of the Committee headed

by Roger J. Traynor, former Chief Justice of California, is steadily moving toward fruition.

The tentative draft now in circulation represents important new provisions and the suggestions of many who read a preliminary report distributed by the Committee in June, 1970. A final draft of the new ethics code will be submitted to the ABA's midyear meeting in New Orleans next February and it is expected that the proposed new Canons will be sent to the ABA's House of Delegates for adoption at the ABA annual meeting in San Francisco in August, 1972. Thereafter, past practice will be followed and the ABA will request the 50 states and the Judicial Conference of the U.S. to adopt the revised Canons as standards of guidance covering the conduct of all federal and state judges.

As revised, the seven-Canon promulgation represents much of the present thinking of the Bench and Bar in America. It highlights first and foremost the proposition that a judge's judicial duties take priority over all other activities and, that despite public clamor and criticism, he must maintain order and decorum in proceedings before him and render full hearings according to law.

The new code frowns on a judge accepting assignments on off-bench commissions or investigating bodies at the behest of a president or a government, but it does encourage judges to take part in activities aimed at bringing about improvements in the law, the legal system and the administration of justice. Taking the view that a judge is not deprived of all rights of privacy in his personal life, the new Canons, however, require him to report publicly once a year all compensation received from outside sources and also that such compensation be in reasonable amounts. The reporting procedure would not apply to his personal investments and income.

Extra copies of the tentative draft, released on May 23, 1971, are available from the ABA, Circulation Department #3011, 1155 E. 60th St., Chicago, Illinois 60637.

Current Seven Canons of Judicial Ethics

(Canon 1) A judge should uphold the integrity and independence of the judiciary; (Canon 2) A judge should perform the duties of his office fairly and diligently; (Canon 3) A judge may engage in activities for the improvement of the law, the legal system, and the administration of justice; (Canon 4) A judge should regulate his extra-judicial activities so as to minimize conflict with his judicial duties; (Canon 5) A judge should avoid impropriety and the appearance of impropriety in all of his activities; (Canon 6) A judge should regularly file reports of compensation received for quasi-judicial and extra-judicial activities; (Canon 7) A judge should not engage in political activity except to the extent necessary to obtain or retain judicial office through an elective process.

* * * *

Pursuant to Public Law 91-492, dated October 22, 1970, federal courts may require a probationer to reside or participate in the program of a Bureau of Prisons Community Treatment Center as a condition of probation and the U.S. Board of Parole may, similarly, require a parolee or mandatory releasee to reside or participate in a CTC program as a condition of parole or mandatory release. Since the law was enacted there have been 40 referrals to centers in Chicago, Dallas, Detroit, Houston, Kansas City, Los Angeles, New York, and Oakland and, as of May 14, there were 30 probationers, parolees, or mandatory releasees participating in the program.

U.S. Probation Officers Attend Training Institute at Cincinnati

Seventy U.S. probation officers from the Great Lakes Area attended an Inservice Training Institute held May 23 to 26 at the Carrousel Inn in Cincinnati, Ohio. Those states represented were Illinois, Indiana, Michigan, Ohio, and Wisconsin.

Principal speakers at the Institute included U.S. Circuit Judge John W. Peck of Cincinnati; AO Director Rowland F. Kirks; FJC Director Alfred P. Murrah; Director Norman A. Carlson, Federal Bureau of Prisons; Chairman George J. Reed, U.S. Board of Parole; Chief of Probation Merrill A. Smith; AO General Counsel Carl H. Imlay; Chief Probation Officer Raymond H. Clark of Cincinnati; and Lloyd E. Hubler, Vice President, Great Lakes Region, Federal Probation Officers Association. Papers on "The Future of Federal Probation" and "Current Trends in the Disclosure of Presentence Reports" were presented, respectively, by Chief Probation Officer Ben S. Meeker of Chicago and Chief Probation Officer William G. Zastrow of Milwaukee. In addition, Institute participants heard discussion panels on "Utilization of the Maximum Caseload," "The Probation Officer and the Press," "New Dimensions in Federal Probation," and "Interagency Relationships."

At the Tuesday night banquet, Victor H. Evjen, who has announced his retirement as Assistant Chief of Probation effective the end of this year, was presented a silver tray by the U.S. Probation Officers of the Great Lakes Area. It was inscribed "In Appreciation" and dated May 24, 1971.



Victor H. Evjen, Assistant Chief of Probation, receives silver tray from Bertha J. Payak, President, Great Lakes Area Federal Probation Officers Association, at Cincinnati Inservice Training Institute.



Participants in Federal Probation Officers Inservice Training Institute (Great Lakes Area), Carrousel Inn, Cincinnati, Ohio.

Broader Court Leave Law Explained

Leave privileges allowed federal employees for court appearances on behalf of their agency or a branch of government have been liberalized under a recently passed law and the broadened regulations were explained for federal agencies this month by the U.S. Civil Service Commission. (See Public Law 91-563).

Eliminated are some inequities of the past and it is expected that the new regulations will aid law enforcement

and justice by allowing federal workers to appear as witnesses.

Federal employees who are summoned or assigned by their agency to testify on behalf of a state or local government, as well as on behalf of the United States or District of Columbia government are eligible to receive court leave under the new law. Leave is authorized for all stages of a judicial proceeding, such as preliminary hearings, inquests, trials, grand jury appearances, and so forth. Travel expenses also may be paid when employees are performing official duties upon being summoned or assigned to testify or to produce official records.

Guest Editorial

Civility and Survival

Some people smirk at the exaggerated courtesies practiced in the United States Senate. They think it absurd that two debating senators who are known to have no use for each other exchange flowery flatteries while they go for the jugular, politically speaking. But Americans think too little today of how civilization rests upon unwritten rules of manners. These constitute a compact holding society together against the storms of passion, making life tolerable and democracy possible.

The rapid erosion of manners certainly isn't news to anyone who has been out in the hustle and bustle lately, or who has access to a television set. But Chief Justice Burger has rather eloquently set the dilemma into perspective, and especially as it is related to the courts. He spoke to the American Law Institute the other day about "the necessity for civility if we are to keep the jungle from closing in on us and taking over all that the hand and brain of man have created in thousands of years, by way of rational discourse and in deliberative processes, including the trial of cases in the courts."

Without civility, he pointed out, "no private discussion, no public debate, no legislative process, no political campaign, no trial of any case, can serve its purpose or achieve its objective." And among the attorneys in the courts, the shrill disrupter now is found occasionally. He is a new breed of barrister, whose implements include insults, histrionics and the accusation that his client is the victim of a "political trial." He badgers the judge and tries to gum up the machinery of justice. A few of his type (which is a very small fringe of the bar) "seem bent on destroying the system," Burger said, while others are "simply ill-mannered and undisciplined noise-makers."

Whatever they are, their aberrations, if unimpeded, foster public disrespect for the judicial system. Burger urges that law school professors teach their students the necessity of behaving in court—something that hasn't been considered relevant instruction in some classrooms. But beyond that, he believes it is time to decide who is responsible for imposing discipline, and to get on with that job.

The unpleasant cracking-down task could be assumed either by the legal profession or by the judiciary, and of course some of the latter already have been thwacking a few heads. The profession, however, is the proper enforcer. It can improve its own image and perform a great public service by lowering the boom on its members who practice the new legal art of courtroom chaos.

After all, if the courts degenerate to raucousness, what can be expected in the streets?

[Reprinted from the *Washington Evening Star*, May 25, 1971.]

Federal Clerks to Meet in Puerto Rico

The 43rd annual convention of the Federal Court Clerks' Association is scheduled for beautiful San Juan, Puerto Rico, August 14-20. The Hotel Puerto Rico Sheraton will be the headquarters hotel and the host clerk this year will be Miss Carmen A. Carreras, clerk of the U.S. District Court for Puerto Rico.

Business sessions of the meeting, interspersed with sight-seeing trips, sunbathing, fishing and golf, are set for Monday, August 16, through Friday, August 20. The Convention's annual banquet will be held on Thursday evening, August 19, with the Honorable Luis A. Ferre, Governor of Puerto Rico, attending as the honor guest. At the opening session, the clerks will be welcomed by Carlos Romero-Barcelo, the Mayor of San Juan.

* * * *

The 49th annual Legal Aid and Defender Conference is scheduled for November 3-6, 1971, in Denver, Colorado at the Denver Hilton Hotel.

State of Judiciary Message July 5

The Federal Judiciary will be well represented at the 94th annual meeting of the American Bar Association next month, a meeting that will be split between New York and London. The first half in New York is slated for July 1-7 and the second half in London for July 14-20.

Chief Justice Warren E. Burger's second "State of the Judiciary" message will be delivered at the first plenary session in New York on July 5 and he will take part in other programs there and in London.

Justice John M. Harlan will speak at a joint luncheon of the Judicial Administration Section and its Conferences on July 6 in New York at which Chief Judge J. Edward Lumbard, U.S. Court of Appeals, Second Circuit, will be honored and Justice William O. Douglas will address the ABA Law Student Division on July 5 in New York. Justice Tom C. Clark will appear and speak at a number of the split meeting's business sessions.

Other Federal judiciary members scheduled to participate or give speeches include: Judge Griffin B. Bell, U.S. Court of Appeals, Fifth Circuit, and Judge Floyd Gibson, U.S. Court of Appeals, Eighth Circuit, Appellate Judges' Conference, New York, July 6-7; Judge Paul R. Hayes, U.S. Court of Appeals, Second Circuit, Section of Labor Relations Law, New York, July 5; Chief Judge Wilson Cowen, U.S. Court of Claims, moderator, July 15 program on contract performance, London, Section of Public Contract Law; Judge Harold Leventhal, U.S. Court of Appeals, District of Columbia Circuit, July 20, London, criminal case trial discussion; and Judge Irving R. Kaufman, U.S. Court of Appeals, Second Circuit, July 16, London, Public Utility Law and Administrative Law Sections.

Legislation

The Committee on the Judiciary of the United States Senate has held hearings on the proposed new Federal Criminal Code, which resulted from the study of the National Commission on the Reform of Federal Criminal Laws. Further hearings will be held later.

The American Law Institute proposals concerning federal jurisdiction have been introduced in the Senate by the Honorable Quentin N. Burdick, Senator from North Dakota as S. 1876.

A subcommittee of the House Committee on the Judiciary on May 25, 1971, reported for full Committee action a clean bill, H.R. 8699, to provide for an Administrative Assistant for the Chief Justice of the United States.

Several bills, of which H.R. 8550, introduced by Representative Emanuel Celler is an example, would amend the Bail Reform Act to authorize consideration of danger to the community in setting conditions of release, and to authorize revocation of pretrial release for persons who violate their release conditions, intimidate witnesses, or jurors, or commit new offenses.

Other bills of interest

H.R. 8726, will provide for increased annuities for secretaries to justices and judges of the United States.

S. 1836, to provide for a comprehensive federal program for the treatment and rehabilitation of drug dependent federal offenders.

(Continued on p. 5)

Judiciary Briefs

Congress was asked last month to pass a national no-bail law empowering federal judges to detain certain persons charged with "dangerous crimes" in jail while awaiting trial.

The proposed legislation, known as "preventive detention" and similar to a law that has been in effect in the District of Columbia since last year, was sent to the Congress by Attorney General John N. Mitchell as part of a package of proposals designed to strengthen the 1966 Bail Reform Act.

Under the proposed bill, only certain persons could be held for up to 60 days when accused of one of the federal crimes of bombing, kidnapping, robbery, assault during an aircraft hijacking, loan sharking, racketeering or sale of narcotics. The Attorney General said the proposal is designed to protect the public from those who would "jeopardize the safety of the community."

* * * *

Stanley E. Schwartz U.S. Probation Officer at Los Angeles, got special commendation from his co-workers when he expeditiously handled a bomb threat on April 14th. With terse information from a telephone call and limited time to act, he quickly solved a difficult and tense situation. Sensing it was the modus operandi of one of 160 people under probation or parole supervision, Mr. Schwartz quickly questioned the receptionist who took the call, contacted the FBI, and accompanied them to the home of the probationer who admitted placing the call. His level-headed action solved the problem, permitted all to continue working in an atmosphere of physical and emotional security, and convinced everyone that he has a remarkable knowledge of his current caseload.

* * * *

State judges in New York are drawing assignments to make quarterly visits and inspections of prisons under an April directive issued by Chief Justice Stanley H. Fuld of the N.Y. Court of Appeals. He is chairman of the Administrative Board of the Judicial Conference, the State's policy-making arm. The move is one of several New York's judiciary has made since last October in an intensified effort to speed trials and improve prison conditions. The directive applies to all types of correctional institutions—public, private, state, local, insane, and juvenile.

* * * *

Judge Francis L. Van Dusen of the Third Circuit Court of Appeals participated in a briefing conference on criminal law held in early May in Philadelphia. Judge Van Dusen served as a panelist during a session devoted to Corrections and Sentencing Alternatives. The Federal Bar Association and the Bureau of National Affairs were sponsors.

* * * *

Jerris Leonard, who had been serving as Assistant Attorney General, Civil Rights Division, was sworn in last month as the new Administrator of the Law Enforcement Assistance Administration. He took the oath of office at the White House from Mr. Justice Harry A. Blackmun with President Nixon looking on.

Henry D. Evans, U.S. probation officer at Richmond, Va., resigned May 31 to become a referee in bankruptcy. To do so he had to pass the bar, which he did some 30 years after completing law school!

* * * *

The U.S. Court of Appeals for the Second Circuit ruled on May 18 that a parolee had a constitutional right to legal representation at a hearing weighing the revocation of his parole. The unanimous decision was the first by a federal court on a parole revocation.

* * * *

Judge Edw. Dumbauld (W. Dist. Pa.) attended his 45th reunion at Princeton where he received the Class of 1926 Achievement Award, the tenth person to be so honored since the Award was established.

* * * *

The Provisional Committee organizing the National Center for State Courts will meet in Washington June 15, 1971, to file Articles of Incorporation for the new center.

* * * *

Cong. Emanuel Celler (D.N.Y.) has announced that subcomm. No. 5 of the House Judiciary Committee will begin public hearings June 16 on H.R. 7378, the bill to establish a Commission on Revision of Judicial Circuits of U.S. Testimony will be heard from a number of people, including Mr. Justice Clark, Sup. Ct. (ret.); R.F. Kirks, Dir. of A.O., and Judge Alfred P. Murrah, FJC Dir.

* * * *

Additional districts joining the increasing number using six-member juries in civil cases: Eastern District of Louisiana, Eastern District of Illinois, Wyoming, Hawaii.

* * * * *

Legislation (Cont. from p. 4)

H.R. 8360, to require personal financial disclosure and to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States.

S. 1886, to improve judicial machinery by amending title 28, to broaden and clarify the grounds for judicial disqualification.

Current Articles and Publications

Justice Denied: The Need For Reform in the Courts, by Leonard Downie, Jr., Praeger Publishing Co., New York City, 1971; *The Improvement of the Administration of Justice*, A Handbook Prepared by the Section of Judicial Administration, American Bar Association, Fifth edition, 1971, \$3.00; *A Proposal For Reform of the Plea Bargaining Process*, by Welsh S. White, University of Pennsylvania Law Review, Volume 119, No. 3, January, 1971.

June 16	Judicial panel on Multidistrict Litigation, Federal Center, Washington, D.C.	Aug. 16–17	Jury Committee, Los Angeles, Calif.
June 18	Federal Judicial Center Board Meeting, Supreme Court Building, Washington, D.C.	Aug. 19–21	Tenth Circuit Conference, Salt Lake City, Utah
June 21	Supporting Personnel Committee, Lafayette Building, Washington, D.C.	Aug. 30–Sept. 1	Probation Committee Meeting, Salishan Lodge, Gleneden Beach, Oreg.
June 24–26	Fourth Circuit Conference, Hot Springs, Va.	Aug. 30–Sept. 1	Criminal Rules Committee, Washington, D.C.
June 28–30	Eighth Circuit Conference, Lutsen Resort, Duluth, Minn.	Sept. 10	Budget Committee, Washington, D.C.
June 28–30	Ninth Circuit Conference, Portland, Oreg.	Sept. 10–11	Second Circuit Conference, Manchester, Vt.
July 1	Interim Advisory Committee on Judicial Activities, Rochester, Minn.	Sept. 19–22	Regional Inservice Training Institute for Probation Officers in the Western Area, Riviera Hotel and Country Club, Palm Springs, Calif.
July 1–3	Sixth Circuit Conference, Mackinac Island, Mich.	Sept. 27	Bankruptcy Committee Meeting, Washington, D.C.
July 7–10	Bankruptcy Rules Committee, Washington, D.C.	Oct. 21–22	Regional Seminar for Referees in Bankruptcy, Cleveland, Ohio
July 22–23	Committee on the Administration of the Criminal Law, Denver, Colo.	Oct. 28–29	Judicial Conference of the United States, Supreme Court Building, Washington, D.C.
July 30	Subcommittee on Federal Jurisdiction, Washington, D.C.	Nov. 5–6	Regional Seminar for Referees in Bankruptcy, New York City
		Nov. 22–24	First and Third Circuits Conference, Puerto Rico

PERSONNEL

Appointments

Federal Judges

Raymond J. Broderick, U.S. District Judge, East. Dist. of Pa., May 10
 Herbert Y. C. Choy, U.S. Circuit Judge, 9th Cir., May 12
 William E. Doyle, U.S. Circuit Judge, 10th Cir., May 17
 Charles R. Richey, U.S. District Judge, Dist. of Col., May 19
 Robert A. Sprecher, U.S. Circuit Judge, 7th Cir., May 7

Supporting Personnel

Mark R. Abel, U.S. Magistrate, South. Dist. of Ohio, May 1
 Thomas D. Dwyer, U.S. Magistrate, West. Dist. of Mo., May 3
 Gerard L. Goettel, U.S. Magistrate, South. Dist. of N.Y., May 17
 Calvin K. Hamilton, U.S. Magistrate, West. Dist. of Mo., May 3
 Martin D. Jacobs, U.S. Magistrate, South. Dist. of N.Y., May 17

Esther Mix, U.S. Magistrate, East. Dist. of Calif., May 1
 Burton Perlman, U.S. Magistrate, South. Dist. of Ohio, May 1
 Gregory J. Potter, U.S. Magistrate, South. Dist. of N.Y., May 17
 Harold J. Raby, U.S. Magistrate, South. Dist. of N.Y., May 17
 Sol Schreiber, U.S. Magistrate, South. Dist. of N.Y., May 17
 Morey L. Sear, U.S. Magistrate, East. Dist. of La., May 11
 J. Roger Thompson, U.S. Magistrate, North. Dist. of Ga., Apr. 30
 David R. Urdan, U.S. Magistrate, North. Dist. of Calif., Apr. 26

Promotion

William W. Bird, Chief Probation Officer, North. Dist. of Ga., June 1

Retirements

Frank A. Massey, Clerk, U.S. District Court, Dist. of Minn., May 31
 Carl W. Reuss, Clerk, U.S. Court of Appeals, 6th Cir., May 31
 Paul C. Williams, Referee in Bankruptcy, East. Dist. of Va., May 31

THE THIRD BRANCH

Vol. 3 No. 8 June 1971

THE FEDERAL JUDICIAL CENTER

DOLLEY MADISON HOUSE

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July 1971

State Court Center Founded, Plans Moving Ahead

★ ★ ★

KENNETH C. CRAWFORD APPOINTED



Kenneth C. Crawford has been appointed Director of Education and Training of the Federal Judicial Center. His appointment was announced last month by Chief Justice Warren E. Burger and Judge Alfred P. Murrah, Director of the Center.

Mr. Crawford will have the responsibility of working closely with the Director to stimulate, create, develop, and conduct programs of

continuing education and training for personnel of the Judicial Branch of the Government.

The Chief Justice and Judge Murrah both said they feel fortunate in attracting a man of Mr. Crawford's high calibre "who promises to contribute so much to the Center's important work."

Retired as Colonel in 1970

Mr. Crawford retired from the Army on June 1, 1970, holding the rank of Colonel. During the past year, he has been the Education Director of the Southwestern Legal Foundation in Dallas, Texas. At the time of his retirement from the military service, he was Commandant of the Judge Advocate General's School, Charlottesville, Virginia.

He received his undergraduate degree from Illinois College, Jacksonville, Illinois, and in June, 1970, was awarded a Doctor of Law degree from his alma mater. Further, he earned a Doctor of Jurisprudence degree from the University of Virginia and a Master of Arts degree from the George Washington University.

Legal Author and Teacher

Owning an outstanding combat record as an artilleryman in World War II, Mr. Crawford has as well a distinguished career as a military lawyer and member of the Judge Advocate General's Corps. He is the author of numerous articles on legal subjects and has taught law in several universities and colleges both in the United States and overseas.

Mr. Crawford is a member of the Virginia and Georgia Bars, the American Bar Association, the Federal Bar Association, the Judge Advocates Association, Inter-American Bar Association, the American Society of International Law, the International Legal Society of Korea, and Rotary International. He is married to the former Madge Douglas of Anna, Illinois, and has a son, James D. Crawford, who resides in Green Bay, Wisconsin.

The National Center For State Courts was founded, officially and formally, on June 15, 1971 and is getting set to begin operations with Justice Paul C. Reardon of the Supreme Judicial Court of Massachusetts serving as Acting Director. The Center's temporary headquarters will be in Washington until a permanent site is chosen.

Established to serve as a nation-wide clearinghouse for judicial programs and ideas propounded by and on behalf of the Courts of the 50 States, the Center is to have a 12-member Board of Directors—all active State Court judges—and a headquarters operation that will work in cooperation with judicial and judicially-related organizations functioning in the field of court reform and administration.

The Center became a reality in only three months from the time President Nixon and Chief Justice Warren E. Burger endorsed its formation at the National Conference on the Judiciary at Williamsburg, Virginia in March.

Directors, Staff Next Step

The work of selecting the Center's directors and staff is now going forward, according to Justice Reardon, who in a speech before the American Judicature Society July 2 in New York, reported that President Nixon called the project "one of the most exciting" in American judicial history.

(Continued on p. 2)



Chief Justice Warren E. Burger (seated, right) reads from the Articles of Incorporation as the National Center For State Courts is founded June 15 (1971) in Washington. State Court judges who served on the Provisional Committee for incorporation of the Center are (seated, left) Chief Justice Robert W. Calvert, Texas, and (center) Chief Justice James S. Holden, Vermont, Chairman. Standing, (l. to r.): Justice Louis H. Burke, California Supreme Court; Justice Paul C. Reardon, Supreme Judicial Court of Massachusetts; and Justice Morell E. Sharp, Washington Supreme Court. Chief Justice William S. Richardson, Hawaii, was absent.

Justice Reardon further reported that letters had gone to the 10 cooperating nationally-known judicial and legal organizations which have been asked to submit nominees for the first Board of Directors and that replies were requested by July 15; that the incorporators will meet in early August to begin selection of the Board of Directors; that applications for staff member positions were being received and filed for review by the new Board; and that a half-dozen States already have shown a vital interest in being chosen as the permanent location of the Center, an action which also must await the consideration of the newly-elected Directors.

"A very considerable enterprise"

"We are in touch with a number of foundations for initial private assistance, and we hope also that various State legislatures may assist in the financing of what is eventually to be a very considerable enterprise," he added. "I can assure you that no time is being lost and we are moving on a number of fronts as quickly as we can."

Many helping hands, those of individuals as well as those of organizations, assisted in bringing the Center into existence. In the end, a provisional committee of six State court judges represented all in serving as the incorporators. Headed by Chief Justice James S. Holden of Vermont, the committee consisted of: Chief Justice Robert W. Calvert of Texas, Justice Reardon, Chief Justice William S. Richardson of Hawaii, Justice Louis H. Burke of the California Supreme Court, and Justice Morell E. Sharp of the Washington Supreme Court.

TRIBUTE TO JUDGE LUMBARD

One of the highlights of the annual meeting of the ABA this month was the Section of Judicial Administration's luncheon honoring Judge J. Edward Lumbard. On July 6th, hundreds of friends and admirers of the Judge gathered at the Americana Hotel to see him receive a certificate presented on behalf of the three conferences of judges: The Appellate Judges' Conference, the National Conference of State Trial Judges, and the National Conference of Special Court Judges. It was their way of expressing their "admiration, affection and respect." It was their first opportunity to gather as a group since Judge Lumbard turned over the office of Chief Judge to his successor, Hon. Henry Friendly, now Chief Judge of the Second Circuit.

To speak and present the certificate, they invited a judge who has probably known Judge Lumbard as well and as long as any judge in this country: Mr. Justice Harlan of the Supreme Court of the United States. Justice Harlan, who also sat on the Second Circuit before being elevated to the Supreme Court, lauded the accomplishments of Judge Lumbard and referred to his dedicated service to the federal judiciary for the past sixteen years, twelve of which he served as Chief Judge.

The luncheon was presided over by Mr. Justice Louis H. Burke of the Supreme Court of California, Chairman of the Section of Judicial Administration. Justice Burke, in explaining the purpose of the luncheon, said that Judge Lumbard, during his tenure on the bench, had "truly been a judge's judge, and exemplifies the finest qualities one could look for in a jurist."

Also at the head table to add tribute through their presence were: Mr. Justice Clark; Judge Alfred P. Murrah, Director of the Federal Judicial Center; Chief Judge Henry Friendly; Justice Albert Tate and Justice Harry Spencer, representing the Appellate Judges' Conference; Justice Bernard Meyer and Judge Sam P. McKenzie, representing the National Conference of State Trial Judges; and Judge Robert Beresford and Judge David Brofman, representing the National Conference of Special Court Judges. [Hon. Rowland W. Kirks, Director of the Administrative Office, and Chief Judge David Edelstein (S. Dist. N.Y.) were unable to attend because of official business which required their presence elsewhere, but both sent messages of congratulations to Judge Lumbard.]

SECOND "JUDICIARY" MESSAGE

The second "State of the Judiciary" message was delivered by Chief Justice Warren E. Burger on Monday, July 5 in New York as the American Bar Association opened its annual meeting at the Americana Hotel.

The address was a report "on the problems of the federal courts" as viewed by the Chief Justice and, in contrast to last year's message, specific details of current problems confronting the federal judiciary were covered "against the background of what was discussed in 1970." That evening, the Chief Justice appeared on a nation-wide ABC television program during which affairs of the federal judiciary were aired for an half-hour with ABC News National Affairs Editor William H. Lawrence.

"Essentially the problems of the federal courts, in common with state courts, and indeed much of the entire fabric of our national life," the Chief Justice said, "are suffering from an accumulated neglect. This disrepair became an acute problem as the load increased, and we cannot ignore it any longer.

"If the report to you in 1970 can be thought of primarily as a diagnosis of our ailments and a preliminary charting of a general course of treatment in very broad terms, today's report can be considered a diagnosis of specific problems and an examination of what has happened since August, 1970.

"I wish I could report to you that we have made great progress in the eleven months since the St. Louis meeting. We have made some, not enough, but some, and I will therefore again press on you matters which urgently demand attention."

The Chief Justice then touched on the current problems, the progress made, and the present factual situations in the following list of matters pertinent to the federal courts: Institute of Court Management, Court Executives Act, ABA Committee on Standards of Judicial Administration, State-Federal Judicial Councils, National Center For State Courts, Joint Judiciary Council, Corrections, Criminal Procedure Standards, Education and Regulation of the Legal Profession, Public Participation, Trial Delay, Delay in Appeals, the Supreme Court, and the Structure of Federal Courts.

President Nixon and Chief Justice Warren E. Burger led ceremonies opening the Bicentennial Era which will culminate in a gigantic celebration marking this country's 200 years of Independence on July 4, 1976. The ceremonies launching the Era were held at the National Archives Building in Washington on Saturday evening, July 3, with a nation-wide audience looking on via television. Our three great documents of liberty—the Declaration of Independence, the Constitution, and the Bill of Rights—were shown as part of the program.

MESSAGE FROM THE CHIEF JUSTICE

The new National Center For State Courts became a reality on June 15 with its formal incorporation in Washington, and the event is indeed one of great magnitude for all in the field of judicial administration. Much work lies ahead to put flesh and muscle on the bones, but the start has been made.



Congratulations are certainly in order for the provisional committee of State Court Judges, headed by Chief Justice James S. Holden of Vermont; to Chief Justice Robert W. Calvert of Texas who grasped this idea at Williamsburg and set the machinery in motion; and to the other individuals and organizations who cooperated in bringing the Center into being so quickly—three months from the time it was authorized by the National Conference on the Judiciary at Williamsburg.

President Nixon, in a note to the committee, called it "one of the most exciting projects in the recent history of the American judicial system."

There is no doubt that the new Center will perform many valuable services for the State courts, much in the fashion that the Federal Judicial Center renders research and other services to the Federal courts. One of its major functions surely will be to serve as a central forum or clearinghouse for the exchange of ideas and techniques for judicial reform, not only among the 50 States, but in cooperation with the Federal courts as well.

The new central facility for State courts also is committed to working closely with judicial and legal organizations functioning in the field of court administration. Ten cooperating organizations will be called on to nominate three judges each as candidates for the Center's first full-time Board of Directors—which will manage the Center's affairs and be composed solely of active State court judges. Nominations for future vacancies on the Board will also be sought from these cooperating organizations or any others deemed appropriate.

The organizations which will be called on for the first nominations are the Conference of State Chief Justices, the Appellate Judges Conference, the National Conference of State Trial Judges, the National Conference of Special Court Judges, the North American Judges Association, the National Conference of Metropolitan Court Judges, the National Council of Juvenile Court Judges, the American Bar Association, the American Judicature Society, and the Institute of Judicial Administration.

The Directors may invite other judicial or judicially-related organizations to become a cooperating organization and, after the Center commences its operations, the Directors will establish an Advisory Council drawn from the cooperating organizations or other persons so designated. Cooperating groups, with the approval of the Board, also will be able to use the facilities of the Center and to conduct programs and operations there under terms prescribed by the Directors of the Center.

Overall, the problems of the State courts are basic to the American system of justice, perhaps even more so than those of the Federal courts. Failure of justice in the State court systems will mean an eventual failure of all American justice. In these days of growing caseloads and increasing public demands, the establishment of a National Center For State Courts not only fills an important need, it fills an indispensable one. There is every confidence that the new Center will prove its value in the years ahead, and that the States will join in supporting its programs and operations.

I am therefore happy to join with President Nixon in congratulations to the new Center and its sponsors and leaders.

GUEST STATEMENT OF MONTH

(From an article entitled "Professional Police Principles" by Edward M. Davis, Chief of Police, Los Angeles, published in Federal Probation Magazine for March, 1971.)

"The higher echelon of police administration know their job is to stop crime; but there is a real danger that the officer on the street may think of his job as a numbers game, to provide a quantity of tickets or arrests. There is a failure here. The failure is not with the policeman. He is really responding to the kind of pressures that are put on him by police management. It is easier to judge men by the quantity of tickets they write than it is to judge them on their effect on traffic flow. It is easier to judge a man by the number of arrests he makes than it is to judge him on the quality of his work stopping crime. Because the numbers game is easier, there is a real temptation to resort to it.

"The challenge of police management is to communicate the true nature of the police mission to the man in the radio car on the street. Management has to sell the policeman a piece of geography and say, 'This is your district. Your job is to stop crime and disorder here. We don't want burglaries or stickups or street-fights. If you have to arrest someone for violating any law, do it. You have been trained to stop crime. Do it in your area, and get the community to help you.'

"We in the police field spend a lot of time talking about numbers in the crime field. We spend even more time talking about mechanical gadgets and developing programs of one kind or another. I believe one of our major failings is that we have not spent enough time talking about principles."

CHIEF DEPUTY CLERK DIES



Edmund P. Cullinan, Chief Deputy Clerk of the Supreme Court of the U.S., died July 3, 1971 in Washington after an extended illness. He was 65, and had been an employee of the Clerk's Office for 41 years, going back to the old days when the Court sat in Chambers in the Senate Wing of the U.S. Capitol.

Mr. Cullinan's formal retirement was announced from the Bench on June 14 by Chief Justice Warren E. Burger, who described him as "a splendid officer whose services have been outstanding to both the Court and to lawyers who practice before the Court."

A lawyer, Mr. Cullinan was a native of Dunkirk, N.Y. He was appointed a Deputy Clerk on January 28, 1957 and was named chief Deputy Clerk—the first in the Court's history to hold that position—on December 11, 1961. Mass and burial services were conducted in Washington on July 7, 1971.

The American Trial Lawyers Association will celebrate its 25th anniversary, August 1-7, when the Association's annual convention is held in Portland, Oregon. Featuring the meeting of the 25,000-member Association will be a program entitled "Prologue For Progress"—the past, present and future of the trial bar in the U.S.

JOINT SENTENCING INSTITUTE HELD

The U.S. District Judges, together with a number of Federal Court of Appeals Judges from the Sixth and Seventh Circuits, met in a Joint Sentencing Institute on April 21-23, at Dearborn Inn, Dearborn, Michigan. It was the first Sentencing Institute for either Circuit since 1961 when, together with the Eighth Circuit, they held a Joint Institute in the Chicago area.

The Institute opened Wednesday, April 21, with remarks by the Chief Judges of the two Circuits, Harry Phillips of the Sixth Circuit, and Luther M. Swygert of the Seventh Circuit. They were followed by Mr. Justice Tom C. Clark and the Honorable Alfred P. Murrah, Director of the Federal Judicial Center. Mr. Justice Clark discussed the history and importance of Sentencing Institutes and Judge Murrah followed with a discussion of the contemplated role of the Federal Judicial Center in the sentencing process in the future.

Philosophy of Sentencing Discussed

The opening session was followed by a Seminar on the Philosophy of Sentencing in which Will Wilson, Assistant United States Attorney General in charge of the Criminal Division; Dr. Karl Menninger; James V. Bennett, former Director of the Bureau of Prisons; Professor Norval Morris, University of Chicago Law School and Director of the Center for Studies in Criminal Justice; Douglas C. Rigg, Berkeley Associates; and Dr. John B. Hotis, Federal Bureau of Investigation, participated.

That evening the judges viewed the documentary film entitled, "On Trial: Criminal Justice," in which judges, various professionals and prisoners, all participated in a discussion of the effectiveness of criminal justice and of our present penal institutions.

April 22 was spent at the Federal Correctional Institution at Milan, Michigan. The morning was devoted to seminar sessions on probation, parole, youthful offenders and institutional life in which George J. Reed, Chairman of the U.S. Board of Parole; William F. Howland, Jr., Chairman of the Youth Correction Division of the U.S. Board of Parole; Merrill A. Smith, Chief of the Division of Probation of the Administrative Office; Norman A. Carlson, Director of the Bureau of Prisons; James Henderson, Warden at Milan; and Charles Hughes, Director of the Youth Center at Ashland, took part.

Inmate at Each Table

All of the participating judges had lunch in the institutional dining hall with at least one inmate at each table of four. The inmates were very frank in their comments on the institution, its strengths and its weaknesses. After lunch, the judges were divided into smaller groups to tour the institution which includes both a youth center and a small narcotic addict rehabilitation act program.

The final day was taken up by a series of seminars dealing with Negotiated Pleas, the discussion being led by Chief Judge Walter E. Hoffman of the Eastern District of Virginia; Legal Questions in Arraignments, Pleas and Sentences, under discussion leader Eugene N. Barkin, General Counsel of the Bureau of Prisons; and the Narcotic Addict

Rehabilitation Act led by Mr. Barkin and Dr. Robert B. Levinson, Coordinator of Mental Health Services of the Federal Bureau of Prisons, with a representative of the National Institute of Mental Health. Also on the last day, the judges discussed 12 presentence investigation reports involving various types of crimes. Four sets of two judges had previously been designated as discussion leaders for three cases per pair. The presentence evaluations made by the judges had been tabulated and were announced at the outset of the discussion on each case. The discussion of sentencing philosophy and the appropriate sentences in each of the 12 cases was very vigorous.

The Program Arrangements Committee for the Institute consisted of Chief Judge Ralph M. Freeman of Detroit, Chief Judge Bailey Brown of Memphis, Judges George N. Beamer of Hammond, Timothy S. Hogan of Cincinnati, John W. Reynolds of Milwaukee, and Hubert L. Will of Chicago, with Judges Freeman and Will serving as Co-chairmen. In addition, all of the Detroit judges participated in the arrangements and program and made a valuable contribution to the success of the Seminar.

(The Third Branch is indebted to Judge Herbert L. Will for this Report.)

PENDING LEGISLATION

Two bills have been introduced to reduce the age of eligibility for federal jury service from 21 to 18 years. One bill (H.R. 8829) was introduced by Representative Emanuel Celler on June 3, 1971, and the other (S. 1975) by Senator John V. Tunney (for himself and Senators Philip A. Hart and Charles McC. Mathias, Jr.) on the same date.

Hearings have been in progress and further hearings are planned on H. R. 7378, a bill to establish a Commission on Revision of the Judicial Circuits of the United States.

A bill, (S. 1876) the Federal Court Jurisdiction Act of 1971, has been introduced by Senator Quentin N. Burdick which would enact into law the recommendations of the American Law Institute relating to Jurisdiction of federal courts. One major objective of this bill would be to narrow the diversity of citizenship concept with respect to corporations, partnerships and unincorporated associations.

A bill, S. 2140 introduced by Senator Birch Bayh (for himself and Senators Robert P. Griffin and Roman L. Hruska) on June 24, 1971, would amend the Narcotic Addict Rehabilitation Act of 1966 by expanding treatment to include methadone maintenance for narcotic addicts committed for hospitalization and aftercare under the Narcotic Addict Rehabilitation Act of 1966. This amendment would permit persons committed under the Act, who meet certain criteria, to be enrolled in methadone maintenance programs during the duration of their commitment by amending the definition of the word "treatment" to include treatment which not only aims at terminating addiction, but that which seeks to control addiction.

Congressman Peter W. Rodino, Jr., introduced a bill, H. R. 1540, on January 22, 1971 to provide for the mandatory civil commitment of certain narcotic addicts and to provide

(Continued on p. 5)

Legislation (Continued from p. 4)

for more facilities for treating, supervising, and controlling narcotic addicts. It is currently under consideration by a subcommittee of the House Committee on the Judiciary.

Congressman G. William Whitehurst introduced two bills on June 2, 1971 dealing with drug addiction. H. R. 8880 would amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities. H. R. 8881 would amend the Social Security Act to provide that federal welfare payments may be made with respect to an individual who qualifies therefor on the basis of drug-caused disability or incapacity but only if such individual is undergoing appropriate treatment.

Hearings have been scheduled by Senator Samuel J. Ervin, Jr., for July 13, 14, 20 and 21 on S. 895, a bill captioned as the "Speedy Trial Act of 1971." This bill would provide generally for trial in 60 days, except as district plans may otherwise vary this time limitation. The bill would also provide that the Director of the Administrative Office of the United States Courts would establish on a demonstration basis, pretrial services agencies in each of five judicial districts (including the District of Columbia and four districts to be specified by the Chief Justice after consultation with the Attorney General). The pretrial services agencies would maintain systems of supervision and control over defendants released on bail, and provide such supportive services as residential halfway houses, addict and alcoholic treatment centers, and counseling services.

WORLD LAW DAY IN JULY

The sixth World Law Day will be observed in nations everywhere on Wednesday, July 21. This year's theme is of special significance to all people of the world—peace, law and the environment.

The observance falls, befittingly, on the opening day of this summer's World Conference on World Peace Through Law. The Conference, the fifth, and the third World Assembly of Judges will take place July 21-25, 1971 at the Hotel Jugoslavija in Belgrade, Yugoslavia.

Special Opening Ceremony

A special ceremony at the opening of the Conference will mark this sixth World Law Day and it will feature addresses by noted international jurists and lawyers and messages from Heads of State throughout the world. Meanwhile, proclamations by governments and public and private groups and appropriate ceremonies on national and local levels in countries everywhere will help to commemorate the day.

Originated by the World Peace Through Law Center, World Law Day observances began on September 13, 1965—the opening day of the Washington World Conference, with the aim, of course, being to demonstrate that all peoples and nations can achieve greater happiness and peace through adherence to universal rules of law.

100 Nations Represented

The highest legal leaders and High Court judges of more than 100 Nations will journey to Belgrade to attend sessions of this month's Conference. Chief Justice Warren E. Burger will participate in various activities as the Conference explores new ways to establish the Rule of Law as an international concept and as the World Assembly of Judges meets to develop programs for the advancement of judicial administration and justice on a world-wide basis. Retired Chief Justice Earl Warren will deliver a major address at an inaugural session of the Conference on July 21.

As new features, the Belgrade Conference will conduct a series of Civil and Criminal Demonstration Trials, directed by Bernard G. Segal, former President of the American Bar Association, and display as a World Exhibit a collection of Codes and Constitutions of Nations.



The Third Branch is pleased to publish this picture of Texas Federal judges who sit in the Fifth Circuit, one of the Nation's busiest, taken at the time of the Fifth Circuit Conference, May 4-7, 1971, in San Antonio, Texas.

Seated (l. to r.): Chief Judge Ben C. Connally, Southern District of Texas, Houston; Judge W.M. Taylor, Jr., Dallas; Judge John H. Wood, Jr., San Antonio; Circuit Judge Joe Ingraham, Houston; Circuit Judge Homer Thornberry, Austin; Chief Judge John R. Brown, Fifth Circuit, Houston; Circuit Judge Irving L. Goldberg, Dallas; Judge Jack Roberts, Austin; Chief Judge Adrian A. Spears, Western District of Texas, San Antonio; Judge D.W. Suttle, San Antonio; Judge Ernest Guinn, El Paso; and Judge Leo Brewster, Fort Worth.

Standing (l. to r.): Judge William M. Steger, Beaumont; Judge Owen D. Cox, Corpus Christi; Judge Carl O. Bue, Jr., Houston; Judge John V. Singleton, Jr., Houston; Judge William Wayne Justice, Tyler; Judge James Noel, Houston; Judge Robert Madden Hill, Dallas; Judge Reynaldo G. Jarza, Brownsville; Judge Halbert T. Woodward, Lubbock; Judge Sarah T. Hughes, Dallas; Judge Woodrow Seals, Houston; and Chief Judge Joe J. Fisher, Eastern District of Texas, Beaumont.

July 22–23	Committee on the Administration of the Criminal Law, Denver, Colo.
July 30	Subcommittee on Federal Jurisdiction, Washington, D.C.
Aug. 10–13	Seminar for Federal Public Defenders, at the Center, Washington, D.C.
Aug. 16–17	Jury Committee, Los Angeles, Calif.
Aug. 16–17	Subcommittee on Judicial Salaries, Annuities and Tenure, Houston, Tex.
Aug. 19–21	Tenth Circuit Conference, Salt Lake City, Utah
Aug. 27	Magistrates Committee, Washington, D.C.
Aug. 29–Sept. 1	National Conference of U.S. Referees in Bankruptcy, Seattle, Wash.
Aug. 30–Sept. 1	Probation Committee, Salishan Lodge, Gleneden Beach, Oreg.
Aug. 30–Sept. 1	Criminal Rules Committee, Washington, D.C.
Sept. 10	Budget Committee, Washington, D.C.
Sept. 10–11	Second Circuit Conference, Manchester, Vt.
Sept. 13–14	Court Administration Committee, Bar Harbor, Maine
Sept. 13–16	Seminar for Courtroom Deputy Clerks, at the Center, Washington, D.C.
Sept. 15–17	National Association of Chapter XIII Trustees, Akron, Ohio
Sept. 19–22	Regional Inservice Training Institute for Probation Officers in the Western Area, Riviera Hotel and Country Club, Palm Springs, Calif.
Sept. 21–22	Civil Rules Committee, Washington, D.C.
Sept. 27	Bankruptcy Committee Meeting, Washington, D.C.
Sept. 30–Oct. 1	Criminal Justice Act Committee, Colorado Springs, Colo.
Oct. 21–22	Regional Seminar for Referees in Bankruptcy, Cleveland, Ohio
Oct. 28–29	Judicial Conference of the United States, Supreme Court Building, Washington, D.C.
Oct. 29–30	National Bankruptcy Conference, Washington, D.C.
Nov. 5–6	Regional Seminar for Referees in Bankruptcy, New York City
Nov. 18–19	Regional Seminar for Referees in Bankruptcy, San Francisco, Calif.
Nov. 22–24	First and Third Circuits Conference, Puerto Rico

THE THIRD BRANCH

VOL. 3 NO. 9 JULY 1971

THE FEDERAL JUDICIAL CENTER

DOLLEY MADISON HOUSE
1520 H STREET, N.W.
WASHINGTON, D.C. 20005

OFFICIAL BUSINESS

Appointments

Federal Judges

Wm. Matthew Byrne, Jr., U.S. District Judge, Cen. Dist. of Calif., May 28
Mark A. Costantino, U.S. District Judge, East. Dist. of N.Y., June 11
Murray I. Gurfein, U.S. District Judge, South. Dist. of N.Y., June 10
Walter R. Mansfield, U.S. Circuit Judge, 2nd Cir., June 8
Walter T. McGovern, U.S. District Judge, West. Dist. of Wash., May 14
Thomas R. McMillen, U.S. District Judge, North. Dist. of Ill., May 21
Leland C. Nielsen, U.S. District Judge, South. Dist. of Calif., June 3
James L. Oakes, U.S. Circuit Judge, 2nd Cir., June 5
Lawrence W. Pierce, U.S. District Judge, South. Dist. of N.Y., June 10
Robert Varner, U.S. District Judge, Middle Dist. Ala., 4/30
Richard Freeman, U.S. District Judge, No. Dist. of Ga., 4/29
Robert V. Denny, U.S. District Judge, Dist. of Nebraska, 3/19
Carl B. Rubin, U.S. District Judge, So. Dist. of Ohio, 6/25
Solomon Blatt, Jr., U.S. District Judge, Dist. of S.C., 5/26
Robert F. Chapman, U.S. District Judge, Dist. of S.C., 6/21
Warren H. Young, U.S. District Judge, Dist. of Virgin Islands, 5/26
Jack M. Gordon, U.S. District Judge, E. Dist. of La., 6/18
Roy L. Stephenson, U.S. Circuit Judge, 8th Circuit, 7/6
R. Blake West, U.S. District Judge, E. Dist. of La., 6/28

Nominations

Robert E. DeMascio, U.S. District Judge, E. Dist. of Mich., Nominated 6/14
Edward R. Neaher, U.S. District Judge, E. Dist. of N.Y., Nominated 6/14
Aldon J. Anderson, U.S. District Judge, Dist. of Utah, Nominated 6/17
Charles L. Briant, Jr., U.S. District Judge, So. Dist. of N.Y., Nominated 6/24
Malcolm M. Lucas, U.S. District Judge, Central Dist. of Calif., Nominated 7/8
Lawrence T. Lydick, U.S. District Judge, Central Dist. of Calif., Nominated 7/8

Supporting Personnel

Allan R. Cameron, U.S. Magistrate, South. Dist. of Ala., June 1
Henry D. Evans, Referee in Bankruptcy, East. Dist. of Va., June 1
Thomas J. Faulconer, III, U.S. Magistrate, South. Dist. of Ind., May 27
James A. Higgins, Clerk, U.S. Court of Appeals, 6th Cir., June 1
Francis E. Leonard, Jr., U.S. Magistrate, Mid. Dist. of Ala., June 1
Harry A. Sieben, Clerk, U.S. District Court, Dist. of Minn., June 1

Promotions

Brayton B. Crist, Chief Probation Officer, Dist. of N.J., July 1
John Francis Rimelis, Supervising Probation Officer, Dist. of N.J., July 1
Red Pepper Roberts, Supervising Probation Officer, North. Dist. of Ga., June 3

Deaths

Matthew T. Abruzzo, U.S. Senior District Judge, East. Dist. of N.Y., May 28
Gerald S. Levin, U.S. District Judge, North. Dist. of Calif., June 5



POSTAGE AND FEES PAID
UNITED STATES COURTS

The Third Branch

Dolley Madison House, 1520 H Street, N.W., Washington, D.C. 20005

A Bulletin of the Federal Courts



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August 1971

PUBLIC DEFENDERS MEET AT CENTER



PUBLIC DEFENDERS

Front Row: Left to Right - Frank O. Bell, Jr., James F. Hewitt, Tom Karas, William E. Foley, Judge Alfred P. Murrah, Edw. V. Garabedian, Thomas D. Decker

Second Row: Terence F. MacCarthy, J. V. Eskenazi, Jack L. Love, Michael Balaban, John K. Van de Kamp, Thomas W. O'Toole

Third Row: William H. Stiles, E. Richard Walker, Bruce C. Houdek, Francis Buckley

Fourth Row: Marc Prelo, John C. Emery, Jr.

Eighteen lawyers, working with Federal Public Defender or Community Defender organizations, met at the Federal Judicial Center August 10-13 to discuss means of effectively administering their offices, and to exchange information derived from individual experiences in these new offices.

In the group were eight Federal Public Defenders now working in the U.S. District Courts, their assistants, and three from Community Defender organizations. All of these offices are functioning under a 1970 amendment to the Criminal Justice Act. [P.L. 91-447.]

One section of the Act provides that: "In a district or part of a district where at least 200 persons require appointments of counsel per annum, a defender organization may be established and two adjacent districts or parts of districts may be aggregated to establish such eligibility." Eight Federal Public Defender organizations have to date been approved by the Judicial Conference.

After a welcome from Directors Murrah and Kirks of the Administrative Office, F.J.C. and the a series of speakers talked to the group about matters which will materially assist the administration of their offices. Deputy Director William E. Foley, who has been intimately involved with the development and planning of this new operation within the federal judicial branch, discussed the 1964 Criminal Justice Act and the 1970 revisions which made these offices possible and established procedures for administering and supporting them. Edward Garabedian, Assistant Chief for Finance in the Administrative Office, explained budgetary matters, and Norbert A. Halloran, Acting Chief of the Division of Procedural Studies and Statistics, talked about the importance and use of statistical information. To talk about personnel matters, William T. Barnes made a presentation, and Patricia Carroll outlined payroll procedures and fringe benefits. Space and travel problems are as prevalent in this branch as any other, and Lucian Drake and Carroll Hefner furnished helpful information on handling these problems.

On the substantive side, the Dean of the University of Virginia Law School, Monrad G. Paulsen, spoke to the defenders on "Recent Constitutional Developments in Criminal Procedure" and developed in his talk the existing right to counsel, guilty pleas and plea bargaining, aspects of the Fourth Amendment rights and double jeopardy. Since the public defenders have frequent contacts with the Probation Officers Victor Evjen, Assistant Chief of the Probation Division,

SPECIAL NOTICE

Federal Criminal Law Recommendations Available

The Senate Subcommittee on Criminal Laws & Procedure has copies available of the recommendations of the National Commission on Reform of Federal Criminal Laws. Any Federal judge may obtain the recommendations by writing: Senator John L. McClellan, Subcommittee on Criminal Laws & Procedure, Room 2204, New Senate Office Building, Washington, D.C. 20510.

appeared to talk about the general philosophy of probation and parole, presentence investigations, and sentencing. Other aspects of the law and law related issues involved with the work of the public defenders were expanded through presentations by the defenders themselves and lively question and answer periods.

Included on the schedule were special tours for the family members accompanying the defenders to Washington, a reception at the Dolley Madison House, and a banquet at the

(See Page 3)

A Message from the Chief Justice

Note: In lieu of the usual monthly message from the Chief Justice we are reprinting below his July 18, 1971, speech at Runnymede, Surrey, England.



REMARKS OF WARREN E. BURGER CHIEF JUSTICE OF THE UNITED STATES

at

Runnymede Ceremony, Magna Carta Trust
American Bar Association Meeting - London

In 1957, nearly seven and one-half centuries after the confrontation of King John and his Barons, American lawyers joined with you to erect this monument to Magna Carta in this lovely meadow and today we join you again to rededicate this place, and ourselves, to the ideal of the Great Charter.

This should remind us that the great battles for the rights of Man were not easily won and that their fruits have sometimes been snatched away and that they may easily be eroded by indifference.

We are your debtors, not simply because of particular laws or a scheme of law, but because of a revolutionary idea. That idea is that the law is a generative mechanism, sharing with nature the capacity for growth and adaptation. Due process of law in 1215 was something quite different from the process we may think is due in 1971, but the fundamental idea is the same.

To each new generation the Common Law may seem for a time to be staid, unexciting, archaic. But the underlying concept is truly revolutionary because its essence is change and growth.

We find countless references in our judicial utterances to "due process" but we acknowledge that we do not know precisely what this means in all circumstances. It is a never ending search but we know its beginning was here. This, perhaps more than any other idea, epitomizes the potential for growth inherent in the Common Law. It bespeaks Man's yearning to be free. Man was meant to be free and his search for justice is something on which he will never give up.

The 15th paragraph of the Great Charter, promising that Englishmen who went forth to colonize new worlds would enjoy all the rights of Englishmen, became the juridical basis of our later Declaration of Independence. Long before 1776 this theme of Magna Carta found expression as early as 1606 in The First Charter of Virginia, later in The Charter of New England in 1620, and in the other colonies.

In an early opinion of the Supreme Court, one of many in which we can find references to Magna Carta, the Court said

"... after volumes spoken and written [about the guarantees of Magna Carta] the good sense of mankind has at length settled down to this: *that they were intended to secure the individual from the arbitrary exercise of the powers of government.*"

Today The Charter finds expression carved on marble over the entrance to the United States Supreme Court in Washington where Man's finest goal on earth is embodied in four simple words — "*Equal Justice Under Law.*"

This was the promise of Runnymede. This is the promise you have kept for more than seven and one-half centuries. This is the promise both of us will keep for the future. Only free men and women can keep that promise, and they can be free only so long as they keep it faithfully and guard it with vigilance. As long as it is kept alive anywhere men everywhere will demand it.

We are honored to represent the lawyers of our country and to share with you a rededication of this remembrance of the great event of June 15, 1215.

SEMINARS PLANNED FOR COURTROOM DEPUTY CLERKS

A series of regional seminars for Courtroom Deputy Clerks will be inaugurated by the Federal Judicial Center, beginning in September.

The first of these training sessions will be held at the Center and run for three and one-half days, September 13th through 16th. Courtroom deputies attending this initial seminar will be drawn from the Northeastern districts on the basis of location and availability

The program will emphasize effective management techniques, including such topics as the Modern Management of Litigation; The Role of the Clerk's Office in the Management of Litigation; Courtroom Duties and Responsibilities; Total Communication; Organizational Structure, Functions, and Management of a Clerk's Office As It Relates to the Courtroom Deputy; Management Implications of Statutes, Rules and Orders; and Calendar Control. A full day will be devoted to conducting a workshop where technical, legal, and administrative problems will be examined and practical suggestions and solutions will be advanced.

Successive seminars will follow in Chicago, October 4th - 7th, and in Pittsburgh (late October), Atlanta (early November), New Orleans (late November), Los Angeles (early December). The same program content and faculty members will be employed in each city to allow a certain degree of uniformity, but an effort will be made to involve local clerks of court, and active district court judges, as observers and contributors so that localized problems can be aired and dealt with effectively.

This program has been evolving since the early part of this year when Judge Murrah first wrote to all the active District Court Judges explaining the concept, asking for suggestions, and that they recommend deputies to attend. Since that time more than 225 names have been submitted, and many excellent ideas offered by the judges and clerks. The overall intent will be to involve as many of the deputies as possible in a productive training program in the most economical and least time consuming manner.

LEGISLATION

Speedy Trial

Hearings were held by the Subcommittee on Constitutional Rights of the United States Senate on S. 895, a bill introduced by Senator Ervin which would provide for time limits within which criminal trials would be held in the district courts.

Age of Federal Jurors

The Subcommittee on Improvements in the Judicial Machinery of the United States Senate has held hearings on S. 1975, a bill introduced by Senator Tunney which would lower to 18 the age qualifications of federal jurors.

Appropriations - Fiscal Year 1972

The Fiscal Year 1972 Appropriations Act for the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies has passed both Houses of Congress and was signed by the President on August 10, 1971 (P.L. 92-77).

JUDGE CARL MCGOWAN APPOINTED

Judge Carl McGowan, of the U.S. Court of Appeals for the District of Columbia, was recently appointed Chairman of the ABA's Commission on Standards of Judicial Administration. The Commission was constituted some time ago but the untimely death of Judge Abraham Freedman of the Third Circuit caused unavoidable delays.

In announcing the appointment of Judge McGowan, the work of the group was described as "designed to help improve the promptness and efficiency of justice in the state and federal courts."

The late Chief Justice Arthur Vanderbilt, one of the giants in the field of judicial administration, established in 1938 what has long been known as the "Vanderbilt Standards." They have been the bible for judges, lawyers, and law professors ever since, but over three decades of changes in population, court procedures and laws, have brought about a concurrent change in the courts. The Commission will seek to update the present standards and recommend changes.

The Commission membership is made up of state and federal judges, lawyers, law professors and a court administrator. Federal judges on the Commission, in addition to Chairman McGowan, are: Judge Wade McCree of the Sixth Circuit (F.J.C. Board member) and Judge Griffin Bell of the Fifth Circuit. The next meeting of the Commission is scheduled for early October.

DEFENDERS (Continued from p. 1)

Army-Navy Club.

Kenneth C. Crawford, the Center's Director of Continuing Education and Training, and Deputy Director William E. Foley, of the Administrative Office, jointly planned the course, and at the conclusion of the meeting stated they felt the need for such courses had definitely been established. This has also been supported by statements of the defenders at their concluding session, and by correspondence since received from them. As new defenders are appointed and the number justifies it, additional courses will be scheduled.

The Third Branch

NATIONAL CENTER FOR STATE COURTS NAMES FIRST BOARD

Historic Plymouth Court House, at Plymouth, Massachusetts, first used in 1649, was the site for an August 14, 1971, meeting of the incorporators of the National Center for State Courts. Chief Justice James S. Holden (Supreme Court of Vermont), Chairman of the Provisional Committee constituted to organize the new center, called the meeting mainly to name the members of the first Board.

Following the meeting the incorporators announced the following Board members: Judge David Brofman, Denver Probate Court, Denver, Colorado; Mr. Justice Louis H. Burke, Supreme Court of California, San Francisco, California; Chief Justice James A. Finch, Supreme Court of Missouri, Jefferson City, Missouri; Judge M. Michael Gordon, Municipal Court, Houston, Texas; Chief Justice Frank R. Kenison, Supreme Court of New Hampshire, Concord, N.H.; Judge Bernard S. Meyer, Supreme Court of New York, Mineola, New York; Mr. Justice Paul C. Reardon, Supreme Judicial Court, Boston, Massachusetts; Chief Justice William S. Richardson, Supreme Court, Honolulu, Hawaii; Mr. Justice Morell E. Sharp, Supreme Court of Washington, Olympia, Washington; Presiding Judge Harold Stevens, Appellate Div., Supreme Court of New York, New York, N.Y.; Presiding Judge Joseph A. Sullivan, Wayne County Circuit Court, Detroit, Michigan; and Judge Curtis V. Tillman, Juvenile Court, Decatur, Georgia.

The new Board will convene for its first meeting September 4 and 5, 1971, at its temporary headquarters in Washington, D.C. They will immediately turn their attention to such matters as selection of a Director and supporting staff, permanent headquarters for the Center, and programs to be developed. Also on their agenda will be the appointment of an Advisory Council the members of which will represent cooperating organizations or serve the Board in a special capacity of another nature.

There is every reason to believe an important step has been taken in the area of judicial administration, one which will prove to be a vital force serving the state judiciary. Judge Alfred P. Murrah, Director of the Federal Judicial Center, on behalf of the federal judiciary, has extended to the Directors of this new organization sincere congratulations and the full cooperation of its federal counterpart whenever its Board members might request it.

Current Articles and Publications

The Ninth Juror, by Giraud Chester, Random House, 1970; *The Court of Claims: The Nation's Conscience*, by Edwin J. McDermott, American Bar Association Journal, Vol. 57, June 1971; *Ready For The Defense*, by Martin Garbus, Farrar, Straus & Giroux, New York, 1971; *Expert Medical Testimony—A Look to the Future With Television*, by Judge Joseph M.F. Ryan, Jr., District of Columbia Superior Court, D.C. Bar Journal, January-June 1971; *Justice Denied: The Case for Reform of the Courts*, by Leonard Downie, Preaeger, 1971.

MONTHLY GUEST ARTICLE

Peace through law

By William H. Stringer

Mankind is discovering a growing need to tackle many problems internationally. The disasters in East Pakistan have suggested the need for a United Nations Disaster Agency. The persistent plight of the underdeveloped nations has led to plans for a second "Decade of Development." Global pollution has prompted a United Nations Conference on the Human Environment to be held next June in Stockholm. Curbing drug abuse requires the pooled efforts of many nations.

This internationalizing of problem-solving does not have to be governmental. Learned, organized citizens can lend a big hand. Consider the Conference On World Peace Through Law convening July 21, at Belgrade, Yugoslavia. Here is involved shrewd effort to isolate some of the problems that reach across boundaries, that affect many nations at once. And then to promote solutions through the massed efforts of lawyers, jurists, law professors, judges, even chief justices, from many nations.

Those attending such a conference (they have been held biennially in Athens, Washington, Bangkok, and now Belgrade) discuss the issues, propose solutions (draft treaties, conventions, commissions, for instance) and then go home to publicize and promote the suggested remedies.

On the agenda this year are such topics as control of the ocean seabed, aerial hijacking, laws affecting international corporations, pollution, and the internationalizing of weather control. There is logic in the argument that these problems must be dealt with on a worldwide basis, not by one or another isolated country.

Most of us would agree that protecting the environment is a world concern. Scandinavia has been hit by impurities from Ruhr smokestacks. Tanker oil spills threaten many lands. So the conference at Belgrade will recommend new antipollution laws, a draft treaty, an international body.

Looking ahead, we may recognize that control of the weather stretches beyond Texas or Florida. Seeding clouds, diverting hurricanes, even the someday attempt to shift ocean currents—all these pose, in the words of the conference agenda, "either a threat to international peace or a means of bettering mankind's condition." So, the conference will consider a draft treaty on weather control.

Or consider the ocean seabed. Limits to national jurisdiction ought to be established. Then the resources of the ocean bed beyond these territorial waters could be made the common heritage of all mankind. It's proposed that some of the income should go to the underdeveloped nations.

Aircraft hijacking surely cuts across frontiers. Some nations punish hijackers severely, even by firing squad. Others hand out a two-week jail sentence, if they do anything at all. Some 300 aerial hijackings have occurred in the past 40 years. Few nations, however, have ratified the Tokyo and Hague conventions intended to deal with aerial piracy.

So the whole subject of international law applying to hijacking will be a chief topic before the several thousand

lawyers and jurists in Belgrade. All nations should be willing to agree to the extradition of hijackers, to denial of sanctuary, to expedited due process. After all, hijacking has been attempted against the airplanes of Russia, Israel, Cuba, Poland—many lands beside the United States.

Charles S. Rhyne, former president of the American Bar Association and founder of the World Peace Through Law movement, contends that "of all the unifying forces operating in the world, law is foremost." And of course, judges and lawyers are usually leaders in their communities, often in their governments.

Hence if they publicize and advocate a course of action on any of these boundary-crossing topics, people generally will pay heed. And the habit of ruling by law instead of by force of arms will gain ground among mankind.

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STATE FEDERAL NEWS

State-Federal Councils

Latest state to report another State-Federal Council: Hawaii. Chief Justice Wm. Richardson, Sup. Ct. Hawaii, advised this month that a Council was being formed in the Island State. This puts the count at 45.

Michigan

Chief Justice Thos. M. Kavanagh, Sup. Ct. Mich., who heads the State-Federal Council in Michigan, has invited FJC Director Alfred P. Murrah to present a program on state-federal relations when their State Judicial Conference meets at Mackinac Island in September. Judge Murrah has invited Justice Harry Spencer (Sup. Ct. Neb.) and Judge Griffin B. Bell (CA-5) to participate with him. They will discuss post conviction remedies, habeas corpus filings, and other matters of mutual concern to state and federal judges.

State-Federal Criminal Justice Conference

Over 100 state judges and 12 federal judges, all from the Fifth Circuit, met this month for a conference on criminal justice. The program was funded by a grant from the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, and was held on the campus of Louisiana State University.

Dean Paul M. Hebert extended a welcome to the group in a plenary session, and said "It speaks eloquently of the dedication of the judiciary to see such prominent judges meeting to share their expert knowledge . . . [and to know that] out of this will come solutions to difficult problems."

Four groups, with 25 state and 3 federal judges assigned to each, met separately with three panel leaders. Opening statements were followed by a discussion period. Subjects assigned to the panels were: The Administration of the Courts, Habeas Corpus and Post Conviction Remedies, Pleas and Plea Bargains, and Recent Impact Decisions. Federal Judges attending were Judge C. Clyde Atkins (Fla.), Judge Griffin Bell (Ga.), Chief Judge Ben C. Dawkins (La.), Judge Sam C. Pointer, Jr. (Ala.), Judge Alvin Rubin (La.), Judge Robert E. Varner (Ala.), Judge Robert M. Hill (Tex.), Judge William C. O'Kelley (Ga.), Chief Judge E. Gordon West (La.), Judge Newell Edenfield (Ga.), Judge William O. Mehrtens (Fla.), and Judge Dan M. Russell (Miss.). Alice O'Donnell, Coordinator of Inter-Judicial Affairs at the FJC represented the Center.

FEDERAL JUDGES CONFIRMED

During the last few weeks before the U.S. Congress recessed for a month confirmations came through for at least 20 federal judges. These, added to other recent confirmations, will bring the corps of federal judges to an all-time high. There are now 401 district judgeships and 97 circuit judgeships. The Omnibus Judgeship Bill of 1970 created 61 new district judgeships and all but a few of the new positions have been filled. Three circuit vacancies exist and 21 district judgeships are vacant or awaiting appointment of a successor.

The ultimate oath ceremony for a federal judge is the culmination of considerable work on the part of many. Prior to Presidential nomination the members of the American Bar Association's Standing Committee on the Federal Judiciary carefully consider the qualifications of prospective appointees, evaluate their capabilities, interview, and finally rate them. Ratings are: exceptionally qualified, well qualified, qualified, and unqualified. Their ratings are made known to the President and, if he decides to nominate, a federal investigation goes forward and the Congressional machinery is set in motion. Hearings are held by the Senate Judiciary Committee before the name finally comes up on the Senate floor for a vote.

This has meant a busy year for the ABA's committee. They recently announced they had within the past year completed 215 investigations made necessary not only because of the 1970 Omnibus Judgeship Bill but by routine promotions, retirements and deaths.

CANONS OF JUDICIAL ETHICS REDRAFTED

The penultimate draft of the Judicial Ethics Canons, were released in May 1971 and in July 1971 another meeting of the Special Committee on Standards of Judicial Conduct was held. What is now in print is the result of numerous drafts, hearings, consultations, and committee meetings held since August of 1969 when the ABA committee was constituted. During this period of time over 500 suggestions were received and considered by the committee mainly as a result of a circulation to 14,000 judges, lawyers, representatives of news media, or other concerned individuals.

Over fifty years ago the original Canons were published by the American Bar Association and though some of the thirty-six canons require little change in principle, time and circumstance have shown a revamp is far overdue. The task of the committee was onerous, difficult and delicate. It was no surprise to learn there were numerous and deep rooted differences. However, the thirty-six canons are now reduced to seven. Each Canon set out in the report is followed by a commentary which explains the reason for proscribing the rule and briefly elaborates on examples.

The "Traynor Committee," so-called because it is under the chairmanship of former Chief Justice Roger J. Traynor of the Supreme Court of California, is composed of judges (federal and state), practicing lawyers and law professors who have spent countless hours working on the report which will be submitted as a final product to the ABA House of Delegates

in February 1972 with a view to formal adoption by the House in August of 1972.

PERSONNEL

Appointments

Federal Judges

Solomon Blatt, Jr., U.S. District Judge, Dist. of S.C., July 14
Robert F. Chapman, U.S. District Judge, Dist. of S.C., June 21
Jack M. Gordon, U.S. District Judge, East. Dist. of La., July 16
William H. Mulligan, U.S. Circuit Judge, 2nd Cir., July 20
C. Stanley Blair, U.S. District Judge, Dist. of Md., July 29
Paul Benson, U.S. District Judge, North Dakota, July 29
Albert V. Bryan, Jr., U.S. District Judge, East. Dist. of Va., July 29
Herbert F. Murray, U.S. District Judge, Dist. of Md., July 29
Joseph H. Young, U.S. District Judge, Dist. of Md., July 29
Spencer M. Williams, U.S. District Judge, No. Dist. Calif., July 29
Paul Benson, U.S. District Judge, Dist. of North Dakota, July 29

Nominations

William Brevard Hand, U.S. District Judge, South. Dist. of Ala., Nominated July 26
James Hunter III, U.S. Circuit Judge, 3rd Circuit, Nominated July 19
James Rosen, U.S. Circuit Judge, 3rd Circuit, Nominated July 19

Supporting Personnel

Appointments

Reynaldo L. Adame, Jr., U.S. Probation Officer, South. Dist. of Texas, July 1
Richard N. DeGunther, Referee in Bankruptcy, North. Dist. of Ill., July 29
Paul J. Fourney, U.S. Magistrate, South. Dist. of W. Va., July 1
John Henry Head, U.S. Probation Officer, South. Dist. of N.Y., July 26
Edward T. Jacox, U.S. Probation Officer, East. Dist. of Calif., Aug. 2
Herbert T. Maher, U.S. Magistrate, North. Dist. of Ohio, July 15
Samuel Markovitz, U.S. Probation Officer, West. Dist. of Pa., July 19
Charles D. Matthews, U.S. Probation Officer, East. Dist. of Mo., July 1
George Ezra Michael, Jr., U.S. Probation Officer, West. Dist. of N.C., July 1
Daniel D. Rector, U.S. Probation Officer, North. Dist. of Ga., July 26
James W. Tinney, U.S. Probation Officer, East. Dist. of Va., July 12

Promotion

James Lillard Gregory, Chief Probation Officer, East. Dist. of Ky., July 14
See Back Page

PERSONNEL (Continued from p. 5)

Retirements

William E. Davidson, U.S. Probation Officer, North. Dist. of Ga., Aug. 31

Sherwood Dixon, Referee in Bankruptcy, North. Dist. of Ill., July 9

Deaths

John R. Adams, Clerk, U.S. District Court, West. Dist. of Wis., June 28

Richard H. Burke, U.S. Probation Officer, Dist. of Mass., July 31

William Merritt Miller, U.S. Probation Officer, South. Dist. of Ohio, July 8

A.O.-F.J.C. CALENDAR

- Aug. 10-13 Short Course for Federal Public Defenders at the Center, Washington, D.C.
- Aug. 15-20 101st Congress of Correction, Miami, Fla.
- Aug. 27 Magistrates Committee, Washington, D.C.
- Aug. 29-Sept. 1 National Conference of U.S. Referees in Bankruptcy, Seattle, Wash.
- Aug. 30-Sept. 1 Probation Committee, Salishan Lodge, Gleneden Beach, Oreg.
- Aug. 30-Sept. 1 Criminal Rules Committee, Washington, D.C.
- Sept. 2-4 Rules of Evidence Committee, Washington, D.C. (tentative)
- Sept. 10 Budget Committee, Washington, D.C.
- Sept. 10-11 Second Circuit Conference, Manchester, Vt.
- Sept. 13-14 Court Administration Committee, Bar Harbor, Maine
- Sept. 13-16 Seminar for Courtroom Deputy Clerks, at the Center, Washington, D.C.
- Sept. 13-17 Short Course for Newly Appointed Probation Officers, Chicago, Illinois
- Sept. 15-17 National Association of Chapter XIII Trustees, Akron, Ohio

Sept. 19-22

Sept. 21-22

Sept. 27

Sept. 27-30

Sept. 30-Oct. 1

Sept. 30-Oct. 1

Oct. 4-7

Oct. 11-16

Oct. 18-22

Oct. 21-22

Oct. 25-27

Oct. 28-29

Oct. 29-30

Nov. 1-5

Nov. 5-6

Nov. 15-19

Nov. 18-19

Nov. 22-24

Dec. 6-10

Regional Inservice Training Institute for Probation Officers in the Western Area, Riviera Hotel and Country Club, Palm Springs, Calif.

Civil Rules Committee, Washington, D.C.

Bankruptcy Committee Meeting, Washington, D.C.

Seminar for U.S. Magistrates, at the Center, Washington, D.C.

Criminal Justice Act Committee, Colorado Springs, Colo.

Rules of Practice and Procedure Committee, Washington, D.C.

Seminar for Courtroom Deputy Clerks, Chicago, Ill.

Seminar for Newly Appointed District Judges, at the Center, Washington, D.C.

Short Course for Probation Officers, Chicago, Ill.

Regional Seminar for Referees in Bankruptcy, Cleveland, Ohio

Bankruptcy Rules Committee, Washington, D.C.

Judicial Conference of the United States, Supreme Court Building, Washington, D.C.

National Bankruptcy Conference, Washington, D.C.

Management Seminar for Selected Chief, Deputy Chief, and Supervisory Probation Officers, Washington, D.C.

Regional Seminar for Referees in Bankruptcy, New York City

Short Course for Probation Officers, Chicago, Ill.

Regional Seminar for Referees in Bankruptcy, San Francisco, Calif.

First and Third Circuits Conference, Puerto Rico

Short Course for Probation Officers, Chicago, Ill.

THE THIRD BRANCH

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THE FEDERAL JUDICIAL CENTER

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The Third Branch

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A Bulletin of the Federal Courts



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September 1971

JUDGE EDWARD A. TAMM DELIVERS JACKSON LECTURE

Judge Edward Allen Tamm, (CA-DC) was this year's Jackson lecturer at the National College of State Trial Judges. The lectures, named after the late Mr. Justice Robert H. Jackson, have been given at each summer session since the college started in 1964 and invitations to deliver the annual lecture have traditionally been extended to distinguished jurists or lawyers.

The lecture gives pause for much thought. The Judge gave his audience a bit of his wit which is well known in judicial circles, and delineated the lecture with historical events many of them events in which he was a personal participant. Judge Tamm did not go so far as to say he advocates judicial activism, but he does call on the state and federal judiciary to "search out and recognize areas in which the effectiveness of our procedures may be improved and enhanced."

A strong proponent of efficiency in management and administration, the Judge nonetheless cautions that, "efficient administration is the tool, not the goal, of justice." He then proceeds with modesty to say that he has served for seventeen years on the trial and appellate bench and therefore knows very well what the problems are but not the solutions. It is hard to agree with his contention that "as I extend the diameter of my knowledge I enlarge the circumference of my ignorance." On the contrary, his proposals and suggestions that follow make a lot of sense. *(Continued on p. 4)*

REGIONAL SEMINAR FOR COURTROOM DEPUTY CLERKS HELD AT F.J.C.

The initial regional Seminar for Courtroom Deputy Clerks was held at the Federal Judicial Center, September 13 to 16.

For the first time in judicial history, Courtroom Deputy Clerks from the Northeastern United States, met in the Dolley Madison House to discuss common problems, learn from successful practices, and work out procedures to aid and improve their effectiveness.

The opening session, led by Judge Alfred P. Murrah, Director of the Center, dealt with the concepts involved in the effective management of the case flow. Faculty members James F. Davey (Clerk, Washington, D.C.), Arthur J. Morsch (Courtroom Deputy Clerk, Central District of California), and H. Stuart Cunningham (Clerk, Northern District of Illinois) each in turn and collectively, covered topics of specific interest to the deputies, including duties and responsibilities, communication, calendar control, office organization and function. An entire day was devoted to workshop discussions of particular hypothetical problems and the ramifications and applications which could be derived by each participant in the context of his own court situation.

During the course of the Seminar, the thirty-six deputies participating attended a reception at the Dolley Madison

(Continued on p. 4)



ATTENDEES AT THE FIRST SEMINAR FOR COURTROOM DEPUTY CLERKS

SPEEDY TRIAL PROJECT

The need for judicial reform is invariably tied to the problem of delay in the courts. In the past year alone, we have seen enormous publicity directed at the criminal prosecution process and the instances of injustice resulting from interminable delays in that process. Since most media commentators fail to distinguish state systems from the federal system, the cries of "justice delayed-justice denied" are indiscriminately directed towards both, with resulting unfairness to both. More often than not, criticism is based on single cases, cases which are indeed outrageous and perhaps even indicative of the defects in the existing situation facing some courts today, but cases which are clearly not typical. In an effort to realistically examine the criminal justice system in the federal trial courts, the Federal Judicial Center has begun a "Speedy Trial Project" designed to collect, analyze, and interpret criminal case data.

A. Selection of courts for study

The first step has been to identify those district courts with a significant delay problem in criminal cases. In determining what a significant delay problem is, it is not sufficient to rely simply on averages and medians. The speedy trial responsibility is not met when there are any ordinary cases exceeding an acceptable interval. For the purposes of this study, that interval has been set at ninety days, one of the time limits imposed by the Second Circuit Rules and 30 days longer than the limit proposed by Senator Ervin's Speedy Trial Bill (S.895). However, an average of ninety days often means that there is a large group of guilty pleas terminated in thirty days, making an acceptable average, though many cases are taking six, nine, or twelve months and more. Similar objections can be made to median figures. In our view the correct measure of "problem" is what percentage of cases terminated by a court were older than the acceptable interval at the time of termination. The actual criteria selected for use in choosing the courts to be examined were as follows:

- (1) Those district courts with more than 50% of their cases taking more than 3 months to terminate.
- (2) Those district courts with more than 25% of their cases taking more than 6 months to terminate.
- (3) Those district courts with more than 100 cases taking more than 6 months to terminate.
- (4) Those district courts where the average number of months until termination is, on an overall basis, greater than 6 months.

Utilizing available but unpublished information from the Administrative Office, the Center has identified a number of courts which can be said to have a substantial number of ordinary cases exceeding an acceptable interval. From these courts the Center has selected a representative sample for purposes of this study. In addition, as a control measure, several large courts without a significant delay problem were added.

B. Sample selection and data sheet design

Following selection of these courts, the Administrative Office provided the Center with docket number listings corresponding to cases terminated during fiscal year 1970, for each of the chosen courts. From these listings, random samples

were selected to approximate the actual distribution of terminations throughout the system within a 95% confidence level. Additionally, the sample was expanded to include all cases that went to trial so that complete data in this vital area would be obtained. Simultaneously, a data sheet was designed to accommodate the necessary data and to facilitate the eventual automatic data processing of the gathered data.

The data sheet provides for all the vital information concerning a case. A large amount of space is provided for motions and continuances indicating the great interest that the Center places in relating these items as factors in creating delay. Preliminary spot checks have shown that the data sheets are serving quite well in gathering a great deal of hithertofore unobtained data.

C. Data collection

The data collection was performed by a group of law students working for the Center on a full-time basis during the summer. They were involved in the development of the project and consequently have been highly motivated during the data collection period. Field trips to the district courts were conducted throughout July and most of August. During these trips the students, working in groups of two's and three's examined docket sheets and case files thoroughly in an effort to gather a complete picture of each case. Where necessary to complete the form, a visit to the Probation Office, United States Marshal's Office, or the United States Attorney's Office was made. Presently the sheets are being computerized by a private contractor. This process should take several more weeks.

D. Analysis

The Center is in the process of developing a systematic and comprehensive program for analyzing the data. This process will also take several weeks time. However, an effort is being made to produce time profiles of each court studied, as a first step in understanding the nature and problems of our large congested courts.

In a related and parallel development, the Center is sponsoring a series of Metropolitan Judges Conferences, the first of which was held August 22-23 in Denver, Colorado. These conferences are designed to locate and eliminate avoidable delay in criminal cases. The discussions held in Denver are providing valuable input in determining the paths of analysis for the Speedy Trial data. Additionally, the preliminary analysis is expected to aid in the productivity of the forthcoming conference, tentatively scheduled for later this year.

* * * * *

Current Articles and Publications

Inside Prison American Style, Edited by Robert J. Minton, Jr., Random House, 1971; *New Blocks For Old Pyramids: Reshaping the Judicial System*, by Honorable Shirley M. Hufstедler, Southern California Law Review, Vol. 44, No. 4 Summer, 1971; *Broadcasting and Government: Regulations and Responsibilities* (revised and Enlarged Edition), by Walter B. Emery, Michigan State University Press, 1971.

GUEST EDITORIAL

A Second Chance in Life

We are indebted to The New York Times for an illuminating story about a new federal program designed to give informers who have testified for the government in criminal trials a fresh start in life. The government undertakes to help these people, many of whom fear reprisals for their testimony against the underworld, by giving them new names, moving them to new communities, affording them financial assistance, finding them jobs and, in general, fostering their adjustment to a new environment.

Informers are not particularly safe bets for rehabilitation. They are, commonly, criminals who have chosen to save their own skins by betraying their accomplices and companions. Their usefulness to the government is usually ended once they have been unmasked. But a government which has made use of them recognizes that it cannot decently discard them as human rubbish. Helping them is justified, however, not alone as recompense for sinners who have done a service for society but as a practical means of enabling them to earn an honest living and thus possibly turning them into useful and productive citizens.

Would it be outrageously sentimental to suggest that some similar course of action might be applied to certain classes of criminals who are not informers—say, to first offenders whose crimes are not of an atrocious nature, who do not seem to pose a threat to human life and who, in the judgment of officials, seem capable of redemption. Would it be feasible, in short, to offer a chance in life to people who never actually had much of a chance before they got into trouble with the law?

The really sentimental approach to law enforcement, we suspect, is an insistence upon retribution as though it were, in itself, a virtue and as though it were somehow capable of turning criminals into law-abiding citizens. The whole of civilized society's long, sad, disillusioning experience with imprisonment is that it produces much more recidivism than reform, that it transforms amateur criminals into professionals and turns them loose on the community with hardly any hope at all that they can gain a livelihood by any honest means.

The helping hand, the second chance, may prove considerably more practical and economical. The idea is to take errant men into the community instead of casting them out of it. What happens to the informers who are to be befriended by the government rather than punished may be well worth watching. It is possible that they will give us more valuable information than they ever gave us before.

[Reprinted with permission, *The Washington Post*, Aug. 24, 1971.]

NEW QUARTERS FOR CLERK'S OFFICE

The Clerk's Office of the Supreme Court of the U.S., located on the Main Floor of the Supreme Court Building since the latter opened in 1935, has moved this summer to renovated quarters on the Ground Floor, one flight below. Henceforth, it will occupy Rooms 10 through 22.

The move will facilitate the operations of the Clerk's Office and bring together for the first time all employees and offices under the Clerk, E. Robert Seaver. The several sections, now located in one area of the Building, are arranged to correspond with the flow of work in the Clerk's Office.

Lawyers or other persons having case business with the Clerk's Office may enter by the Northwest Door (under the Main Front steps) and they will be directed to the proper section by Court Police.

A MESSAGE FROM THE CHIEF JUSTICE

The national effort to bring about improvement in the courts in this country appears slow, but the pace of this summer's meetings and conferences did not reflect that. Rarely has there been so much activity in a three-month period in the way of conferences, seminars and similar gatherings of lawyers, judges and law professors—all dedicated to improvement.



It is impossible for me to be present at more than a few of these meetings but in all I have attended fourteen legal gatherings since July 5.

The largest, of course, were the American Bar Association meetings in July, divided between New York and London. Well-organized, they covered, as always, the entire range of problems that today face our branch of government and the legal profession generally. The New York sessions of the ABA were compressed but fruitful. The London sessions were valuable and impressive and you will hear more of them in various publications. The ABA has resolved to create a Legislative Implementation Committee to press for enactment of needed changes.

Later, in July, the Sixth World Law Day was observed as judges and legal leaders from more than 100 nations met in Belgrade, Yugoslavia. I confess this meeting exceeded my expectations and emphasized again that all nations and systems can learn from others. A demonstration appellate argument on a claim of individuals against a sovereign nation was a highlight. A six-man court included the chief judicial officer of each of six countries.

An important related activity was the first meeting of the new Board of Directors of the National Center for State Courts in Washington on September 4. The Center has a splendid group of state judges and has plans for fulfilling the long-needed function of a national service agency for the state judiciaries. Justice Paul C. Reardon, of the Supreme Judicial Court of Massachusetts, was one of the leaders of the organizing group and was elected Chairman of the Board.

In mid-August, the Tenth Circuit held its annual judicial meeting in Salt Lake City and from there it was an easy jump to Aspen, Colorado for a week-end meeting of the Institute for Court Management. The following Monday seventeen Chief Judges of metropolitan district courts held a conference in Denver considering delays in criminal cases.

Later I attended the Judicial Conference of The Second Circuit at Manchester, Vermont and after that a meeting of the Judicial Conference Committee on Court Administration where important decisions were made that will be reflected in reports to the October session of the Judicial Conference.

Meanwhile many committee meetings of the Judicial Conference were held in Washington and elsewhere all reflecting the deep concern for improving our work.

* * * * *

LEGISLATION

The Subcommittee on Constitutional Rights of the Senate Judiciary Committee held hearings on September 14 on the Speedy Trial Bill, S. 895. Testimony was received from Assistant Attorney General William H. Renquist, Representative Abner J. Mikva of Illinois, and Professor Dan Freed of Yale University.

Juror Selection. This is an area which calls for major changes. The Judge cites an instance in one state court where it took twelve weeks to select a jury; another instance where it took three weeks to select just one juror. The federal courts are also a target for his criticism. He suggests that the entire process of juror selection can be greatly simplified by proper use of the voir dire examination, controlled exclusively by the trial judge, with the lawyers submitting their proposed questions and the court conducting the entire voir dire examination. With questions fed into computers the juries could be selected in many instances in five minutes.

Grand Jury Indictments. Though in federal cases our Constitution requires that felony cases start with grand jury indictment, this could be changed by constitutional amendment. This procedure started apparently because at the time our Constitution was drafted, such a procedure existed in England. England abolished the grand jury in 1934.

Speedy Trials. Convinced that crimes could be reduced materially by speedy trials, Judge Tamm challenges the state and federal judges to see that the entire criminal process, from arrest to appellate disposition, be completed in sixty days.

Jury Trials. England has eliminated jury trials in civil cases. The Judge points out that experience in the federal courts under the Federal Tort Claim Act, where juries have not been used, shows the system is completely satisfactory. He contends there is no reason why the state and federal courts cannot try all civil cases without juries. Additionally, he proposes that if they are continued, that they be reduced, in civil cases, to five members. (In the federal system, at least 17 districts have now adopted this practice by local rule.)

Reduce time between conviction and sentence. The U.S. District Courts have a national average of four months between plea of guilty and jury verdict and imposition of sentence. Judge Tamm points to his own jurisdiction, the District of Columbia, however, where on July 15 of this year there were 757 defendants, either convicted or having pled guilty in felony cases, awaiting their sentence. Some defendants had been awaiting sentence since January. The delay appears to be the result of a shortage of probation officers. Suggestion: That in the federal and state courts, when an indictment is returned or an information filed, the case be referred immediately to the probation officer so that he can begin his investigation.

Reporter System. Judge Tamm calls on state and federal courts to speed up the reporting process and commends to the judges consideration of the stenotype-tape system which permits the typist to type from a tape while the court reporter is recording the proceeding in the courtroom. (The results of the Federal Judicial Center-LEAA stenotype-computer project to test this type of reporting will be announced in the October issue of *The Third Branch*.)

Opinion Writing. Shorter opinions and more decisions. Judge Tamm cited an instance where one opinion consisted of 99 pages with 339 footnotes. The opinion, he states, contains more words than the combined total of all words in the Magna Charta, the Declaration of Independence, the U.S. Constitution, and the Ten Commandments.

Delay at Appellate Level. The Judge calls on state and federal judges to dispose of cases argued on appeal at a faster rate. He does not single out the state courts in his criticism but cites the federal courts also and adds, "The delay in the Federal courts is frightening . . . I think it is shocking and

disgraceful that it takes our Federal judicial system five years to determine whether Cassius Clay is or is not a bona fide conscientious objector." The proposals: A statute requiring the automatic order by the clerk to be entered affirming the trial courts or the administrative agency if the appellate court does not issue an opinion within 45 days. Or, a statute which some of the state courts now have, which requires a judge to certify in affidavit form that he has no case assigned to him for opinion which is more than 60 days old; that his paycheck not be issued until he files this affidavit. Also, the consideration of more per curiam opinions. In criminal cases, have the initial hearing before only one judge instead of three. A statute permitting the Chief Justice to transfer cases for hearing and ruling among the circuits. The realignment of the federal circuits.

Criminal Justice Priorities. Judge Tamm charges we currently suffer from overcriminalization. The courts are congested with an abundance of cases involving victimless crimes, narcotics cases, vagrancy cases, and intoxication cases, while other cases involving crimes of a much more serious nature await their disposition.

Copies of the lecture are in the process of being printed and may be had by writing the National College of State Trial Judges, c/o University of Nevada, Reno, Nevada 89507.



Deputy Clerks (Continued from p. 1)

House, a luncheon with Mr. William R. Sweeney (Assistant Director of the Admin. Office of the U.S. Courts) as the guest speaker, and a dinner at the Army-Navy Club.

Also in attendance were Judge Ted Cabot (Southern District of Florida) and Mr. Farley Powers (Eastern District of Virginia) who served as observers and advisors and whose criticisms and suggestions will be used to improve the future regional seminars which will be held in Chicago (Oct. 4-7) and Pittsburgh (Oct. 26-29).

The Seminars for Courtroom Deputies scheduled for Atlanta, New Orleans, and Los Angeles (or San Francisco) will be delayed a few weeks to allow time for refinement and improvements to be made in the course content and presentation. As soon as the dates for these latter presentations are firm, the schedule will be announced in *The Third Branch*.

SPECIAL NOTICE



FEDERAL JUDGES

"Proving Federal Crimes," 5th edition of a Handbook dated April 1971. A 133-page manual on the law of evidence prepared by the staff of the Criminal Div., U. S. Attorney's Office, So. District N. Y. is available at the Federal Judicial Center, (Federal Judges only).

Seminar for Newly Appointed District Court Judges to be held at the F.J.C., Washington, D.C. - Oct 8-16, 1971.

DEPUTY CLERKS

Joseph Ebersole, Director of Innovation & Systems Development at the F. J. Center, has asked that all tuition payment requests for special courses taken by deputy clerks, hence forth be forwarded to Col. Crawford, Director of Education and Training.

FEDERAL COURT CLERKS MEET IN SAN JUAN

The 43rd annual conference of the Federal Court Clerks' Association was held at the Puerto Rico Sheraton Hotel in San Juan from August 15-20, 1971 with Miss Carmen A. Carreras, Clerk of the U. S. District Court of Puerto Rico as hostess. Over 100 clerks, deputies, and guests heard Judge Alfred P. Murrah, Director of the Judicial Center, open the business program and stress the importance of the Clerks' Office in the judicial system and the need for continuing training programs to remove provincialism from the judicial system.

Mr. Rowland F. Kirks, Director of the Administrative Office of the United States Courts, addressed the group and emphasized the concept that clerks are the nerve center of the judiciary and therefore must meet their responsibility as true administrators to make the system efficient. In a question and answer period which followed his talk the relationship between clerk and court executive was discussed and announcement made that a two-part manual would be distributed in the near future defining specific duties of the two officials.

Other subjects discussed at the conference included the use of electronic data processing in court management, passports and their effect upon judicial administration and past and pending legislation affecting clerks. Mr. William R. Sweeney and Mr. Joseph F. Spaniol, Jr., Assistant Directors of the Administrative Office, also addressed the members on business management methods in the courts and current problems in the administration of the United States Magistrate's Act, respectively.

Officers of the Association for the year 1971-1972 as elected at the Conference are President, George E. Hutchinson, Clerk, U. S. Court of Customs and Patent Appeals; Vice President, Angelo W. Locascio, Clerk, U. S. District Court of New Jersey; Secretary, Miss Hazel M. Hillstrom, Deputy Clerk, U. S. District Court for the Northern District of Illinois; and Treasurer, Miss Marcella E. Moritz, Deputy Clerk (Retired) U. S. District Court for the Northern District of Iowa.

The 1972 Conference will be held in Jackson, Mississippi, August 6-10, at the Heidelberg Hotel.

STATE-FEDERAL NEWS

Maryland

Maryland is the first state to put into action the Judicare program financed mainly by the Department of H. E. W. On September 8th Montgomery County Bar Association voted to put into operation the state-federal program which will provide lawyers to handle a variety of legal services to the county's poor. The state of Maryland will pay the lawyers. Two other counties already have such a program functioning, Prince Georges and Anne Arundel, and other counties in the state are expected to adopt similar programs.

Under the Judicare program all holders of state medical assistance cards (Medicaid) can seek the assistance of counsel listed on a published list posted in welfare offices. Ninety per cent of the fee of counsel will be paid for by the state, and, without special permission, no lawyer can receive more than \$3,000 annually from Judicare clients. Matters which are included in the programs cover divorce, domestic quarrels, and consumer fraud.

ROYAL E. JACKSON RETIRES



Royal E. Jackson, chief of the Bankruptcy Division in the Administrative Office, retires October 1 after 25 years of service in that Division. He first came to the AO in February 1940 as budget and accounting officer and before that had been employed as a judicial examiner in the Department of Justice.

During World War II Mr. Jackson served in the Navy and in 1946 was released to inactive duty with the rank of lieutenant commander. He returned to the Administrative Office at that time to assist Edwin L. Covey, first chief of the Bankruptcy Division, in preparing the original surveys of referees' offices prior to the establishment of July 1, 1947, of the Referees' Salary System. When Mr. Covey retired in 1962, Mr. Jackson served as acting chief of bankruptcy and in 1964 was appointed chief.

A graduate of Southeastern University, Mr. Jackson was admitted to the District of Columbia Bar in 1931 and to the Bar of the United States Supreme Court in 1940.

"The retirement of Mr. Jackson from the Administrative Office after 31 years of service brings to a close a career of distinguished government service for which we are all deeply grateful," said Administrative Office Director Rowland F. Kirks. "In his richly earned retirement he carries with him our best wishes for his continued good health and happiness."

PORTRAITS PRESENTED

A delegation of Virginians, including Bench and Bar leaders, presented oil portraits of Bushrod Washington and Philip P. Barbour, early Justices of the Supreme Court of the U.S., to the Court at a luncheon on September 14 at the Supreme Court Building. Chief Justice Warren E. Burger and Associate Justice Potter Stewart accepted on behalf of the Court.

COURT REPORTER RECEIVES HONORS

Alvin Emineth, official Court Reporter from the U. S. District Court of North Dakota, passed all three sections of the Oregon Award of Excellence test, the fastest verbatim shorthand test in the nation. This test included three five-minute takes indicated at the following speeds; 210 words per minute of literary dictation, 250 words per minute in a jury charge, and 270 words per minute on two-voice question and answer testimony.

On August 4, 1971, at special ceremonies in the Courtroom in Bismarck, Chief Judge George S. Register made the presentation of the Award of Excellence plaque and three certificates to Emineth. Judge Register commended him not only for his recent achievement but for his contribution as a member of the district court team.

Emineth has served as official court reporter for the U. S. District Court for the District of North Dakota since January 20, 1958.



UNITED STATES DISTRICT COURT TIME STUDY

From October 1969 through February 1970, nearly two-thirds of the United States District Court judges participated in a time study sponsored by the Federal Judicial Center. With the assistance of the Graduate School of the Department of Agriculture, the Center set out to develop a new set of case weights for the weighted filings index used to assess the need for new judgeships. The study also aimed at a fuller understanding of how the various responsibilities of federal judges consume the available time.

The Graduate School has submitted its final report to the Judicial Center. The report contains new case weights derived from the district judges' diaries covering nearly 140,000 judicial hours, of which 103,129 were case-related hours. The 20,000 diary sheets prepared by the judges were extensively checked, coded, keypunched and computer processed to permit matching them with the case data already in the computer files of the Administrative Office.

Case weights, representing the relative burden associated with each substantive classification of cases, were computed using the formula:

$$\text{weight} = \frac{\text{time for all class X cases}}{\text{time for all cases}} \div \frac{\text{number of class X cases}}{\text{number of all cases}}$$

In all there are 218 nature of suit classifications for civil cases and more than 84 classification for criminal offenses. Weights were only computed for categories with ten or more cases, thus reducing the number of weighted categories to about 60 per cent of the civil classifications and 40 per cent of the criminal classifications. Under the formula, the average caseweight is "1", although civil weights range from 0.21 (NARA Act of 1966) to 3.89 (Antitrust) and criminal weights range from 0.26 (Motor Carrier Act) to 6.96 (Civil Rights).

Extensive tables were prepared classifying the time data by number of entries by circuit, district and office. The time is also distributed as case-related (74%), non-case-related (26%), criminal (26%), civil (69%), and by type of judicial activity. Approximately half of the time devoted to judicial activities was utilized in chambers, about a third in court, with the place of the remaining one-sixth unspecified by the judges. Most non-case-related time was spent in court administration, attending meetings, making addresses, holding moot courts, and the like.

Since 1964, the Administrative Office has been collecting trial time on JS-10 forms and, using trial time as a measure of total judge time, up-dating their case weights. Part of the statistical analysis that accompanied the derivation of

FJC case weights sought to test the validity of this less costly method of periodically revising weights using trial time. This examination of the relation between trial time and total time revealed that while a statistically significant correlation exists between these two times in jury cases, only from one-half to three-quarters of the non-jury cases exhibited such a relationship. However, as only ten to fifteen per cent of total cases filed even go to trial, any attempted predictions of total case time for all cases from trial time data would be tenuous.

Analysis of the data also suggests that the nature of suit categorization has not succeeded in bringing together homogeneous cases. The variation in time required for the cases in a single classification is often so large as to raise questions about the validity of treating such cases with a single weight.

The weighting index is used to determine the relative work burden of filings in each district court. This position is determined by the "weighted caseload per judgeship", which in turn is computed by breaking the filings for a fiscal year into the substantive classification, multiplying each classification by its case weight, adding these products to give a weighted filings for that court for that year, and then dividing by the number of authorized judgeships.

Although this Center undertaking was essentially a replication of prior Administrative Office caseweight studies, certain improvements recommend the FJC results:

1. More cases and hours were used to develop the weights than were used in previous studies;
2. A larger portion of the federal judiciary participated;
3. The cases and hours are more current, and
4. The weights have been developed with fewer assumptions.

In addition to the new case weights and allied analysis, the time study has provided the Center with an unprecedented mass of data on the work of the courts. The accompanying charts show at a glance the value of this "by-product" information.

Chart A depicts the distribution of judge-time by activity. Each horizontal block represents the percentage of judicial time required by the activities on that line. For example: motions practice, pretrial conferences and other pre-trial hearings consumed 20.8% of the "average" judge's time; while court administration consumed 17.6% of his time. Taken together, all the listed activities account for 100% of the judges' reported time—case—related, non-case-related, in court, in chambers and elsewhere.

CHART A

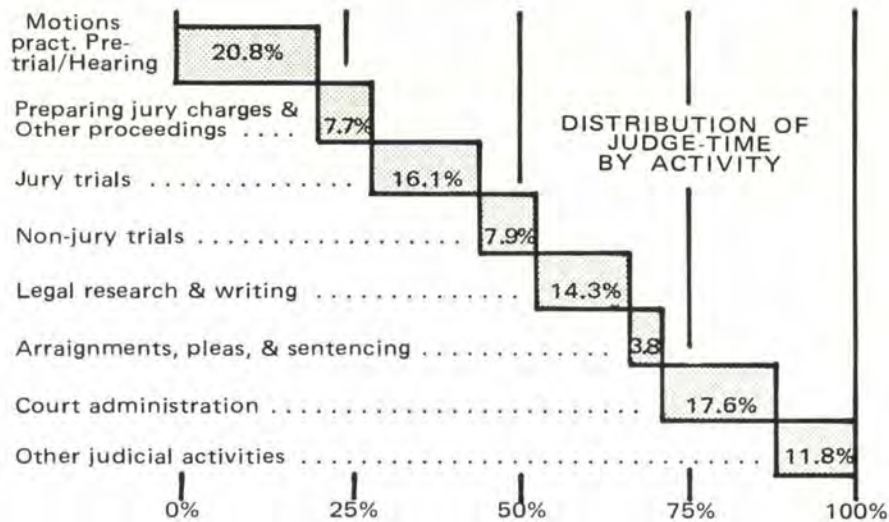


Chart B depicts the case-related time by basis of jurisdiction. Here, the time is represented as a circle composed of sectors proportional to the source of jurisdiction of the case. A glance reveals that civil cases consume most of a district court judge's time. It is also apparent that federal questions and diversity suits contribute mightily to this work load. Any change in diversity jurisdiction would obviously have marked and measurable effects.

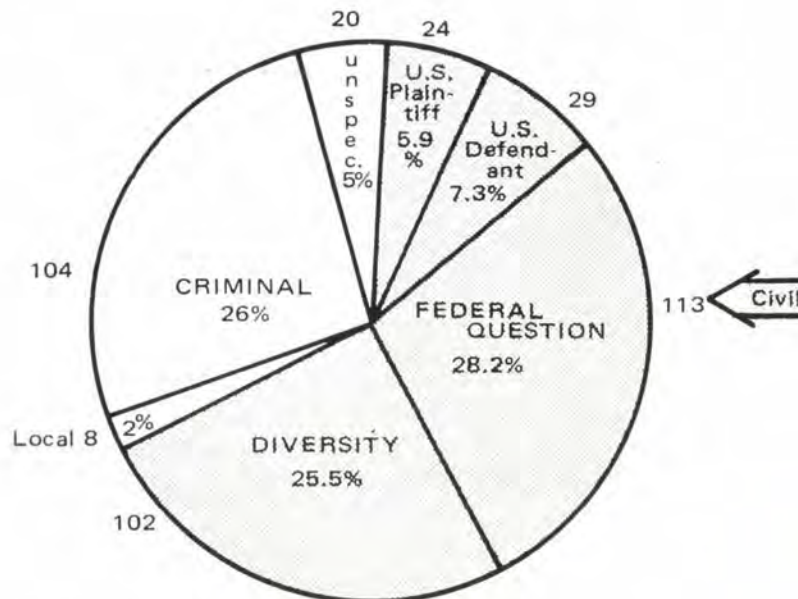
Not included on the charts but present in the report, are a myriad of pieces of information such as: prisoner petitions

(state habeas corpus) represent about 6.7% of the civil cases and 5.2% of the time; motor vehicle (diversity) represent 11.8% of the civil caseload and consume 9.8% of the time.

While the report from the Graduate School terminates their contract for a weighted caseload index, it is the starting point for the Federal Judicial Center who must now attach relevance to the statistics and make recommendations.

The time study will help us to understand the critical ingredient in the court system and to better evaluate proposed changes in it.

CHART B



CASE-RELATED TIME BY BASIS OF JURISDICTION (equivalent judgeships along circumference)

A.O.—F.J.C. CALENDAR

Sept. 27	Bankruptcy Committee, Washington, D.C.
Sept. 27–30	Seminar for U.S. Magistrates, at the Center, Washington, D.C.
Sept. 30–Oct. 1	Criminal Justice Act Committee, Colorado Springs, Colo.
Sept. 30–Oct. 1	Rules of Practice and Procedure Committee, Washington, D.C.
Oct. 4–7	Seminar for Courtroom Deputy Clerks, Chicago, Ill.
Oct. 8–16	Seminar for Newly Appointed District Judges, at the Center, Washington, D.C.
Oct. 18–22	Short Course for Probation Officers, Chicago, Ill.
Oct. 21–22	Regional Seminar for Referees in Bankruptcy, Cleveland, Ohio
Oct. 25–27	Bankruptcy Rules Committee, Washington, D.C.
Oct. 27	Circuit Chief Judges, at the Center, Washington, D.C.
Oct. 28–29	Judicial Conference of the United States, Supreme Court Building, Washington, D.C.
Oct. 29–31	National Bankruptcy Conference, Washington, D.C.
Nov. 1–5	Management Seminar for Selected Chief, Deputy Chief, and Supervisory Probation Officers, Washington, D.C.
Nov. 5–6	Regional Seminar for Referees in Bankruptcy, New York City
Nov. 15–19	Short Course for Probation Officers, Chicago, Ill.
Nov. 18–19	Regional Seminar for Referees in Bankruptcy, San Francisco, Calif.
Nov. 22–24	First and Third Circuits Conference, Puerto Rico
Dec. 6–10	Short Course for Probation Officers, Chicago, Ill.

THE THIRD BRANCH

VOL. 3 NO. 11 SEPTEMBER 1971

THE FEDERAL JUDICIAL CENTER

DOLLEY MADISON HOUSE
1520 H STREET, N.W.
WASHINGTON, D.C. 20005

OFFICIAL BUSINESS

PERSONNEL

Appointments—Federal Judges

Aldon J. Anderson, U.S. District Judge, Dist. of Utah, Aug. 17
Nils A. Boe, Judge, U.S. Customs Court, Aug. 20
John A. Field, Jr., U.S. Circuit Judge, Fourth Circuit, Sept. 21
Sherman G. Finesilver, U.S. District Judge, Dist. of Colo., Sept. 21
William Bevard Hand, U.S. District Judge, South. Dist. of Ala., Sept. 21
James Hunter III, U.S. Circuit Judge, Third Circuit, Sept. 21
Malcolm M. Lucas, U.S. District Judge, Cen. Dist. of Calif., Aug. 5
Lawrence T. Lydick, U.S. District Judge, Cen. Dist. of Calif., Aug. 5
James Rosen, U.S. Circuit Judge, Third Circuit, Sept. 21

Nomination:

William J. Baurer, U. S. District Judge, No. Dist. Illinois, Sept. 14, 1971

Appointments—Supporting Personnel

William Trufant Foster, U.S. Probation Officer, North. Dist. of Ill., Aug. 30
David A. Mason, U.S. Probation Officer, Dist. of N.J., Aug. 16
William Hale Pitzer, U.S. Probation Officer, West. Dist. of Wash., Aug. 26

Promotion

John F. Douville, Chief Probation Officer, East. Dist. of Calif., Sept. 6

Retirements

Percy M. Flanagan, Referee in Bankruptcy, East. Dist. of La., Sept. 6
Roy W. Lynch, U.S. Probation Officer, Dist. of Col., Aug. 31
Richard C. Nicholson, Chief Probation Officer, East. Dist. of Calif., Sept. 3
Lloyd Eugene Owen, U.S. Probation Officer, West. Dist. of Mo., Aug. 31

Deaths

Edward W. Furia, U.S. Magistrate, East. Dist. of Pa., Aug. 17
Heyward W. Hudson, U.S. Probation Officer, Dist. of S.C., Aug. 12
E. Barrett Prettyman, U.S. Senior Circuit Judge, Dist. of Col. Cir., Aug. 4
Ray Watson, U.S. Probation Officer, North. Dist. of Calif., Aug. 13



POSTAGE AND FEES PAID
UNITED STATES COURTS

The Third Branch

1520 H Street, N.W., Washington, D.C. 20005

A Bulletin of the Federal Courts



Vol. 3, No. 12

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October 1971

District Judges' Seminar Third Circuit Time Study

The fourteenth seminar for newly appointed District Judges held at the Federal Judicial Center Oct. 8-16, brought to Washington 29 District Judges and two Military Judges from the U.S. Air Force and the Marine Corps. Thirteen forerunners to this meeting have been held throughout the country since the first, held at Monterey, California in 1962. Since the establishment of the Federal Judicial Center in 1968, all have been held in Washington.

The seminar started with the now traditional open house for the judges and their ladies and sessions officially started the following day with opening remarks by Judge Alfred P. Murrah (F.J.C. Director) and Rowland F. Kirks (A.O. Director).

The Center was fortunate in being able to bring before the group several federal judges with vast experience on the bench. Judge Hubert Will led off with "Orientation and General Principles of Judicial Administration," followed by Judge Howard Bratton, Chief Judge James Meredith, and Judge Alvin Rubin who discussed civil trials. Criminal trials

(Continued on page 5)

The Judges and law clerks of the U.S. Court of Appeals for the Third Circuit are currently completing daily time sheets in an endeavor to analyze their work program. The work loads in all circuits have significantly increased and there is every indication this trend will continued.

The CA-3 Judges feel it is incumbent on them to examine critically how their time is used and to assure that efficient and effective procedures are adopted for themselves and their supporting personnel. To this end, in cooperation with the staff of the Federal Judicial Center, a time study sheet was prepared. This will be completed each day during the 1971-1972 court session by the participating judges and each of their law clerks. The time sheets will relate to their work pertinent to the Third Circuit and to the federal court system generally, including three-judge District Court assignments.

Time sheets will be forwarded to the Center in Washington where arrangements have been made for computer summary and analysis. It is anticipated that limited printouts

(Continued on page 2)



Attendees at Supreme Court dinner honoring District Judges

Seated: Judges Warren H. Young, R. Blake West, Alfred P. Murrah; Mr. Justice Blackmun; Judges Jack M. Gordon, Murray I. Gurfein.

Middle: Dep. Dir. Richard Green; Judges Noel Fox, Sol Blatt, Jr., Oliver Gasch, Robert E. DeMascio, Giles Rich, Frank Murray, Charles R. Richey, William B. Hand; Col. William W. Gobrecht; Mr. Norman Carlson; Judges Sherman G. Finesilver, Robert E. Varner, C. Stanley Blair, Charles L. Briant, Richard C. Freeman, Raymond J. Broderick, Warren J. Ferguson; Mr. Joseph Spaniol; Judge Edward R. Neaheer; Mr. Kenneth C. Crawford.

Top Row: Judges Mark A. Constantino, Thomas Lambros, Paul Benson, William M. Byrne, Jr., Thomas R. McMillen, Spencer Williams, Robert F. Chapman, Albert V. Bryan, Jr., Lawrence W. Pierce, Lawrence T. Lydick, Leland C. Nielsen, Carl B. Rubin; Mr. Eugene Barkin; Col. Arthur R. Peterson; Judge Malcolm M. Lucas; Mr. Robert Hartzell; Mr. Edward Garabedian; Mr. Frank M. Helper.

A Message From The Chief Justice

Juror Waste vs. Juror Utilization

In a current report on studies of juror utilization, the Administrative Office gives us facts long suspected but now confirmed. Although the details are available in the October 15 Report on Juror Utilization, the subject merits this emphasis — and prompt action by judges to provide remedies.

We know, of course, that there can be no such thing as total utilization of jurors. As with fire departments, "they also serve who only stand and wait."

However, the recent studies by the Administrative Office tell us that 45.8% of paid juror time is spent not in hearing cases but "standing by." When we consider that our total juror fees are budgeted at approximately \$14 million each year this becomes a serious matter. The specific figures are 277,878 days of juror time spent hearing cases and 234,675 days of those who "only stand and wait."

We must be sure not to regard all the "no trial" time as waste any more than the investment in a courthouse is wasted because it is open only one-third of each day and only five days each week. A lawyer's library may be idle two-thirds of the 365 days each year, but it must be maintained. This is part of the "overhead," but we have an affirmative duty to keep that "overhead" within bounds.

But the expert analysis made suggests that 65% utilization of juror time is reasonably attainable by sound management and administration. Obviously the difference between the 54% utilization we now have and the 65% is a very large difference. Translated into dollars, it would mean a saving of \$2 to \$2-1/2 million annually, and that money is desperately needed for other needs of the courts.

Beyond the economic saving, there is an important factor of the annoyance and frustration of the 45 out of every 100 jurors who feel their time is wasted and that they are being imposed upon. It does not persuade them that the judicial system is efficiently managed.

I commend the report of the Administrative Office to every judge, and particularly every Chief Judge, to the end that better methods be developed to "plug this leak."



Second Seminar for Courtroom Deputy Clerks Held in Chicago



The Second Regional Seminar for Courtroom Deputy Clerks, sponsored by the Judicial Center, was held at the Federal Probation Training Center in Chicago, October 4th through 7th. Following the same format used at the first seminar, Messrs. Cunningham, Davey, DeLuccie, and Morsch covered pertinent areas of concern to the Deputies in the daily operation of their court business. The Pittsburgh Seminar for Deputy Clerks will take place October 26th through 29th.

STUDY — Continued from page 1

will be made available to the Judges periodically, and final summaries after the end of the year. The two main categories are "Case Related Activities" and "Non-Case Related Activities." Case related activities have been designated to identify components of the progress of cases through the court. In addition, case related activities are broken down to such things as preparation of argument or conference, bench time, conference time, opinion preparation, panel clearance, court clearance, petitions for rehearing, and criminal procuring. An allocation of time spent on concurring and dissenting opinions is also included on the time sheet. In the area of non-case related activities is included the time the Chief Judge spends in convening three-judge courts, the time spent by judges in Third Circuit court administration, general preparation (reading, assembling facts, etc.), time required to sit in other jurisdictions, and *pro bono publico* activities.

The time study was designed by the Center so that the time sheets might be adapted by other circuits if desired. Work on the time sheets and the study generally was done by Director of Research Wm. Eldridge, with the assistance of Prof. John Daniel Reaves and Mr. Ralph Stauber.

A.O. — F.J.C. CALENDAR

Nov. 1-5	Management Seminar for Selected Chief, Deputy Chief, and Supervisory Probation Officers, Washington, D. C.	Nov. 15-19	Short Course for Probation Officers, Chicago
Nov. 5-6	Regional Seminar for Referees in Bankruptcy, New York City	Nov. 18-19	Regional Seminar for Referees in Bankruptcy, San Francisco
Nov. 9	Probation Advisory Committee Meeting, at the Center, Washington, D. C.	Nov. 22-24	First and Third Circuits Conference, Puerto Rico
		Dec. 13-15	Seminar for Magistrates, Dallas

State Judicial Center Names First Director and Chairman of Board



Calif., Vice Chairman. Alice O'Donnell, who has served as liaison to the State Center for the F.J.C., was designated Acting Secretary.

Justice Winslow Christian, of the California Court of Appeal at San Francisco, has accepted the Board's invitation to be its first Executive Director and will serve on leave of absence from his court.

As reported in previous issues of *The Third Branch*, the State Center was organized following the National Conference on the Judiciary held last March at Williamsburg, at the suggestion of President Nixon and Chief Justice Burger. The new organization will study and assist the work of the state courts in much the same manner as the Federal Judicial Center does for the federal judiciary.

Justice Christian has served on the California Court of Appeal since 1966 and prior to taking leave was a member of the Judicial Council of California. Before going to the appellate court, he was a trial judge in California and served also as a state prosecutor. He has been an Administrator of the State Health and Welfare Agency of California. The new Director earned his A.B. and LL.B. degrees at Stanford University and, on a Fulbright Fellowship, taught law in Rangoon, Burma. Chairman Reardon in making the announcement, said they all felt "fortunate, indeed, in attracting to this position, a jurist of such vast experience with a background which eminently qualifies him to direct this important work."

Also named this same date were eighteen members of an Advisory Council who were nominated by the heads of leading judicial administration organizations throughout the country. Orison S. Marden, Esq., of New York City, was designated to be Chairman of the Advisory Council.

UNDER THE STREAM

Under the stream's waters there's life.
The weeds are trees blowing in the wind.
The moss is green grass growing.
Big rocks are the mountains of the sea.
Life under the stream. — *Mary Gronlund*

Justices Black, Harlan Praised

The death of Associate Justice Hugo Lafayette Black and the retirement of Associate Justice John Marshall Harlan were noted in a brief ceremony at the opening of the new Term of the Supreme Court of the United States on Monday, October 4, 1971.

Chief Justice Warren E. Burger, whose remarks will be spread upon the permanent records of the Court, called Mr. Justice Black's departure "a profound loss to each of us personally and to the Court" and the retirement of "our beloved colleague" Mr. Justice Harlan "a deep regret."

It was the first time in 34 years that the Court has opened without Mr. Justice Black on the Bench. He died on September 25, 1971 after announcing his retirement only a week before. His tenure spanned that of five of the 15 Chief Justices who have served in the history of the Nation.

"Much has been and much more will be said and written of the life and work of Mr. Justice Black," the Chief Justice said. "His public service in the Army in World War I, in the State of Alabama, in the United States Senate, and on this Court covered more than 50 of the 85 years of a life rich in accomplishment.

"In time, I believe, one thing will stand out above all in his life and in his thinking. Throughout his entire life he never wavered in his unbounded faith in the people and in the political processes of a free people under the American Constitution. He loved this Court as an institution, and contributed mightily to its work, to its strength, and to its future. He revered the Constitution; he had enormous respect for the Presidency and for the Congress, but above all else, he believed in the people."

Mr. Justice Harlan had served on the Court since March 28, 1955, coming to it with the prior experience of service on the United States Court of Appeals for the Second Circuit. He has been hospitalized since late summer and his retirement was announced by President Nixon on September 23, 1971.

"Before going on the bench, Mr. Justice Harlan combined a brilliant career as a lawyer with significant positions of high public responsibility, including a distinguished military career in the European theater in World War II," the Chief Justice told the Court's opening-day audience. "Ill health led him to submit to retirement when his sense of duty persuaded him he could not continue to carry out his obligations to the Court. The volumes of the U.S. Reports from 1955 through the most recent Term attest to his prolific and erudite contributions to the work of the Court. I speak for the whole Court, and the Bar as well, in expressing heartfelt wishes for Justice Harlan's restoration to health."

OBSERVE LAW DAY — U.S.A. — May 1, 1972

Judge Real Tries Dual Jury System

What can a judge do to overcome a "Bruton problem"* in his court? Such a problem involves a co-defendant's confession reaching the jury when that confession would implicate the defendant and constitute prejudicial error. Judge Manuel Real of the United States District Court for the Central District of California, in one of his proceedings, used a unique method to solve this type of dilemma.

In this case two juries were empaneled, one for each defendant. The individual defenses were each allowed the maximum number of peremptory challenges, 10 and 6, as to each jury. (Judge Real also proposed an alternate plan of action at this stage of the trial. Twenty-four jurors could be called at one time with the peremptory challenges exercised against the entire panel. The first twelve surviving jurors would try the initial co-defendant, the remaining twelve would try the other).

Added Safeguards

Judge Real added safeguards to insure the success of his plan:

"Counsel for the government was admonished not to discuss confessions or admissions in the opening statement and made the opening statement to both juries on the actual facts surrounding the case. Evidence was then put on before both juries on those matters which were common to both defendants. When we completed that evidence, I excused the second jury and finished the first matters — we had arguments and submitted the first case, then proceeded to complete the second matter. There were no logistic or other problems and the advantages are, of course, obvious. We saved, in a short case, the day and one-half it took to put on the general case and probably more since we obviated any procedural problems by presentation of the Bruton material separately."

Potential Difficulties

While finding no insurmountable problems, Judge Real does list some potential difficulties:

1. Required Space for Twenty-Four Jurors. This could be handled by putting 12 additional chairs in front of the jury box. A slight re-arrangement of furniture will then allow the trial to proceed.
2. Jury Rooms. Judge Real was able to overcome this difficulty with the help of Judge Whelan who allowed the use of his jury room.
3. Exhibits. How are exhibits made accessible to both juries when their deliberations are simultaneous? Duplicate copies can easily be provided for documentary evidence. With physical evidence all exhibits could be held until called for and returned when examination of them was completed.
4. Baliff and Matron. Having the Marshal provide a matron to care for one jury while the bailiff cared for the other alleviates this problem.

*The name is derived from *Bruton vs. United States*, 391 U.S. 123 (1968).

5. Return of the Verdicts. Where one of the verdicts was returned while the other case was still in progress, the defendant and counsel were called to the bench and shown the verdict. The verdict was then placed under seal until the entire case had been completed. This action negates the possibility of one verdict influencing the other. If the defense asks that the jury be polled, it can be done by directly questioning each juror, asking that the verdict itself not be disclosed.

After the trial Judge Real polled the participants as to the viability of a two jury trial. The participants felt that the plan was a better alternative than two separate trials. The defense counsel were particularly pleased that their respective cases could be submitted to separate juries.

Opinions Sought

One final observation was forwarded by Judge Real regarding the time saved by using the two jury plan. He found there was no need to choose which defendant would be tried first and the lengthy cross-examination based on a previous trial would not be necessary.

The Third Branch extends Judge Real's request for criticisms or suggestions on the two jury solution to "Bruton problems."

MAGISTRATES CONVERGE AT F.J.C.

Thirty U. S. Magistrates convened at the Dolley Madison House September 27-30 for the fourth in a series of such seminars sponsored by the FJC and the AO.

The seminar focused on procedural and management problems encountered by the magistrates and the courts they serve. Discussions centered around such matters as preliminary hearings, trial of a minor offense, pretrial in criminal and civil cases, prisoner petitions, and ethics and conflict of interest. Particular attention was given to office organization and management, a subject emphasized at all Center meetings.

Participating in the seminar to discuss special subjects were: Judge Robert Van Pelt, Judge John F. Doyle, Dean Monroe Paulsen (U. Va.), Magistrates Max Schiffman, J. Edward Harris, Robert H. Miller, Vincent Catozzio, Richard

(Continued on page 5)

Magistrates Attending National Seminar



State-Federal News

The Third Branch reports that in response to Chief Justice Burger's suggestion in his "State of the Federal Judiciary" address before the American Bar Association (August 1970), more than 40 of the state courts are participating in joint councils with their federal counterparts.

KANSAS

At a recent meeting in Topeka, Chief Justice Harold R. Fatzer, Supreme Court of Kansas, and Chief Judge Wesley E. Brown of the U. S. District Court agreed to establish a State-Federal Judicial Council.

On September 28, 1971, members of the Kansas Supreme Court were hosts at a dinner in Topeka for the Federal District Judges of Kansas. Three state District Court judges from the larger counties were also guests.

At the dinner Chief Justice Fatzer announced the Judicial Council appointments of Justices Alfred G. Schroeder, John F. Fontron, and Robert H. Kaul to represent the Kansas Supreme Court. Those named to represent the state District Court are: Judge Howard C. Kline of Wichita; Judge Harry Miller, Jr., of Kansas City, and Judge Albert B. Fletcher, of Junction City. Chief Justice Fatzer will serve as ex officio member. Chief Judge Wesley Brown will represent the federal judiciary for the immediate future.

OREGON

Oregon Chief Justice Kenneth J. O'Connell and Chief Judge Richard H. Chambers (C.A.—9) announced the formation of a new State-Federal Council in Oregon to coordinate the work of the two judicial systems in areas of mutual concern.

Federal Judges on the new Council will be Judge John F. Kilkenny (C.A.—9), Chief Judge Robert C. Belloni, and Judge Alfred T. Goodwin (Dist. Ct., Ore.).

The State of Oregon will be represented by Chief Justice O'Connell and Justice Ralph M. Holman of the Supreme Court of Oregon, Chief Judge Herbert M. Schwab, of the Oregon Court of Appeals, and Judge William M. Dale, Circuit Judge, Portland. Chief Justice O'Connell has been elected Chairman of the Council.

MARYLAND

With full approval of Chief Judge Clement F. Haynsworth, Jr., (C.A.—4), Chief Judge Hall Hammond, of the Court of Appeals of Maryland, and Judge Harrison L. Winter, (C.A.—4) have announced the establishment of a State-Federal Judicial Council for the State of Maryland. It will provide a forum for the interchange of ideas between the two systems aiding in joint programs and more efficient administration of justice.

Representing the federal judiciary on the new Council in addition to Judge Winter will be Chief Judge Edward S. Northrop and Judge Alexander Harvey II, both of the U.S. District Court of Maryland.

The State of Maryland will be represented by Judge Frederick J. Singley, Jr., Court of Appeals of Maryland; Chief Judge Robert C. Murphy, Court of Special Appeals; Judge James Macgill, Circuit Administrative Judge, Fifth Judicial Circuit, and Chief Judge Robert C. Sweeney, District Court.

SEMINAR — Continued from page 1

were taken up by Chief Judge Edward Schwartz, Chief Judge Edwin A. Robson, Chief Judge Adrian A. Spears and Judge Philip Neville. As in the past special presentations were made on sentencing and to give the new judges the benefit of their tried and tested expertise, there were present Chief Judge Walter Hoffman, Judge Oliver Gasch and Chief Judge A. A. Arraj. Additional aspects on corrections were handled by Supervisory Probation Officer, Leon DeKalb, and Norman Carlson and Eugene Barkin from the Bureau of Prisons.

An unrehearsed demonstration of how a sentencing council functions in Michigan was presented by Judges Talbot Smith, Stephen Roth, and Cornelia Kennedy who brought with them their Deputy Chief Probation Officer C. F. Hengstebeck. Still a matter of concern with the judges is how to deal with difficult defendants and unruly trials. Discussions on this subject were handled by Judge Lloyd MacMahon, Judge Frank J. Murray and the Chief of the Security Section of the U.S. Marshals, Reis Kash.

To speak on complex and multi-district litigation were two members of that panel: Chief Judge William Becker and Judge John M. Wisdom. Additional subjects covered were: Post Conviction, Judge Warren Ferguson; Plea Bargaining, Judge Thomas Lambros; Antitrust, Chief Judge Joe Estes; Admiralty, Judge John F. Dooling; Patent-Copyright, Judge Giles Rich; The Settlement Process, Chief Judge Edward S. Northrop and Chief Judge Noel P. Fox; Computers and Systems Analysis, Ernest Friesen; Parajudicial Personnel, Judge Harry Pregerson; and Magistrates, Judge Arthur Stanley and Joseph F. Spaniol. A luncheon on Oct. 12 featured Chief Judge Edward Devitt who spoke on "The Judge's Profession." Judge Edward Gignoux came from Maine to speak at the concluding session and discussed judicial activities and ethics. Judge Gignoux is a member of the ABA Committee on the Canons of Judicial Ethics.

A unique aspect of the seminar participants was the presence of three judges who in ascending the federal bench parallel the careers of their illustrious fathers: Judge William M. Byrne, Jr., (C.D. Calif.), whose father is now a Senior Judge in that District; Judge Albert V. Bryan, Jr., (E.D. Va.), the son of Albert V. Bryan of the Fourth Circuit; and Judge H. C. Bratton (Dist. N.M.) son of the late Sam G. Bratton who sat on the 10th Circuit from 1933 to 1963.

A highlight of the seminar was the "black tie" dinner at the Supreme Court on Oct. 15, hosted by F.J.C. Director and Mrs. Murrah, with Mr. Justice Blackmun and Mrs. Blackmun honored guests.

MAGISTRATES — Continued from page 4

A. Powers, Richard C. Peck. Mr. Joseph Spaniol (A.O.) and Clerk W. Farley Powers (E. D. Va.) made special presentations and participated in the question and answer periods.

The use of magistrates in the federal system started in 1969 in five pilot districts and since that time 87 full time magistrates have been appointed. Over four hundred serve in a part-time capacity.

PERSONNEL

Appointments – Federal Judges

Paul Benson, U.S. District Judge, Dist. of N.D., Aug. 27
Charles L. Brieant, Jr., U.S. District Judge, South. Dist. of N.Y., Sept. 8
Robert E. DeMascio, U.S. District Judge, East. Dist. of Mich., Aug. 26
Warren H. Young, Judge, District Court of the Virgin Islands, Sept. 10

Nominations

Lewis F. Powell, Jr., & William H. Rehnquist for Associate Justice, Supreme Court of the U.S., Oct. 22
William C. Stuart, U.S. District Judge for Southern District of Iowa, Oct. 28 — *Conf.*
Earl E. O'Connor, U.S. Dist. Judge, Dist. of Kansas, Oct. 28 — *Conf.*
William A. Goffe, Judge, U.S. Tax Court, Oct. 28 — *Conf.*

Appointments – Supporting Personnel

Gordon D. Brown, U.S. Probation Officer, North. Dist. of Calif., Sept. 27
Joseph M. Connelly, Jr., U.S. Probation Officer, East Dist. of N.Y., Sept. 20
Frank Kirkland Creech, Jr., U.S. Probation Officer, North. Dist. of Ga., Sept. 27
Ranor Clinton Fry, U.S. Probation Officer, West. Dist. of Texas, Oct. 4
Robert W. Hathaway, U.S. Probation Officer, East. Dist. of Calif., Sept. 7
Richard Micelli, U.S. Probation Officer, South. Dist. of Calif., Sept. 20
Charles Edward Paschal, U.S. Probation Officer, South. Dist. of Calif., Sept. 20
Joseph W. Skupniewitz, Clerk, U.S. District Court, West. Dist. of Wis., Oct. 4

Promotions

Genevieve M. Barr, Clerk, U.S. District Court, West. Dist. of Pa., Sept. 4
Donald A. Berglund, Supervising Probation Officer, East. Dist. of Mich., Oct. 4

Retirements

John M. Harlan, Associate Justice, U.S. Supreme Court, Sept. 23
Richard C. Hewitt, Supervising Probation Officer, East. Dist. of Mich., Oct. 1
John M. Hyde, U.S. Probation Officer, East. Dist. of La., Oct. 7
Angus D. McEachen, Chief Probation Officer, Cen. Dist. of Calif., Sept. 30
James H. Wallace, Jr., Clerk, U.S. District Court, West. Dist. of Pa., Sept. 3

Deaths

Hugo L. Black, Associate Justice, Retired, U.S. Supreme Court, Sept. 25
George Thomas Washington, U.S. Senior Circuit Judge, Dist. of Col. Cir., Aug. 21

Legislation

The Subcommittee on Improvements in Judicial Machinery of the Senate Judiciary Committee has held hearings on S. 1876, the bill incorporating the American Law Institute's proposals concerning revision of the civil jurisdiction of the federal courts. Testimony has been received from representatives of the ALI, university professors, the private bar, and from Chief Judge, Clement F. Haynesworth, Jr., (CCA.-4) and from Judge Joseph S. Lord III, (E. Dist. Pa.)

A bill, S. 2432 "The Court Practice Approval Act of 1971," introduced by Senator McClellan, would amend the present laws granting the rulemaking power to the Supreme Court by adding a proviso that only those rules not disapproved by a resolution of either House of Congress during the session at which they have been reported to the Congress shall take effect. Any rules not disapproved would take effect at the close of the session, or at such later date as the Rules provided.

Two bills affecting U.S. Magistrates have been favorably reported to the House Judiciary Committee by its Subcommittee No. 4: H.R. 7375, to remove the ceiling on salaries of magistrates, and H.R. 9180, to provide for the temporary assignment of a magistrate from one judicial district to another.

SPECIAL NOTICE

When a Federal Judge, or any supporting personnel, attends a meeting which the Federal Judicial Center is financing, it is requested that the following notation be included on the Travel Voucher: *SPONSORED BY THE FEDERAL JUDICIAL CENTER*. This will assist the Auditing Section of A. O.



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OFFICIAL BUSINESS

The Third Branch

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A Bulletin of the Federal Courts



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Judicial Conference Programs Speedy Trials

The Judicial Conference of the United States at its Fall meeting in Washington October 28-29 (1971) passed a resolution urging all U.S. Courts to join in a program for the prompt disposition of the small percentage of civil and criminal cases that promise to be protracted or difficult.

As outlined, the procedure requires immediate screening of all criminal and civil cases in order that those identified as potentially difficult or protracted may be assigned to available judges for speedy handling. Early discovery and specific assignment of civil cases has long been practiced and the Conference's resolution now applies that mechanism to criminal cases.

At the same time, the Conference voted to send to the U.S. Supreme Court and to recommend for approval a Federal Criminal Rule change requiring speedy processing of criminal cases.

The proposed rule would incorporate time limits within which procedures prior to trial, the trial itself, and sentencing must take place, as well as a system for the reporting on the status of cases. Further, a special provision would be made for the prompt handling of any case where the judge believes that the pretrial liberty of a particular defendant poses danger to himself, any other person, or the community at large.

The Conference also strongly recommended that the Courts of Appeals follow up in the program by expediting criminal cases, even without full trial transcripts where justice is not adversely affected. Trial counsel should be retained on appeals wherever possible in order to reduce the demand for trial transcripts and the Courts of Appeals should consider steps for hearing appeals on typewritten briefs and without oral argument when possible, the Conference declared.

The Conference also approved for release the 1971 annual report on the judicial business of the Federal Courts as compiled by Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts.

Rules Of Evidence Approved By Judicial Conference

At the close of the fall meeting of the Judicial Conference of the United States, the Chief Justice announced that the Conference had voted to approve and transmit to the Supreme Court the Uniform Rules of Evidence for the United States Courts.

Such approval follows a six-year study by a committee constituted by the Judicial Conference.

(Continued on page 4)

Management Sessions For Probation Officers

From November 3rd through 5th, twenty-eight Chief, Deputy Chief, and Supervisory Federal Probation Officers attended a Management Development Institute hosted by the Federal Judicial Center.

The sessions were unique in content, design, and presentation. Professor Alvin W. Cohn, from the Center for the Administration of Justice at American University, and Dr. Clovis R. Shepherd, Director of the Institute for Social Interaction Research at the University of Cincinnati, the two discussion leaders, attempted to familiarize and sensitize the participants to managerial behavior and interpersonal relationship skills. Particular emphasis was given to the experiential, professional context of the Federal Probation Officer's role in the judicial system.

The particular effectiveness, adoptability, and relativity of this program will be analyzed and evaluated with the help of those who participated, in an effort to structure and formulate a comprehensively enlightening educational program for all Probation Office on management levels.

Probation Officers in attendance were: George P. Adams, Alvin L. Artz, Donald A. Berglund, William W. Bird, Andrew B. Buckley, Albert A. Cobb, Joseph G. Colosimo, Brayton B. Crist, Leon E. DeKalb, John F. Doubille, Hugh E. Drewry, Paul O. George, Thormod H. Hanson, Charles F. Hengstebeck, Willard A. Huggins, David J. Hurley, Jr., Thomas W. Jones, Wayne L. Keyser, Ralph K. Kistner, Robert Latta, John W. McIntosh, John Rimelis, Charles J. Roberts, R. Pepper Roberts, Matthew J. Terrizzi, James Elmo Turner, Herbert Vogt, and John Pilcher.



Probation Officers At Management Institute Photographed With A. O. And F. J. C. Officials

A Message From The Chief Justice

Model Courtroom

For a long time, perhaps as much as 100 years, it has been a rule-of-thumb of GSA and its predecessors to construct federal district courtrooms 60 x 40 feet. The basic arrangement of the room, as to bench, jury box, witness box, and spectator area has remained much the same.

Pressure from the Congress to economize on cost and the need for greater security and flexibility prompted the Judicial Conference to establish a Committee on Court Facilities and Design to study and report to the Conference on these matters.

That committee, chaired by Chief Judge Edward J. Devitt of Minnesota, included district judges and trial lawyers who reviewed all of the studies and plans available on courtroom design and construction. Committee members visited numerous court facilities from coast to coast. Approximately half of the committee were in attendance at the ABA meeting in London in July and devoted a day or more visiting trial



courtrooms, both old and recently constructed, in the Royal Courts of Justice. Mr. Robert Kunzig, Administrator of the GSA, and ex officio member of the committee, was also in London and joined the committee in visits to the Royal Courts. He later sent Mr. Walter Meisen, Senior Architect of the GSA, to London to see the same facilities and consult with those in charge of courtroom construction in England.

The committee concluded to adopt the trend of recent years and to recommend to the Judicial Conference that the size of the standard district courtroom be set at 28 x 40 feet. It did not follow the trend in certain state courts of constructing courtrooms-in-the-round, however, but adhered to the traditional rectangular form. The audience area was reduced for the standard size courtroom, the committee taking judicial notice that in the overwhelming number of trials few, and often no spectators are present.

The Committee Report, available on request to the A.O., concluded that the reduced size and compact arrangement was desirable, for security and manageability of the courtroom, for economy, and to facilitate greater use of electronic recording techniques.

Two particular features of the new facility are, first, virtually all parts and fixtures are movable, and second, the four principal "participants," judge, jury, witness and counsel, form a quadrangle in closer proximity to each other than in the larger courtrooms of the past. Additionally, the court

(Continued on page 3)



Photograph of model standard courtroom taken from the audience seats, as the public would enter the courtroom. This is just one of several alternative positions of the movable fixtures in the room. The rope would be replaced by a solid partition similar to the front of the jury box.

Gilbert L. Bates Chief Of A.O. Business Administration Division

Gilbert L. Bates, associated with the Civil Aeronautics Board since 1965, was appointed chief of the Division of Business Administration on November 1. He succeeds Darwin H. Anderson who retired last March.

Bates received his bachelor's degree from Wesleyan University in Connecticut where he was elected to Phi Beta Kappa. He was awarded his LL.B. degree from the National University Law School in 1942 and was admitted to the bar the same year. While a research fellow at Harvard University Graduate School of Business Administration from 1947 to 1949 he co-authored the book, *Airline Competition*, which was published by Harvard University in 1949.

" . . . In a system of justice that pits one adversary against another to find the truth there will always be conflict. Taken to the street, conflict is a destructive force; taken to the courts, conflict can be a creative force." President Richard M. Nixon

MESSAGE — (Continued from page 2)

reporter and courtroom clerk will be in a true "well" approximately 8 inches below the level of the remainder of the room.

The movability of the fixtures will enable the witness box to be placed between the Bench and the jury box for non-jury cases if the presiding judge desires. The jury seats can readily be removed. Another special feature is that witnesses will enter and leave the witness box through a door opening into the box. As a result there will be no occasion for the witness to be in the well of the courtroom or near any of the participants (with the exception of a party-witness). When needed, a bailiff, or marshal, can sit immediately back of the witness.

Before the final decision of the committee was made, a full-scale mock-up of the new courtroom was developed by the GSA. The committee then made certain changes. The Judicial Conference viewed the mock-up October 29 before acting on the Committee Report. The Judicial Conference approved the report and the new standard courtroom by unanimous vote.

It is contemplated that at least one large courtroom will be built in every courthouse to accommodate trials with multiple parties and counsel, or where there is need for a large space for audience and news media personnel.

Having spent considerable time in more courthouses than I can remember, I can state with conviction that this committee has developed the best and most efficient trial courtroom I have ever seen, and I believe it will be received with enthusiasm by judges and lawyers. Not unimportant is the fact that it will meet with the approval of those in Congress who must struggle to provide the funds for new court facilities.

A.O. Establishes Division Of Information Systems

Administrative Office Director Rowland F. Kirks on November 1 announced the establishment of the Division of Information Systems. Acting chief of the new Division is Paul C. Bender and assistant chiefs are Norbert A. Halloran (special projects), James A. McCafferty (operations), and Alvin L. Lowery (data processing).

Mr. Bender, who heads this new office, is a native of Reading, Pa., and attended the University of Pennsylvania and Louisiana State University. He entered military service in 1942 and served with distinction in the Army rising through the ranks from private to colonel. He retired from active service in 1965. Following his military retirement, Mr. Bender accepted a position with the Job Corps which he left in 1966 to join the Office of the Assistant Secretary of Defense.

"The objective of the new Division," Mr. Kirks said, "is to provide top quality professional services to the Administrative Office and the judiciary in the areas of systems design, statistical and other reporting, data processing and related fields." The new division will assume those tasks heretofore done by the Division of Procedural Studies and Statistics.

SPECIAL NOTICE



Center Establishes Cassette Library

Several presentations made at the Seminars for Referees in Bankruptcy at Cleveland, Ohio (October 21-22) and New York City (November 5-6) were recorded. These recordings have been made into cassettes and are available on a two week loan basis. Included are lectures on the following topics:

"Recent Cases" — Referee David A. Kline

"Tax Distribution and Procedure" — Referee Elmer P. Schaefer

"The Dischargeability Act and Other Recent Amendments" — Referee Harold H. Bobier

"New Rules" — Professor Charles Seligson

Additional lectures will be available in the near future. Interested persons may make a request for this material to the Director of Continuing Education and training Federal Judicial Center.

State Center Advisory Council Holds First Meet

The eighteen-member Advisory Council of the National Center for State Courts held its initial meeting in Washington November 6th to come up with recommendations for the new organization.

The Council is composed of a prestigious group of lawyers, judges, and court administrators nominated to the Council by leading judicial administration organizations throughout the country.



Advisory Council

Advisory Council, Board members and Director photographed in courtyard of F.J.C. are (l. to r.): Judge Edward V. Healey, Justice Morell E. Sharp (Board), Chief Judge T. John Lesinski, Justice Louis H. Burke (Board, Vice Chairman), John H. Petersen, Esq., John H. Lashly, Esq., Justice Bernard Meyer (Board), Orison S. Marden, Esq. (Council Chairman), Judge Robert H. Hall, Judge David L. Golden, Chief Justice Harold F. Snead, Justice Paul C. Reardon (Board Chairman), Judge Arthur S. Lane, Judge Dulany Foster, T. Mack Blackburn, Esq., Justice William B. Groat, Justice Winslow Christian (Director), Judge Curtis V. Tillman (Board), Justice Albert Tate, Jr., Gordon W. Allison, Esq., Judge Robert Beresford, Judge Joseph A. Sullivan (Board), Justice William M. McAllister, Justice Albert W. Barney.

The Chairman of the Council, Orison S. Marden of New York City, started the all-day meeting with an impressive agenda which covered all aspects of the State Center's activities. Mr. Marden asked for and received lively discussion on matters of program, site, financing and continuing education. Seated alongside Mr. Marden and taking careful note of all comment was the Center's new Director, Justice Winslow Christian. There to represent and report back to the Board were the Board's Chairman, Justice Paul C. Reardon, and Vice Chairman, Justice Louis H. Burke.

Chief Justice Burger joined the group at the luncheon break and restated his interest in cooperating personally and through the Federal Judicial Center whenever called upon. The Chief Justice commended their participation and added he knew full well "how difficult it is to find the extra hours necessary to plan and attend such a meeting."

At the conclusion of the meeting Mr. Justice Reardon thanked those in attendance for contributing their time and talents for the common cause and said, "The meeting was productive and meaningful. On behalf of the Board let me express our appreciation for the very helpful suggestions you have made and for the interest and cooperation you have evidenced throughout the discussions. We shall seek and welcome your advice at all times."

Parole Project Begins

A national demonstration project will begin this fall in a program to place volunteer young lawyers in service as part-time assistant parole officers.

The project, known as VIPP (Volunteers in Parole Program) and a part of the program of the newly-created American Bar Association Commission on Correctional Facilities and Services, has received a grant of \$210,995 from the Law Enforcement Assistance Administration of the Department of Justice.

At the outset, some 600 to 1,000 young lawyers in eight states will participate but it is expected that many more will become involved as the project develops.

Volunteers will work under the supervision of experienced professionals in the field and will be assigned to one offender on parole, adult or juvenile. The object is to provide each person on parole with a more intensive degree of personal contact and assistance than is possible under normal heavy parole caseloads.

Receipt of the LEAA grant was announced last month by Richard J. Hughes, former Governor of New Jersey, who is chairman of the ABA Commission, and by Robert P. Murray, Lakeland, Florida, who is chairman of the ABA's Young Lawyer Section, which has 50,000 members. The participating units of the ABA expect to match the federal grant with more than \$150,000 in contributed time, facilities and resources.

Mr. Hughes said of the project: "Not only will it provide needed assistance to the overburdened, underfinanced parole system, but it will provide an invaluable educational experience for the young lawyers involved."

The first eight states chosen will represent a national geographic balance and both urban and rural settings. Currently, an estimated 25,000 parole officers in the U.S. are supervising a 200,000 parolee caseload, more than double the average caseload recommended per officer.

RULES — (Continued from page 1)

The evidence rules were studied over the past six years by a Judicial Conference Committee of federal judges, lawyers and law school professors who had previously circulated their drafts to members of the bench and bar for critical scrutiny. Objections were made to portions of the rules which caused the Supreme Court to remand the proposals to the committee for further study. Changes were then made to meet these objections.

When and if approved by the Supreme Court, the rules must be transmitted to the U.S. Congress to become effective.

Probation Program Held In Palm Springs

At the Riviera Hotel in Palm Springs, California, from September 19 through 22, 125 representatives of the U.S. Probation Office, (Western region including Alaska and Hawaii) gathered for their scheduled Conference on probation operations. The program is held once every three years for each region.

Representatives from the Board of Parole and the Federal Bureau of Prisons were also on hand; some as active participants.

Working to insure the success of the program were: Rowland Kirks, Director of the A.O., Ken Crawford, Director of Education and Training FJC, Merle Smith, Chief of Probation for the Probation Division, and Carl Imlay, General Counsel for the A.O. Attending as a special guest was Napoleone A. Tuitelcapaga, High Chief of the Judiciary Department of American Samoa. Samuel Chapman, Esq., a Probation Officer in Ballymena, County Antrim, Northern Ireland attended under a Churchill fellowship, and extended to the conference the greetings of the Minister of State, the Rt. Honorable John D. Taylor, M.P.

Legislation

Bills which would affect juror selection and service were the subject of hearings before a Subcommittee of the House Committee on the Judiciary: H.R. 8829 would change the minimum age qualification for service as a Federal juror from 21 years to 18 years of age; H.R. 2589, to require that the question as to race on the juror qualification form be answered; and H.R. 10689 to make it a criminal offense to discharge an employee for the reason of such employee's Federal jury service. Director Rowland F. Kirks of the Administrative Office of the United States Courts testified before the Subcommittee on November 10.

The House Committee on the Judiciary has favorably reported H.R. 45, to establish an Institute for Continuing Studies of Juvenile Justice.

The House of Representatives has passed H.J. Res. 208, proposing an amendment to the Constitution relating to the equal rights of men and women.

Bills to establish the official residence of the Chief Justice of the United States by private gift to the United States, S.2560 and H.R. 11445, have been introduced by Senator Eastland and Congressman Celler.

The Senate Committee on Interstate and Foreign Commerce has held extensive hearings on the effects of organized crime activities on interstate commerce, receiving testimony from numerous individuals, some under grants of immunity.

The House of Representatives has passed the following bills: H.R. 9323, to amend the Narcotic Addict Rehabilitation Act of 1966 (to include the concept of control of dependence on addicting drugs within the definition of treatment); H.R.

9180, to provide for the temporary transfer of a United States Magistrate from one judicial district to another; and H.R. 8389, to provide for the development and operation of treatment programs for certain drug abusers confined to or released from correctional institutions and facilities.

H.R. 11394, to create an additional judicial district in the State of Louisiana and to provide for the appointment of additional district judges has been ordered favorably reported by the House Judiciary Committee. The bill would establish four new judgeships — one for Florida, Southern; one for the Northern and Southern districts of Indiana; one for Missouri, Western; and one for Texas, Northern.

ABA Prison Reform Plans

The American Bar Association Commission on Correctional Facilities and Services met in a day-long session at the Supreme Court Building in Washington on October 15 (1971) and afterwards announced the adoption of additional projects in its work to bring about a reform of the Nation's penal and correctional systems.

The Commission, under former Governor Richard J. Hughes of New Jersey, said that it will soon launch a comprehensive program aimed at: encouraging the establishment of grievance machinery to alleviate explosive situations in prisons; diverting early offenders into training and employment; the adoption of state-wide standards and inspection systems in local jails and juvenile detention wards; the adoption of regional jail and detention systems; and taking specific steps to improve and expand legal, medical and educational services for prisoners.

The new plans supplement three existing projects upon which the Commission is already at work. These are the use of young lawyer volunteers to serve as part-time parole officers; nation-wide removal of legal restrictions on employment and business opportunities for ex-offenders; and better training of correctional personnel by education at least through the junior college level.

Current Articles and Publications

Treatises for Judges: A Selected Bibliography, by Justice Albert Tate, Supreme Court of La., and Warren J. Herbert, Esq. (Publication of L.S.U. Law School, 1971.)

Decency and Fairness: An Emerging Judicial Role in Prison Reform, *Virginia Law Review*, Vol. 57, No. 5, June, 1971; The Assault on Privacy: Computers, Data Banks and Dossiers, by Arthur R. Miller, University of Michigan Press, 1971; Justice For Consumers: The Mechanisms of Redress, by Thomas L. Eovaldi and Joan E. Gestrin, *Northwestern University Law Review*, Vol. 66, No. 3, July-August, 1971.

A.O. – F.J.C. CALENDAR

- Dec. 13-15 Seminar for Part-Time Magistrates, Dallas, Texas
- Jan. 10-12 Seminar for Part-Time Magistrates, San Francisco, Calif.
- Jan. 13-15 Metropolitan Judges Meeting (Speedy Trial) at the Federal Judicial Center, Washington, D. C.
- Jan. 14-15 Criminal Rules Committee, Washington, D.C.
- Jan. 17-19 Criminal Law Committee, Washington, D.C.
- Jan. 24-28 Orientation Course for U.S. Probation Officers, Washington, D.C.
- Jan. 26-29 Bankruptcy Rules Committee, Washington, D.C.
- Jan. 31-Feb. 1 Court Administration Committee, New Orleans, La.
- Feb. 3-4 Regional Seminar for U.S. Referees in Bankruptcy, New Orleans, La.
- Feb. 7-11 Short Course for Probation Officers, Chicago, Ill.
- Feb. 7-10 Regional Seminar for Courtroom Deputy Clerks, Santa Monica, Calif.
- Feb. 14 Bankruptcy Committee, Washington, D.C.
- Feb. 17-18 Institute for Referees in Bankruptcy, New Orleans, La.
- Feb. 22-26 Seminar for Part-Time Magistrates, Denver, Colo.
- Apr. 25-28 Fifth Circuit Conference, Desota Hotel, Savannah, Ga.

THE THIRD BRANCH

VOL. 3, NO. 13 NOVEMBER 1971

THE FEDERAL JUDICIAL CENTER

DOLLEY MADISON HOUSE
1520 H STREET, N.W.
WASHINGTON, D.C. 20005

OFFICIAL BUSINESS

PERSONNEL

Federal Judges

Confirmation

William J. Bauer, U.S. District Judge, North Dist. of Ill, Nov. 8

Nominations

Alfred T. Goodwin, U.S. Circuit Judge, 9th Cir., Nov. 3
James S. Holden, Dist. Judge for Dist. of Vermont, Nov. 11
Levin Campbell, Dist Judge for Dist. of Massachusetts, Nov. 12.
Ralph F. Scalera, Dist. Judge, Western Dist. Penna. Nov. 12
Chas. M. Allen, U.S. District Judge, W. Dist. Ky., Nov. 17.
Clarence C. Newcomer, U.S. Dist. Judge, E. Dist. Penna., Nov. 17.

Supporting Personnel

Appointments

Arthur M. Afremow, U.S. Probation Officer, Dist. of Ore., Nov. 1
John M. Brooks, U.S. Probation Officer, East. Dist. of Mo., Nov. 1
Charles W. Carrington, U.S. Probation Officer, Dist. of Col, Nov. 1
Robert L. Currie, U.S. Probation Officer, West. Dist. of Tenn., Oct. 26
Carroll L. Dupuis, U.S. Probation Officer, East. Dist. of La., Oct. 12
Henry Garcia, U.S. Probation Officer, Cen. Dist. of Calif., Oct. 18
John J. Hergenhan, U.S. Probation Officer, South. Dist. of N.Y., Nov. 1
Thomas H. Kingsmill, Jr., U.S. Referee in Bankruptcy, East. Dist. of La., Sept. 7
Robert M. Latta, Chief Probation Officer, Cen. Dist. of Calif., Oct. 18
Robert Ohannesian, U.S. Probation Officer, South. Dist. of N.Y., Oct. 18
Joseph Pobrislo, U.S. Probation Officer, Dist. of Ariz., Oct. 4
John Michael Waters, U.S. Probation Officer, South. Dist. of Ill. Oct. 18
Thomas J. Weadock, Jr., U.S. Probation Officer, North. Dist. of Calif., Nov. 1
Frederick Wille, Jr., U.S. Probation Officer, Dist. of Md., Oct. 18
G. Ross Wingo, U.S. Probation Officer, Dist. of Col., Oct. 18

Retirements

John M. Hyde, U.S. Probation Officer, East. Dist. of La., Oct. 7
Paul C. Williams, U.S. Referee in Bankruptcy, East. Dist. of Va., May 31

Deaths

Joseph P. Lieb, U.S. District Judge, Mid. Dist. of Fla., Nov. 2
William H. Tallyn, U.S. Referee in Bankruptcy, Dist. of N.J., Sept. 9



POSTAGE AND FEES PAID
UNITED STATES COURTS

The Third Branch

Dolley Madison House, 1520 H Street, N.W., Washington, D.C. 20005

A Bulletin of the Federal Courts



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December 1971

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Victor H. Evjen Retires

Victor H. Evjen, assistant chief of probation in the Administrative Office of the United States Courts since 1940, will retire on January 7 after 35 years with the Federal Probation System.

A graduate of Wittenberg University with a master's degree from the University of Chicago, Mr. Evjen entered the correctional field in 1932 as a probation officer with the Juvenile Court in Chicago. He was a probation-parole officer with the U.S. District Court there from 1936 to 1940 when he was called to the headquarters office at Washington.

In addition to his responsibilities as assistant chief of probation, Mr. Evjen edited *Federal Probation*, 12 years as managing editor and 18 years as editor. The journal is published by the Administrative Office in cooperation with the Federal Bureau of Prisons.

In 1968 he was the recipient of the Irving W. Halpern award, one of the two top awards in the field of criminal justice presented each year by the National Council on Crime and Delinquency. In 1956 he received the John Howard Association (Chicago) Annual Award and in 1962 the annual Corrections Conference Award by the Health and Welfare Council of the National Capital Area.

Mr. Evjen has published more than 25 articles on crime prevention and control in eight professional journals and three encyclopedias. He is the principal author of *The Presentence Investigation Report* published in 1965 by the Administrative Office and also *The Case Record and Case Recording* (1952).

In the words of Rowland F. Kirks, Director of the A.O., "The retirement of Victor H. Evjen brings to a close 31 years of distinguished service with the Administrative Office in the field of probation. He has made a major and lasting contribution to the Federal Probation System particularly as editor and managing editor of *Federal Probation*. He takes with him the satisfaction of a job well done and the best wishes of us all for a long, healthy, happy and richly deserved retirement."

Among those who will honor Mr. Evjen at his retirement dinner on January 6 will be friends and associates from the Administrative Office, Federal Judicial Center, Federal Probation System, Federal Bureau of Prisons, and U.S. Board of Parole.



A Message From The Chief Justice

The calendar is about to turn its last page on 1971—another busy and eventful year for the Judiciary—and it may be appropriate to pause and look back as we extend the greetings of the Season to the many hundreds who have contributed so much and have been so loyal to the Nation's Courts.

A look backward on the year reveals that broad moves have been made toward analysis and understanding of our major problems especially in the critical areas of court modernization and corrections.

Two important national conferences were called during the year and a third is scheduled for February. The agenda for all three will provide guidelines for the future.

The first, of course, was the National Conference on the Judiciary at Williamsburg, Va., in March, attended by 600 judicial, legal and civic leaders. President Nixon's address, the highlight of the Conference, pinpointed many answers Americans are demanding from their system of justice. The National Center for State Courts, now in operation, was a direct outgrowth of that Conference. The second, held also at Williamsburg this month, was the National Conference on Corrections. Approximately 400 conferees, including judges, corrections officers and administrators, were on hand for this "milestone" meeting, called by the Attorney General at the request of the President. The Attorney General proposed that the Department of Justice establish a National Corrections Academy patterned after the "FBI Police Academy" to train state and federal corrections personnel as the FBI has trained local and state police personnel for 35 years. This could well be one of the most important developments in the history of American corrections.

The third conference will bring together 300 appellate judges from federal and state courts to seek ways to implement on a nationwide basis some of the proposed criminal justice standards developed by the ABA in a seven-year study of every phase of law enforcement and the judicial process. The meeting, to be held in Baton Rouge, La., will be known as the National Judicial Conference on Standards for the Administration of Criminal Justice.

These three meetings reflect only a part of the countless thousands of hours put in during the year by individual workers, committees, special groups and organizations working diligently to make up for the deferred maintenance of our

(Continued on page 2)



Powell, Rehnquist Become 99th, 100th Justices

Lewis F. Powell, Jr., and William H. Rehnquist were confirmed by the Senate in early December, 1971 as Associate Justices and will become the 99th and 100th men to sit on the Supreme Court of the United States.

The newest Justices, who will succeed the late Hugo L. Black and John Marshall Harlan, retired, are expected to take their oaths of office and their seats on the high bench early next month.

Mr. Powell, 64, a distinguished lawyer from Richmond, Va., and a past President of the American Bar Association, will be the seventh man to serve on the Court from his State. He graduated from college and the law school at Washington & Lee University in Lexington, Va., and holds a Master of Laws degree from Harvard University. He and his wife, the former Josephine Rucker of Richmond, have three daughters and a son. He has been a member of the "old line" Virginia law firm of Hunton, Williams, Gay, Powell and Gibson since 1932.

Mr. Rehnquist, 47, joins Associate Justice Byron R. White as the only men to be appointed to the Court after having served as law clerks at the U.S. Supreme Court. Mr. Justice White was a law clerk to the late Chief Justice Fred M. Vinson in 1946 while Mr. Rehnquist clerked to the late Associate Justice Robert H. Jackson in 1952.

An appointee from the state of Arizona — the first in the history of the Court — Mr. Rehnquist has served as an Assistant Attorney General since 1968, heading the Justice Department's Office of Legal Counsel, a position that President Nixon described as being "the President's lawyer." Mr. Rehnquist went west in 1953 to practice law in Phoenix and, while there, also became active in Republican politics in that state. He earned undergraduate and law degrees from Stanford University and is married to the former Natalio Cornell of San Diego, Calif. They have three children, a son and two daughters.

SPECIAL NOTICE



District Judges

The dates for the next Seminar for Newly Appointed District Court Judges: April 3-15, 1972, at the Federal Judicial Center, Washington, D. C.

Holmes Supreme Court Volumes Published

Publication of the first two volumes of *The Oliver Wendell Holmes Devise History of the Supreme Court of the U.S.* was announced jointly last month by the Library of Congress and The Macmillan Company. The joint announcement was made at a reception held in the Library's Great Hall and attended by many members of the judicial and legal professions.

The two volumes—Volumes I and VI—are the first of an 11-volume series representing the first comprehensive study of the Supreme Court from its beginning in 1770 to the present time. The work is being done by distinguished scholars from funds left the United States by the late Justice Oliver Wendell Holmes, who died in 1935.

Volume I is an 896-page work written by Julius Goebel, Jr., Professor Emeritus of Legal History, Columbia University school of Law, entitled *Antecedents and Beginnings to 1801*; Volume VI covers 1,568 pages and is entitled *Reconstruction and Reunion, 1864-88, Part One*. Its author is Charles Fairman, Professor of Law Emeritus at Harvard University.

Volumes, as they are published, are available through the Macmillan Publishing Co. at \$30.00 each with a subscription rate for the entire set of \$25.00 per volume. Paul A. Freund, renowned for his work in the law and Carl M. Loeb University Professor at Harvard University, is serving as general editor of the series.

CHIEF JUSTICE (Continued from page 1)

machinery of justice. The nation owes a great debt to these people.

A word should be said about the support our efforts have received from Congress. The Court Executives Act is a reality and in the closing days of this month the Certification Board is completing the arduous task of screening hundreds of applicants for Circuit Executive positions. Very soon all of the Circuits will be in a position to appoint an Executive Officer for Administration. When we demonstrate the value of these executives, I am confident Congress will considerably expand the program. Other legislation urged by the Judicial Conference is making progress, even if slowly at times.

The year 1971 has brought some improvements in areas long neglected. There are enormous tasks ahead, but efforts of the past decade are beginning to bring results. As we exchange greetings of the Holy Season and good wishes for the future, we need to be sure these efforts are not relaxed.

* * *

A graduate program in judicial administration is being offered by the University of Southern California commencing in January, 1972, the most recent Newsletter of the Administrative Office of the California Courts reports. The program, a joint one of the schools of Public Administration and Law, will lead to a degree of Master in Public Administration with a specialization in judicial administration. Completion time is about one year for full-time students.

350 Penal Experts Hear Plan For National Academy

The Nation's first National Conference on Corrections was held in Williamsburg, Va., this month with 350 delegates—judges, prison officials, congressmen, lawyers, and sociologists—in attendance at what Chief Justice Warren E. Burger termed a meeting that “could be one of the milestones of American correctional history.”

The conference, called by the Attorney General at the request of President Nixon, resulted in the formation of a broad national program for prison reform. Keys to the program, as expressed in a message sent the conference by President Nixon, are prisoner education, rehabilitation, useful training, hope—“the keys he (the prisoner) must have to open the gates to a life of freedom and dignity.”

Attorney General John N. Mitchell, in his opening-day speech, announced the formation of a National Corrections Academy. It will be patterned after the FBI Academy and will set national performance standards, plus establishing machinery for training, research and education of federal, state and local prison personnel.

At the same time, the Attorney General also announced these other reform moves: establishment of national clearing-houses for devising academic and vocational programs for inmates and one at the University of Illinois to assist states in modernizing prison architecture and buildings; ordering the 28 federal prisons to work toward a goal of hiring from minority groups; authorized the study of whether it is feasible to allow certain adult offenders to enter community-oriented correctional programs after a trial waiver and on a volunteer basis.

The Chief Justice, in his speech to the conference, commended the President and the Attorney General for the plan to establish the National Corrections Academy, saying that the management and operation of penal institutions are desperately in need of “such a nationally coordinated program to train every level of prison personnel from guards to wardens, as the Department of Justice has done with police administrators.” He called for greater communication with prisoners and an educational program that will permit an inmate to “literally ‘learn his way’ out of prison as we now try to let him earn his way out with ‘good behavior.’”

The conference closed on the note that prisons must “open their doors wide” so that the public will begin to understand and lend support to programs for the betterment of conditions inside the walls.

CURRENT ARTICLES AND PUBLICATIONS

Legal Education – Some Crucial Frontiers, by Steven H. Leleiko, *Journal of Legal Education*, Vol. 23, 1971, No. 4; *Publicity and Fair Trial*, by Chilton R. Bush, University of Georgia Press, 1970; and *The Supreme Court and the Living Law*, by Morris L. Ernst, Weybright & Talley, 1970.

Probation Refresher Course Held In Chicago

From November 15 to 19, a group of Federal Probation Officers from across the country met at the Federal Probation Training Center in Chicago to discuss and review current developments in probation and particularize programs in progress which relate to the probationer.



Participating discussion leaders include: Merrill A. Smith, Chief of the Probation Division of the A.O.; Professor Hans W. Mattick, Co-Director of the Center for Studies in Criminal Justice at the University of Chicago; William Young, Post Release Coordinator at the Federal Youth Center, Ashland Kentucky; Richard J. Heaney and Claude S. Nock, Jr., from the Federal Bureau of Prisons and United States Board of Parole; Professor Walter Rest, Coordinator of Field Instruction School of Social Service Administration at the University of Chicago; Magistrate James T. Balog, Northern District of Illinois; Dr. Alex M. Panio, Jr., as well as experienced Probation Officers from Chicago and Houston, Texas.

HIGH COURT MARSHAL RETIRES

T. Perry Lippitt, Marshal of the Supreme Court of the U.S., is retiring, effective December 31, 1971. Mr. Lippitt, 57, has served the Court as Marshal for 19 years and has been a member of the Court's staff since 1935.

A native of Washington, he is a lawyer (the George Washington University Law School) and a Navy veteran. He was appointed Assistant Marshal and Court Crier in 1938 and was named Marshal in 1952. He and his wife, Eleanor Holtsberg Lippitt, will continue to live in the Washington area.

300 Appellate Judges In February Conference

A four-day conference of Appellate judges, 300 strong from Federal and State courts and including the Chief Justices of the 50 States, will be held in February for the purpose of overhauling the nation's criminal justice system through the implementation of the American Bar Association's comprehensive Standards for the Administration of Criminal Justice.

The conference, scheduled for February 10-14 (1972) at the Law Center of Louisiana State University in Baton Rouge, is named the National Judicial Conference on Standards for the Administration of Criminal Justice and it will feature seminars and workshops designed to familiarize judges with the ABA Standards, most of which can be implemented by court opinions or, in many states, under the rule-making power of the courts.

The ABA's standards cover all aspects of the criminal justice process from arrest through sentencing and post-conviction proceedings. They have been hammered out by scores of experts since being launched as a project in 1964 by Lewis F. Powell, Jr., then the President of ABA and more recently confirmed as an Associate Justice of the Supreme Court of the U.S.

(Continued on page 5)

ADDITIONAL CASSETTES AVAILABLE

Additional cassette recordings of presentations made at recent Seminars for Referees in Bankruptcy are available on loan from the Center. Included are:

"The Brookings Report" — Referee Asa S. Herzog

"Provable Debts" — Professor William T. Laube

"Why Chapter XII?" — Referee Kenneth S. Treadwell

"The Consumer Bankrupt" — Referee Daniel R. Cowans

"Discharge and Dischargeability
A Dialogue" — Referees Asa S. Herzog and Roy Babitt

"New Rules" — Referee George M. Treister

"Dischargeability Amendments" — Leon S. Forman,
Esq.

"Recent Cases" — Referee Richard E. Poulos

"Dischargeability Amendments" — Benjamin Weintraub, Esq.

Legislation

The Senate has passed the bill S. 2891, which would amend and extend the Economic Stabilization Act through April, 1973. This would authorize the President to extend controls of wages and prices, provide for payment of previously negotiated pay raises retroactive to the period of the freeze, and provide for pay increases to government employees as of January 1, 1972. The bill is now in the House of Representatives.

Hearings on the subject of penal reform have been held by the House Select Committee on Crime. The Senate Judiciary Committee has held hearings on S. 16, S. 750 and S. 2426, bills to provide compensation for victims of criminal acts.

S. 1975, the bill to lower the age qualification for service as a federal juror, passed the Senate on December 1, 1971.

New Legislation:

H.R. 11703, would authorize additional circuit judgeships as follows: one for the First Circuit, two for the Second, one for the Third, two for the Fourth, one for the Seventh, two for the Ninth, and one additional judgeship for the Tenth circuit.

S. 2712 would amend and extend the Economic Stabilization Act of 1970, including a provision for the establishment of a Temporary Emergency Court of Appeals composed of circuit judges designated by the Chief Justice, and having exclusive jurisdiction of appeals in cases under the Act.

H.R. 3749 has passed both houses of Congress and is now on the President's desk for signature. This bill will create a new district in Louisiana to be known as the Middle District headquartered in Baton Rouge. The bill provides that the District Judge for the Eastern District of Louisiana whose official station is Baton Rouge shall be the District Judge for the Middle District of Louisiana. All other district judges presently assigned to the Eastern District of Louisiana shall be district judges for the Eastern District as reconstituted.

D.C. SUPERIOR COURT COMPUTERIZERS

The newly structured Superior Court in the District of Columbia will soon install equipment which will materially increase the efficiency of that court as well as speed up the processing of their criminal docket.

The machines are called teleprinter receivers and are linked to the court's computer system. By a push of a button, the judge on the bench can within seconds have all information on a given case on a small screen which in appearance is much like a television receiver. The teleprinters will be in use by February, 1972, in the criminal calendar control courtroom and the arraignment courtroom. It will be particularly helpful in reaching decisions which affect scheduling of trials and the release of defendants. Before that time, four teleprinters will be installed in the office of the criminal calendar clerk. The public as well as court personnel will be aided by these machines, giving them almost immediate access to information in court files.

With a current calendar of 105,000 criminal cases, including traffic, misdemeanors and felonies, the new system should prove very helpful.

First Seminar For Part-Time Magistrates

In DALLAS, TEXAS December 13th at the Hilton Inn, a group of United States District Court Magistrates convened at the opening session of a three day regional seminar conducted by the Federal Judicial Center, the research, training, and innovation agency of the Federal Court System, headquartered in Washington, D.C.

At this, the first in a series of regional seminars for part-time magistrates, participating faculty members from throughout the judicial community met with thirty-five part-time magistrates from the Southwestern United States to discuss pertinent problems of court administration and judicial procedures as they relate to the day-to-day operational responsibilities of the magistrate.

Included in the topics discussed were: Initial Appearance, Bail and Commitment, Trial of Minor Offenses, Judicial Ethics, Search Warrants, Complaint and Arrest Warrants and the Use of Forfeiture of Collateral Systems.

Lecturing in these sessions were: Magistrates Arthur L. Burnett (Washington, D.C.); Bailey F. Rankin (Dallas); Max Schiffman (New York); John B. Wooley (Kansas); Harry R. McCue (California); Richard C. Peck (Nebraska); Judge Robert Van Pelt (Nebraska); and Joseph F. Spaniol, Jr., Deputy Director for Legal Affairs of the A.O. The part-time magistrates in attendance included: Robert R. Sanders (Amarillo); Gene Richie (Wichita Falls); Charles E. Hughes (Denison); John W. Wilson (Monroe, La.); Dudley R. Carr (Tupelo, Miss.); William R. Ford (Kosciusko, Miss.); Joe Dean Hufstutler (Tyler); Idalee R. Hawkins (Texarkana); Lawrence A. Mann (Laredo); Philip E. Sanders (Austin); Charley E. Shannon (Big Bend National Park); Gerald D. Becker (Eagle Pass); Jose D. Sequra (Marfa); Roy Rutland (Waco); John M. Preston (Pecos); Sigun Rasmussen (Hot Springs, Ark.); John S. Brooks (El Dorado, Ark.); John G. Holland (Fort Smith, Ark.); Ned A. Stewart, Jr. (Texarkana, Ark.); Marian F. Penix (Jonesboro, Ark.); Charles S. Goldberger (Pine Bluff, Ark.); Glenn S. Neumeyer (Las Cruces, N.M.); Thomas A. Sandenaw (Alamogordo, N.M.); John C. Muntz (Hugo, Oklahoma); Elaine G. Allman (Sulphur, Okla.); William W. Bailey (Vinita, Oklahoma); Rex Givens (Lawton, Okla.); Challenge S. Wheeler (Muskogee, Okla.); Charles F. Burns (Miami, Oklahoma); William L. Slaughter (Columbus, Ga.); Joseph W. Popper (Macon, Ga.); Harve M. Duggins (Knoxville, Tenn.) Staff Members of the National Park Service, U.S. Forest Service and Fish and Wildlife Service also attended.

"It is as much the duty of Government to render judgement, against itself, in favor of citizens, as it is to administer the same, between private individuals."

— Abraham Lincoln

ABA *Continued from page 4)*

Fifteen of the 17 sets of Standards drafted already have been formally approved by the ABA's House of Delegates and the other two are expected to receive official endorsement at the Association's annual meeting next August. Chief Justice Warren E. Burger, who headed the work for a year before assuming his present post, has called the project one of the most important ever undertaken by the Bar Association.

Leon Jaworski, this year's President of the ABA, will deliver the Conference's keynote address. Other speakers and discussion leaders will include numerous experts on the Standards and will represent the Bench and Bar of state and federal jurisdictions throughout the Nation.

The Baton Rouge conference is being sponsored by the Appellate Judges Conference, an affiliate of the ABA Section of Judicial Administration; the ABA Section of Criminal Law, which has responsibility for Nation-wide implementation of the Standards; the Criminal Justice Program of LSU Law School; and the Louisiana Commission on Law Enforcement and Administration of Criminal Justice. A 17-member Planning Committee is handling the details of setting up the Conference.

JUDICIARY BRIEFS

Thirty-two oil portraits of past Justices of the Supreme Court of the U.S. have been moved and hung as a collection in ground floor hallways of the Supreme Court Building in Washington so that visitors may have a better opportunity to view them.

The collection including portraits of deceased, retired, and resigned Associate Justices, are on exhibit near the Building's front entrance under the main steps. Portraits of past Chief Justices have not been transferred to the new area, remaining in the conference rooms on the main floor. Two exhibit cases containing historic items about the Court and its members also form part of the collection on the ground floor.

A.O. — F.J.C. CALENDAR

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|------------|--|
| Jan. 10-12 | Seminar for Part-Time Magistrates, San Francisco, Calif. |
| Jan. 13-15 | Metropolitan Judges Meeting (Speedy Trial) at the F.J.C. Washington D.C. |
| Jan. 14-15 | Criminal Rules Committee, at A.O., Washington, D.C. |
| Jan. 15 | Advisory Committee on Probation, at the F.J.C., Washington, D.C. |
| Jan. 17-19 | Criminal Law Committee, at A.O., Washington, D.C. |

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- Jan. 21-22 Jury Committee, at A.O., Washington, D.C.
- Jan. 22-23 Pilot Institute for Official Court Reporters, at F.J.C., Washington, D.C.
- Jan. 24-28 Orientation Course for U. S. Probation Officers, at F.J.C., Washington, D.C.
- Jan. 26-29 Bankruptcy Rules Committee, at F.J.C. Washington, D.C.
- Jan. 31-Feb. 1 Court Administration Committee, New Orleans, La.
- Feb. 7-11 Short Course for Probation Officers, Chicago, Ill.
- Feb. 7-10 Regional Seminar for Courtroom Deputy Clerks, Santa Monica, Calif.
- Feb. 11 Criminal Justice Act Committee, at A.O., Washington, D.C.
- Feb. 14 Bankruptcy Committee, at F.J.C., Washington, D.C.
- Feb. 17-18 Regional Seminar for Referees in Bankruptcy, New Orleans, La.
- Feb. 22-26 Seminar for Part-Time Magistrates, Denver, Colo.
- Apr. 3-15 Seminar for Newly Appointed U.S. District Judges, at the F.J.C., Washington, D.C.
- Apr. 25-28 Fifth Circuit Conference, Desota Hotel, Savannah, Ga.

PERSONNEL

Appointment

Earl E. O'Connor, U.S. District Judge, Dist. of Kans., Nov. 10

Confirmations

Lewis F. Powell, Jr., Associate Justice, U.S. Supreme Court, Dec. 6.
 William H. Rehnquist, Associate Justice, U.S. Supreme Court, Dec. 10
 Anthony A. Alaimo, U.S. District Judge, South. Dist. of Ill., Dec. 2
 Charles M. Allen, U.S. District Judge, West. Dist. of Ky., Nov. 23
 J. Blaine Anderson, U.S. District Judge, Dist. of Idaho, Dec. 4
 Arnold Bauman, U.S. District Judge, South. Dist. of N.Y., Dec. 11
 Levin H. Campbell, U.S. District Judge, Dist. of Mass., Nov. 23
 Leroy J. Contie, Jr., U.S. District Judge, North. Dist. of Ohio, Dec. 1
 Richard A. Dier, U.S. District Judge, Dist. of Nebr., Dec. 6
 Thomas A. Flannery, U.S. District Judge, Dist. of Col., Dec. 1
 Leo P. Gagliardi, U.S. District Judge, South. Dist. of N.Y., Dec. 11
 Alfred T. Goodwin, U.S. Circuit Judge, 9th Cir, Nov. 23
 Clifford Scott Green, U.S. District Judge, East. Dist. of Pa., Dec. 4
 Kenneth K. Hall, U.S. District Judge, South. Dist. of W.Va., Dec. 1
 William Terrell Hodges, U.S. District Judge, Middle Dist. of Florida, Dec. 8
 James S. Holden, U.S. District Judge, Dist. of Vt., Nov. 23
 Shiro Kashiwa, Associate Judge, U.S. Court of Claims, Dec. 2
 Richard W. McLaren, U.S. District Judge, North. Dist. of Ill., Dec. 3
 Clarence C. Newcomer, U.S. District Judge, East. Dist. of Pa., Nov. 23
 Jon O. Newman, U.S. District Judge, Dist. of Conn., Dec. 11
 Charles B. Renfrew, U.S. District Judge, North. Dist. of Calif., Dec. 2
 Ralph F. Scalera, U.S. District Judge, West. Dist. of Pa., Nov. 23
 Morell E. Sharp, U.S. District Judge, West. Dist. of Wash., Dec. 2
 Bruce Van Sickle, U.S. District Judge, Dist. of North Dakota, Dec. 10

Supporting Personnel

Appointments

William D. Graves, U.S. Probation Officer, Dist. of Colo., Nov. 15
 Dominick Lijoi, U.S. Probation Officer, North. Dist. of Ohio, Nov. 15
 Edward H. Patton, Jr., Referee in Bankruptcy, South. Dist. of Tex., Nov. 15
 James A. Peyton, U.S. Probation Officer, East. Dist. of Pa., Nov. 10
 Joseph Stambuli, Jr., U.S. Probation Officer, Dist. of N.J., Nov. 15
 Glen W. Vaughan, U.S. Probation Officer, West. Dist. of Mo., Nov. 15

Retirements

Genevieve M. Barr, Clerk, U.S. District Court, West. Dist. of Pa., Nov. 30
 Thomas E. Rhodes, Clerk, U.S. District Court, West. Dist. of N.C., Nov. 30

Death

Frank M. Scarlett, U.S. Senior District Judge, South. Dist. of Ga., Nov. 18

Season's Greetings from All of Us to All of You

THE THIRD BRANCH
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