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Lewis W. Morse

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FEDERAL JUDICIARY ADMINISTRATION
FEDERAL JUDICIAL CONFERENCES AND COUNCILS:
THEIR CREATION AND REPORTS

LEWIS W. MORSE†

The Beginnings of the Lower Federal Court System

Under the United States Constitution the federal judicial power was placed in "one Supreme Court and such inferior courts as the Congress may from time to time ordain and establish."¹ Pursuant to this authority Congress enacted the Judiciary Act of September 24, 1789,² which created the United States Supreme Court with six justices, and divided the United States into thirteen districts, which were then grouped into three circuits. In each district there was a district court presided over by one judge. Two circuit courts were required to be held annually in each district by any two Supreme Court justices and the district judge, a quorum consisting of any two of them. The Supreme Court justices were required to do considerable traveling in order to attend the prescribed circuit courts, a process commonly called "riding the circuit." When one considers the mode of travel of this early period, the extreme hardship endured by these traveling circuit justices can be readily appreciated. In addition to traveling on circuit, they had to sit at a full term on the bench in Washington. Probably because of complaints by the justices of these burdens, the Congress by Act of March 2, 1793,³ provided that thereafter the attendance of only one Supreme Court justice was necessary to hold a circuit court.

With the addition of states to the Union, the number of districts necessarily was increased, and the circuits were rearranged into six in 1802.⁴ Each justice of the Supreme Court was assigned to a circuit, to sit with the district judge of the district where a circuit court was to be held. A single judge was permitted to hold court.

In 1807 a seventh circuit was added and the membership of the Supreme

†The author expresses grateful acknowledgment to the following for their kind assistance in order that this article might be accurate and complete: Frank A. Celentano, former Cornell Law School student who is now in the United States Army Air Corps; Ronald E. Coleman, recent graduate of the Cornell Law School; Albert W. Shupienis, Attorney in the Audit Section of the Administrative Office of the United States Courts, Washington, D. C.

¹U. S. CONST., Art. III, § 1.

²1 STAT. 73 (1789).

³1 STAT. 333 (1793).

⁴2 STAT. 156 (1802).

Court increased to seven.⁵ In 1837, membership was increased to nine and an equal number of circuits established.⁶ To further relieve the circuit riding of the Supreme Court justices, it was provided by the Act of June 17, 1844,⁷ that they need attend but one term of circuit court a year.

At first, the district and circuit court system included the District of Columbia;⁸ but in 1863 the District of Columbia was given its own local system of courts.⁹

Ten Supreme Court justices and a tenth circuit were provided for in an Act of March 3, 1863.¹⁰ In 1866 further alteration occurred when the number of justices was fixed at seven, but the judicial circuits were reduced only to nine.¹¹ The number of justices once again became nine by the Act of April 10, 1869;¹² and at the same time provision was made for the appointment of a "circuit judge" for each of the nine circuits. It was also provided that the circuit court could be held by the circuit justice allotted to the circuit, or by the circuit judge of the circuit, or by the district judge of the district sitting alone, or by any two of them. The required attendance of the circuit justices was further reduced to but one term of circuit court every two years. Since the circuit justices had more than they could handle in the rapidly growing docket of the Supreme Court, the provision for the "circuit judge" must have been welcome relief to them.

In 1891¹³ provision was made for the appointment of an additional circuit judge in each circuit, and a new court called the "Circuit Court of Appeals" was created in addition to the circuit courts and district courts. The new court was composed of three judges, of whom two constituted a quorum. The circuit justice, the circuit judges and the several district judges within each circuit were competent to sit on the court. The Circuit Court of Appeals was vested with exclusively appellate jurisdiction, and though the circuit courts were divested of their appellate jurisdiction they retained their original jurisdiction along with the district courts. This condition of having two courts of first instance in the federal judicial system, with concurrent jurisdiction in most cases, continued until the adoption of the

⁵2 STAT. 420 (1807).

⁶5 STAT. 176 (1837).

⁷5 STAT. 676 (1844).

⁸2 STAT. 156 (1802); 2 STAT. 390 (1806); 3 STAT. 261 (1816); 3 STAT. 576 (1820); 3 STAT. 611 (1820); 3 STAT. 785 (1823).

⁹12 STAT. 762 (1863).

¹⁰12 STAT. 794 (1863).

¹¹14 STAT. 209 (1866), 28 U. S. C. § 211 (1935).

¹²16 STAT. 44 (1869).

¹³26 STAT. 826 (1891).

Judicial Code, which abolished the circuit courts effective January 1, 1912.^{13a}

Provision was also made in the Judicial Code for the creation of a tenth judicial circuit.¹⁴ Recognition as an eleventh judicial circuit is generally accorded the District of Columbia as a result of the Act of July 5, 1937,¹⁵ which provided for the representation of the United States Court of Appeals for the District of Columbia on the annual conference of senior circuit judges.¹⁶ The membership of the circuit courts of appeals has been increased from time to time so that now there are at least three circuit judges on each court, and two are composed of seven judges. Although the Supreme Court justices continue to be allotted to the circuits and are competent along with district judges to sit on the circuit courts of appeals,¹⁷ they rarely if ever do so. "Riding the circuit" is a thing of the past. District judges, however, are frequently called upon to sit on the appellate court.

Movement for the Improvement of Judicial Administration

Growing out of increasing dissatisfaction over the long delays and high costs of litigation, numerous pre-war and post-war movements were organized to bring about desirable reforms in the administration of justice. One of these was the movement for the creation of judicial councils to study and disseminate information concerning the judicial business of the various states and to organize the judgepower of each so that it might be utilized to the best advantage. This reform movement extended to the federal courts; one of the most energetic proponents of an improved federal procedure was ex-President, and later Chief Justice, Taft.¹⁸ When he became Chief Justice in 1921 his advocacy of judicial reform was continued with renewed vigor, and during the pendency before Congress of the bill which embodied the idea of an annual conference in Washington of the federal senior circuit judges, he made strong appeals for its enactment.¹⁹ Due in large part, no doubt, to the energetic support of Chief Justice Taft, Congress passed the Act of September 14, 1922,²⁰ and thus cleared the paths to new fields in federal judicial administration.

^{13a}36 STAT. 1087 (1911); 36 STAT. 1167 (1911).

¹⁴36 STAT. 1131, § 116 (1911).

¹⁵50 STAT. 473 (1937), 2 U. S. C. § 218 (Supp. 1941).

¹⁶50 STAT. 473 (1937), 28 U. S. C. § 218 (Supp. 1941); 53 STAT. 1205 (1939), 28 U. S. C. § 375e (Supp. 1941).

¹⁷36 STAT. 1131, 1132 (1911), 28 U. S. C. §§ 215, 216 (1935).

¹⁸Taft, *The Attacks on Courts and Legal Procedure* (1916) 5 KY. L. J. 13-16.

¹⁹Taft, Informal Address (1921) 46 A. B. A. REP. 561; Taft, *Three Needed Steps of Progress* (1922) 8 A. B. A. J. 34; Taft, *Possible and Needed Reforms in Administration of Justice in Federal Courts* (1922) 8 A. B. A. J. 601.

²⁰42 STAT. 838 (1922), 28 U. S. C. § 218 (1935).

Conference of Senior Circuit Judges

The Act of 1922 provided for many new judgeships to relieve congestion in the federal courts, but its most important provision was that which set up the conference of senior circuit judges, to meet annually in Washington under the chairmanship of the Chief Justice of the United States.

The statutory provisions of the Act of 1922 creating the conference of senior circuit judges, as amended in 1937,²¹ in general provide that it shall be the duty of the Chief Justice of the United States, or in case of his disability, of one of the other justices of the Supreme Court in order of seniority, annually to summon on the first Monday of each September a conference of the senior circuit judges at Washington, or at any other place or time designated by him. In case any senior circuit judge cannot attend, the Chief Justice or justice calling the conference may summon any other circuit or district judge from that circuit. The Act also provides that the senior district judge of each district court shall prepare and submit to the senior circuit judge a report setting forth the condition of the business in his district, to be presented to the conference by the senior circuit judge, together with recommendations.

There have been twenty-two sessions of this conference. Two of these were special sessions held in 1940 and 1941 in addition to the annual sessions as a result of the increased responsibilities of the conference growing out of the creation of the Administrative Office of the United States Courts in 1939,²² over which the conference acts in a capacity similar to that of the board of directors of a corporation.^{22a}

Composed of the senior circuit judges of the ten federal circuits and the chief justice of the United States Court of Appeals for the District of Columbia, the conference is now held each fall in Washington, D. C., and is presided over by the Chief Justice of the United States. The first two sessions of the conference were held on December 28, 1922, and September 26, 1923. What purports to be an official memorandum of these two meetings is reported in the *Texas Law Review*.²³ The 1924 Annual Report of the Attorney General of the United States includes as addenda the recommendations of the conference made at its 1924 session; his 1925 report contains a seemingly complete copy of the recommendations of the conference

²¹See *supra* note 15 and text thereto.

²²53 STAT. 1223-1225 (1939), 28 U. S. C. §§ 444-450 (Supp. 1941).

^{22a}For a full treatment of the Administrative Office, see Mr. Chandler's article *infra*, p. 364.

²³(1924) 2 TEX. L. REV. 458-463.

at its meeting in 1925, and a complete text of the reports of the conferences for each session through 1940 are carried in subsequent annual reports. Apparently beginning with the 1925 session the reports of meetings of the conference were printed in pamphlet form, but except for the most recent years pamphlet copies are no longer available. With the creation of the Administrative Office of the United States Courts in 1939, the reports of the proceedings of the conference are included in the annual reports of the Director of that office, who became the administrative officer for the federal judiciary. Sources of pertinent data containing the sessions and reports of the conferences since its creation are tabulated in the footnote.²⁴

The conferences not only furnish an opportunity for exchange of information, but also consider the manner in which the work of the courts is actually performed in the various districts along with the judicial needs of the country. And, since the creation of the Administrative Office, consideration is given to the numerous questions that arise in relation to the work of that office and matters of policy are decided for its guidance. The 1922 Act²⁵ authorized the Chief Justice to request the Attorney General to report to the conference on matters relating to the business of the courts, and the Attorney General was invited to attend each annual session and make such recommendations as he deemed appropriate. Although the Director of the Administrative Office is now charged with making such report, the Attorney General is nevertheless invited to appear at the opening of the conference and present matters he considers suitable for the consideration of the conference. On the basis of the reports made by the Attorney General, the Director, and the several senior circuit judges, the conference devotes a large part of its proceedings to a discussion of the state of the judicial business in the country and the need for additional judicial assistance. This may result in recommendations to the Congress for provision of additional circuit or district court judgeships or for the removal of existing statutory provisions which prohibit the appointment of successors in certain judgeships; it may result in the preparation of plans for the assignment and transfer of judges to or from particular circuits or districts where need therefor is indicated and judges may be temporarily spared from the demands of their own courts.

In general, the discussions have dealt with problems of mutual interest to the judges,²⁶ a few of which problems are here mentioned to indicate their

²⁴See *infra* p. 352.

²⁵42 STAT. 838 (1922), 28 U. S. C. § 218 (1935).

²⁶With reference to work of the Conference of Senior Circuit Judges, see Cummings, *The Value of Judicial Conferences in the Federal Circuits* (1938) 24 A. B. A. J. 979.

24 Footnote

Reports of Conferences of Senior Circuit Judges	U. S. Attorney General's Annual Report	Annual Report of the Director of the Administra- tive Office of the U. S. Courts	Journal of the American Bar Association	Other Sources
1922, Dec. Sess. 2 p.			V. 9, p. 7	2 TEX. L. REV. 458-63
1923, Sept. Sess. 5 p.			V. 10, p. 875	2 TEX. L. REV. 458-63
1924, Oct. Sess. 2 p.	1924, p. I-II		V. 11, p. 453	
1925, June Sess. 6 p.	1925, p. 5-8		V. 12, p. 687	
1926, Sept. Sess. 6 p.	1926, p. 5-10			
1927, Sept. Sess. 7 p.	1927, p. 3-8			
1928, Sept. Sess. 3 p.	1928, p. 3-5			
1929, Oct. Sess. 6 p.	1929, p. 2-7			
1930, Oct. Sess. 6 p.	1930, p. 4-8		V. 14, p. 629	
1931, Oct. Sess. 15 p.	1931, p. 4-12		V. 16, p. 12	
1932, Oct. Sess. 12 p.	1932, p. 6-12		V. 16, p. 693	
1933, Sept. Sess. 8 p.	1933, p. 2-6		V. 18, p. 843	
1934, Sept. Sess. 8 p.	1934, p. 2-6		V. 18, p. 824	
1935, Oct. Sess. 8 p.	1935, p. 3-7		V. 19, p. 622	
1936, Oct. Sess. 8 p.	1936, p. 4-8		V. 20, p. 713	
1937, Sept. Sess. 12 p.	1937, p. 12-19		V. 21, p. 731	
1938, Sept. Sess. 14 p.	1938, p. 16-25		V. 22, p. 818	
1939, Sept. Sess. 12 p.	1939, p. 12-20		V. 24, p. 75	
1940, Jan. Sp. Sess. 6 p.	1940, p. 14-17	1940, Jan. Sp. Sess. p. 139-142	V. 24, p. 905	
1940, Oct. Sess. 24 p.	1940, p. 18-33	1940, Oct. Sess. p. 1-16	V. 25, p. 930	
1941, Jan. Sp. Sess. 14 p.	1941, p. 19-27	1941, Jan. Sp. Sess. p. 167-175	V. 26, p. 884	
1941, Sept. Sess. 19 p.	1941, p. 27-42	1941, Sept. Sess. p. 1-14	V. 27, p. 183	
			V. 27, p. 728	

nature. From time to time, the conference has made recommendations for legislation such as that dealing with the appointment of public defenders for the federal courts. In 1937, the conference adopted a resolution suggesting an amendment of § 25 of the Bankruptcy Act.²⁷ It has called upon the Attorney General in certain cases to oppose legislation before Congress affecting the federal courts.

The conference has dealt with the problem of distribution of law books to judges and court libraries. Appropriations and suggestions as to distribution of books have been made in order to prevent undue delays in the handing down of decisions due to the fact that the judges had to send for the necessary books. The Attorney General has from time to time discussed before the conference problems affecting the administration of justice; for example, in 1938, the disparity between sentences in criminal cases imposed in different districts by different judges for practically the same offense committed under similar circumstances, was considered.²⁸ The conference then recommended that the senior judge in each circuit should make the subject a matter of careful consideration in consultations with district judges so that the disparity in sentences should be removed so far as practicable.

A committee appointed at the 1938 conference to study uniformity in regard to district court rules made its report in 1940.²⁹ It was resolved that the conference request district judges and rules committees to give consideration to the report with the view of arriving at such uniformity throughout the nation as might be found feasible.

Requests have been made to the Supreme Court to change the Rules of Practice and Procedure in criminal cases, as, for example, the recommendation to amend the rules so as to conform the practice relating to records on appeal in criminal cases to the practice provided for by the Rules of Civil Procedure.³⁰ The conference has discussed the rearrangement of boundaries of the circuits, and in 1937 a committee was appointed to co-operate with committees of the Senate and House of Representatives in a study of the organization and operation of federal courts. The conference has also concerned itself with such subjects as federal indeterminate sentence law,³¹ and the standards of qualifications of probation officers.³²

²⁷(1937) Rep. Att'y Gen. 17.

²⁸(1938) Rep. Att'y Gen. 24.

²⁹(1940) Rep. Att'y Gen. 28.

³⁰(1939) Rep. Att'y Gen. 19.

³¹(1940) Rep. Att'y Gen. 27.

Appointments and salaries of official court reporters and of stenographers and law clerks to judges have come in for their share of discussion.

Judicial Conferences within the Circuits

The senior circuit judges attending the annual conferences in Washington pursuant to the Act of 1922 early became impressed with the opportunities for improvement in the local administration of justice which would be afforded by a calling together of the federal judges within the respective circuits. Such circuit conferences were subsequently held in both the Sixth and Eighth judicial circuits. In 1930, the Conference of Senior Circuit Judges stated in the report of its proceedings that it considered it feasible under the existing laws to hold conferences of the federal judges in each circuit for the consideration of local problems of administration, and it adopted a resolution approving the policy.³³ In its 1931 report, the conference referred to its previous statement and said that the several circuit conferences which had been held demonstrated their usefulness, and it recommended that they be held annually if possible.³⁴ In the report of its 1932 session, the conference again referred to the subject of circuit conferences and made the following statement:

"Circuit Conferences.—The report of Circuit Judges with respect to Circuit Conferences which have been held during the past year in several Circuits confirms the view of their utility. A Circuit Conference serves to bring together all the Federal Judges of the Circuit and thus to give opportunity for the consideration of problems with which they are confronted in seeking to eliminate obstructions to the prompt and efficient administration of justice in the several districts. It may be that these local conferences are not as necessary in Circuits that are relatively of small area, with large centers of population, in which Federal Judges are brought into almost constant contact. In large portions of the country the District Judges have no such contact with each other or with Circuit Judges, and annual Circuit Conferences should be most helpful. It is strongly recommended that such conferences be held wherever feasible."³⁵

Impelled by Attorney General Cummings' zealous advocacy of a judiciary entirely separate from the executive,³⁶ and supported by the careful study

³²(1940) Rep. Att'y Gen. 26.

³³(1930) Rep. Att'y Gen. 7.

³⁴(1931) Rep. Att'y Gen. 11.

³⁵(1932) Rep. Att'y Gen. 12.

³⁶Cummings, *The Value of Judicial Conferences in the Federal Circuits* (1938) 24 A. B. A. J. 979.

and indorsement of the Conference of Senior Circuit Judges,³⁷ legislation was enacted on August 7, 1939,³⁸ which contained a provision for annual conferences within each circuit as follows:

"A conference shall be held annually in each judicial circuit at such time and place, as shall be designated by the senior circuit judge thereof, which conference shall be composed of circuit and district judges in such circuit who reside within the continental United States, with participation in such conference on the part of members of the bar under rules to be prescribed by the circuit courts of appeals, for the purpose of considering the state of the business of the courts and advising ways and means of improving the administration of justice within the circuit."³⁹

The subjects treated at such conferences follow no particular pattern. They furnish a place where the senior circuit judge may present the problems considered and recommendations made at the national conference. Local and general problems concerning improvements in the administration of the courts are discussed, and the senior circuit judge is often instructed to present the conference's resolutions and views to the national conference for its consideration and action. Each conference thereby provides an excellent opportunity for the senior judge to acquaint himself with the problems of the judges in his circuit and to consider with them the steps necessary to bring about improvements. Originally such conferences dealt largely with a study of the congestion of dockets and transfer of judges, but they have gradually expanded to a consideration of the general needs of the circuit.

Even before the enactment in 1939 providing for annual conferences in the circuits, Hon. John J. Parker, Senior Circuit Judge of the Fourth Circuit, was one of the foremost in the development of the circuit conferences.⁴⁰ Early in the Fourth Circuit conferences, it was realized that the objectives could best be attained if members of the bar were invited. Members of the bar have since come to take an active part in the deliberations in the conferences of all the various circuits. In the Fourth Circuit⁴¹

³⁷(1939) Rep. Att'y Gen. 17.

³⁸53 STAT. 1223-1225 (1939), 28 U. S. C. §§ 444-450 (Supp. 1941).

³⁹53 STAT. 1224, § 307 (1939), 28 U. S. C. § 449 (Supp. 1941).

⁴⁰Parker, *Schools of Jurisprudence in Federal System* (1939) 23 J. AM. JUD. SOC. 5.

⁴¹United States Circuit Court of Appeals, Fourth Circuit, Special Rule—Judicial Conference:

(a) There shall be held each year at the Asheville term of this Court a Conference of all of the Circuit and District judges of the Circuit for considering the state of business in the various Districts, for devising means for relieving congestion of dockets where this may be necessary, for improving procedure in the courts and for exchanging ideas

the first day of the conference, attended only by judges, ordinarily is given over to a consideration of the condition of judicial business in the several districts. The members of the bar and other groups participate on the second and third days of the conference, a procedure which appears typical of the conferences held in other circuits.

Speakers invited to the conferences and papers there presented deal with subjects such as the federal probation system, amendments to the Bankruptcy Act, current federal legislation, the rule-making power in civil cases, extension of the rule-making power to criminal procedure, the lack of uniformity in criminal sentences, procedures in district courts, pretrial procedure, defense of indigent persons accused of crime, standardizing of jury instructions, relations between bench and bar, and judicial review of administrative action. The proceedings rarely appear in printed form, but mimeographed copies of addresses or reports made at the conferences are sometimes available.⁴²

with respect to the administration of justice. It shall be the duty of every Judge of the Circuit to attend such Conference.

(b) The first day of the Conference shall be for the Judges alone and shall be devoted to a discussion of matters affecting the state of the dockets and the administration of justice in their respective Districts. Members of the Bar to be chosen as set forth in the succeeding paragraph shall be members of the Conference and shall participate in its discussions and deliberations on the second and third days.

(c) Members of the Conference from the Bar shall be composed of the following:

(1) The Presidents of the State Bar Associations of the States of the Circuit, and five delegates from each of such State Bar Associations to be appointed by the President thereof.

(2) All United States Attorneys of the Circuit.

(3) One representative of each Grade A Law School within the Circuit.

(4) Lawyers of the Circuit appointed as Members of the Conference by the Circuit Judges. Each Circuit Judge shall annually appoint three lawyers as Members of the Conference for that year.

(5) Members of Committee on Rules and Procedure appointed by District Judges. Each District Judge shall appoint two members of a Committee on Rules and Procedure to serve within his District for a period of three years, and all such committee members shall during their periods of service be Members of the Conference.

If any State Bar Association President or District Judge shall fail, upon request, to appoint the delegates or members of committees which he is herein designated to appoint, the Senior Circuit Judge of the Circuit shall make such appointments.

(d) The Clerk of this Court shall be Secretary of the Conference and shall make and preserve an accurate record of its proceedings.

January 15, 1938.

(Signed)

John J. Parker
Senior Circuit Judge
Elliott Northcott
U. S. Circuit Judge
Morris A. Soper
U. S. Circuit Judge

⁴²For a list of the conferences in each judicial circuit and their reports, see the appendix *infra* p. 359.

It appears that not only the work of the various circuits has been unified and many problems of administration solved in these conferences, but a better understanding between bench and bar has been secured, a real study of the problems of procedural reform has been carried forward, and worthwhile improvements in the administration of justice have been accomplished.

Conferences of this type possess unlimited possibilities. They can be used to discuss recommendations to and from the national conference. It is a very satisfactory way to bring to the attention of the judges undue delays in the conduct of litigation. Comparative statistics dealing with criminal sentences can be studied with the avowed purpose of reducing any disparities between sentences by different judges for the same crimes. The conferences always have administrative problems in regard to court house facilities libraries, personnel, and the need for additional judges in congested areas. Through these conferences the courts have gotten away from those defects in the administration of federal justice which can be traced to the fact that the courts were operating without sufficient statistical information, without comparative data, without co-ordination, isolated from new ideas and valuable experiences developed in other sections of the country.

Councils of Circuit Judges

The Act of August 7, 1939, also contained a provision which set up in each circuit a council composed of the circuit judges in the circuit and charged it with the duty of supervising the work of the district courts to the end that it is effectively and expeditiously transacted. The directions of the council, which must meet at least twice a year, are to be promptly executed by the district judges. The quarterly reports of the Director of the Administrative Office of the United States Courts with respect to the condition of the dockets of the various courts, their needs for assistance, if any, and statistical data concerning business transacted are to be considered at these council meetings and such action taken as may be deemed necessary by the council to correct procedural defects and to expedite the work of the courts. The complete provision reads as follows:

“To the end that the work of the district courts shall be effectively and expeditiously transacted, it shall be the duty of the senior circuit judge of each circuit to call at such time and place as he shall designate, but at least twice in each year, a council composed of the circuit judges for such circuit, who are hereby designated a council for that purpose, at which council the senior circuit judge shall preside. The senior judge shall submit to the council the quarterly reports of the Director (of the Administrative Office of the United States Courts) required to be filed by the provisions of section 304, clause (2) of the Judicial Code—

28 U. S. C. 446 (2)), and such action shall be taken thereon by the council as may be necessary. It shall be the duty of the district judges promptly to carry out the directions of the council as to the administration of the business of their respective courts. Nothing contained in this section shall affect the provisions of existing law relating to the assignment of district judges to serve outside of the districts for which they, respectively, were appointed."⁴³

The functions and duties of the councils of circuit judges are supervisory in nature. There is no prescribed time for their meetings, which are held at least twice a year; in a few of the circuits of relatively small area, the circuit judges are for the most part in constant touch with each other and so get together frequently to hold councils. In some circuits these councils are very informal while in others they follow a fixed procedure. Because their operations are mostly behind the scenes, the public seldom if ever hears of the meetings. The minutes of their proceedings are confidential and not published, although the chairman of the council may make a public statement if the circumstances warrant.

As a further step in reforming judicial administration, the 1939 Act also provided the federal judiciary with its own administrative officer by establishing a new office called the "Administrative Office of the United States Courts," which is discussed at length by the Honorable Henry P. Chandler, Director of the office, in the article following.

The establishment of the Administrative Office as a branch of the judicial department of the government represents a notable advance in the administration of justice if for no other reason than that it resulted in the removal of the control of the executive department over such administration. The Judicial Conference of Senior Circuit Judges, through its supervision and direction of the Administrative Office, has had its powers and duties greatly enlarged and now has the immediate responsibility for supervising the conduct and dispatch of the work of the courts, except the Supreme Court. A greater sense of local responsibility for management of the affairs of the courts is fixed through the judicial councils and the circuit conferences of the respective judicial circuits. These advances in judicial reform are already returning dividends in the form of a co-ordinated and more efficient system in which local and general procedural defects are being remedied, improved facilities and procedures are being provided, and the dispatch of the judicial work is becoming progressively more expeditious. It would seem that there is rich promise in the future of the administration of justice in the federal judicial system.

⁴³53 STAT. 1224 (1939), 28 U. S. C. § 448 (Supp. 1941).

APPENDIX

As far as can be ascertained, the following is a complete list of conferences which have been held in each of the judicial circuits:

FIRST CIRCUIT:

1st Annual Conference, Boston, Mass., Nov. 26-27, 1940. No proceedings published. Principal addresses are printed in 21 BOSTON U. L. R. 1-47. The address of the Hon. Francis Biddle was informal and no report of it was made.

2nd Annual Conference, Boston, Mass., Nov. 25-26, 1941. No proceedings published.

SECOND CIRCUIT:

1st Annual Conference, New York City, June 24 and 25, 1940. No proceedings published.

2nd Annual Conference, New York City, June 26, 1941.

"No accounts of the annual conferences in this circuit have been published, nor is it expected that any will be published." (Letter from D. E. Roberts, Clerk, Aug. 20, 1941).

THIRD CIRCUIT:

1st Annual Conference, Atlantic City, New Jersey, Sept. 22, 23 and 24, 1938. No proceedings published.

2nd Annual Conference, Atlantic City, New Jersey, Sept. 21, 22 and 23, 1939. No proceedings published.

3rd Annual Conference, Atlantic City, New Jersey, Sept. 26-28, 1940. No proceedings published.

4th Annual Conference, Atlantic City, New Jersey, Sept. 18-20, 1941.

"Our court has not published any report of its proceedings at the judicial conferences for the Third Circuit, and I have had no intimation so far, that they intend doing so." (Letter from William P. Rowland, Clerk, August 16, 1941.)

FOURTH CIRCUIT:

1st Judicial Conference, Asheville, N. C., June 15 and 16, 1931. Minutes never printed. Addresses: "Some Problems of Procedure and Suggested Reforms," 17 A.B.A. J. 495, by Hon. Ernest F. Cochran; Hon. George W. McClintic, "Probation," 17 A.B.A. J. 589.

2nd Judicial Conference, Asheville, N. C., June 9-12, 1932. Minutes printed, 30 pages. Article: "Chief Justice Hughes Addresses Judicial Conference of Fourth Circuit," 18 A.B.A. J. 445.

3rd Judicial Conference, Asheville, N. C., June 12-14, 1933. Minutes printed, 23 pages.

4th Judicial Conference, Asheville, N. C., June 7-9, 1934. Minutes printed, 50+ii+30 pages.

5th Judicial Conference, Asheville, N. C., June 6-8, 1935. Minutes printed, 175 pages. Summary of proceedings in 21 A.B.A. J. 397.

6th Judicial Conference, Asheville, N. C., June 4-5, 1936. Summary of proceedings published in 22 A.B.A. J. 444.

7th Judicial Conference, Asheville, N. C., June 10-12, 1937. A summary of proceedings is published in 23 A.B.A. J. 662.

8th Judicial Conference, Asheville, N. C., June 2-4, 1938. No proceedings published.

9th Judicial Conference, Asheville, N. C., June 8-10, 1939. Summary of proceedings in 25 A.B.A. J. 565.

10th Judicial Conference, Asheville, N. C., June 20-22, 1940. Proceedings not printed. Addresses: Hon. Armistead M. Dobie, "Use of Pre-Trial Practice in Rural Districts," 1 Fed. Rules Dec. 371; Hon. Morris A. Soper, "The Charge to the Jury," 1 Fed. Rules Dec. 540; Hon. Matthew F. McGuire, "Administration of Federal Justice Under the New Federal Rules of Civil Procedure," 1 Fed. Rules Dec. 583; Hon. Henry P. Chandler, "Administrative Office of the United States Courts," 1 Fed. Rules Dec. 610; 26 A.B.A. J. 723.

11th Judicial Conference, Asheville, N. C., June 19-21, 1941. Proceedings not printed. Addresses: Hon. Johnson J. Hayes, "Pre-Trial Conferences" (mimeographed, 5 pages); Hon. Harry E. Watkins, "Selecting Jurors" (mimeographed, 10 pages); Prof. E. F.

Morgan, "The Code of Evidence" (mimeographed, 37 pages) and discussion (33 pages).

"The proceedings in 1940 and 1941 were not published in printed form and we do not contemplate publishing the reports of the conferences. Two typewritten copies of the annual meetings are made and put in bound form as a record of the proceedings of our conferences." (Letter from Claude M. Dean, Clerk, Aug. 18, 1941).

FIFTH CIRCUIT:

1st Conference, New Orleans, La., April 29-30, 1932. Printed report of proceedings, 15 pages.

2nd Conference, New Orleans, La., May 22-23, 1939. Printed report of proceedings, 48 pages. Addresses: Hon. Thomas M. Kennerly, "Pre-Trial Hearings under Rule 16," 1 Fed. Rules Dec. 185; Hon. Rufus E. Foster, "Criminal Appeals Rules," 1 Fed. Rules Dec. 261.

3rd Conference, New Orleans, La., May 23-24, 1940. Printed report of proceedings, 19 pages.

4th Conference, New Orleans, La., May 23-24, 1941. Printed report of proceedings, 25 pages.

SIXTH CIRCUIT:

In reply to a letter asking if there were any annual conferences of the U. S. Circuit Court Judges in the Sixth Circuit between the years 1922 and 1940, Hon. Arthur C. Denison, formerly Senior Circuit Judge (resigned 1932), Sixth Circuit, writes as follows under date of January 27, 1942:

"I first attended the conference of Senior Circuit Judges in 1924, and thought it would be a good thing to have an annual conference of Circuit and District Judges in each Circuit. A doubt arose in my mind as to whether the District Judges could get their travel and other expenses for such a meeting. I submitted that question to Attorney General Stone, who saw no objection. This must have been early in 1925. Accordingly, I arranged for the first conference, held in June, 1925, at Cincinnati. It is my recollection that nearly all the District Judges (then 12 in number) attended for two days. There was no regular program, nor any paper read,—only informal discussion as to problems and what different ones had done.

"These conferences at Cincinnati were continued and held at Cincinnati every year to and including 1931,—my last year as Senior Circuit Judge. I think they were continued a year or two under my successor, Judge Moorman, and then dropped. As at first, they were informal, and no record was made, much less published.

"At the Washington Conference of Senior Circuit Judges in 1925, I told several (if not all) of the others about the plan. It is my recollection that Judge Hough (2nd Circuit) thought it unnecessary there because nearly all the judges were in close association in New York. Judge Stone (8th Circuit—then much larger than now) at some later Conference thought the time and travel expense would make it impracticable there. I do not remember about the others at that time.

"I remember, too, discussing it with Judge Parker (4th Circuit) and that he thought well of it. This was doubtless at the first Washington conference he attended. I don't know when that was, but the records of those conferences would show. It must have been substantially later than 1926, because his predecessor as Senior Circuit Judge (Judge Waddill, Richmond) continued to represent that Circuit for some time after that date (I think). I am thus particular because some publications I have seen have assumed that the Circuit conferences were originated in the Fourth Circuit. When the plan was adopted there, it was made more formal, and probably more effective, than it had been in the Sixth, but whatever credit there may be for being the 'original and first inventor', belongs to the Sixth."

1st Annual Conference, Cincinnati, Ohio, Jan. 12-13, 1940. No printed report. Addresses: Hon. Fred M. Raymond, "Keeping up with the Docket," 26 A.B.A. J. 242; Hon. H. Church Ford, "Federal Rules of Civil Procedure: Pleadings, Motions, Parties and Pre-Trial Procedure," 1 Fed. Rules Dec. 315.

2nd Annual Conference, Detroit, Mich., May 19-20, 1941. No printed report. Address: Hon. George E. Brand, "Local District Court Rules" (mimeographed, 42 pages).

SEVENTH CIRCUIT:

1st Annual Conference, Chicago, Ill., Dec. 15-16, 1939. No printed report.

2nd Annual Conference, Chicago, Ill., Dec. 13-14, 1940. No printed report.

3rd Annual Conference, Chicago, Ill., Dec. 12-13, 1941. No printed report.

"None of the proceedings of the judicial conference held in this Circuit have been printed or published. So far as I know it is not contemplated that they be printed or published." (Letter from Kenneth J. Carrick, Clerk, June 17, 1941.)

EIGHTH CIRCUIT:

Conference held at Kansas City, Missouri, January 3, 1930.

Conference held at Kansas City, Missouri, January 2, 1931.

Conference held at Kansas City, Missouri, January 4 and 5, 1932.

Conference held at Kansas City, Missouri, December 27-28, 1934. Summary of proceedings in 21 A.B.A. J. 69.

Conference held at Kansas City, Missouri, January 5 and 6, 1939.

"Until the Conference of January 4-6, 1940, there had been no sessions open to the public, all sessions theretofore having been closed, executive sessions, confined solely to the federal judges of the Eighth Circuit." Letter from Glenn W. Coonrod, Secretary to Judge Stone, February 23, 1942.

(*1st Annual*) *Conference*, Kansas City, Missouri, January 4-6, 1940. Summary of proceedings in 26 A.B.A. J. 242. Addresses: Hon. Gunnar H. Nordbye, "Improvements in Statement of Findings of Fact and Conclusions of Law," 1 Fed. Rules Dec. 25; Hon. Merrill E. Otis, "Improvements in Statements of Findings of Fact and Conclusions of Law," 1 Fed. Rules Dec. 83; Hon. Seth Thomas, "Improvement in Charges to Juries," 1 Fed. Rules Dec. 141. The open session on January 5, 1940, was addressed by Judge Orrie L. Phillips, U. S. Circuit Judge, Denver, Colorado.

(*2nd Annual*) *Conference*, held at St. Louis, Missouri, March 6-8, 1941. No printed report. Addresses: Hon. Harry J. Lemley, "Pre-Trial Procedure Usage" (mimeographed, 12 pages); Hon. Henry P. Chandler, Director of the Administrative Office of the United States Courts, "The Administration of the United States Courts;" Hon. Bolitha J. Laws, of the District Court of the District of Columbia, "Pre-Trial Procedure and Usage."

Conference held at St. Louis, Missouri, January 22-24, 1942. Addresses: Mr. Herbert M. Bierce, Secretary of the Association of Referees in Bankruptcy, "Pending Bill 4394" (bill in Congress relating to full-time, salaried referees); Judge Orrie L. Phillips, "Criminal Youth Problem."

NINTH CIRCUIT:

1st Annual Conference, San Francisco, Cal., July 5-8, 1940. No printed report. Addresses: Hon. William Denman, "A Court Currency for Litigants" (mimeographed, 17 pages); Hon. James Alger Fee, "Unification of Pre-Trial Procedures" (mimeographed, 20 pages); Hon. A. F. St. Sure, "Instructions to Juries" (mimeographed, 9 pages); Hon. Leon R. Yankwich, "Declaratory Judgment Under the New Rules of Civil Procedure," 1 Fed. Rules Dec. 295; Hon. Charles C. Montgomery, "Changes in Federal Practice Resulting from the Adoption of the New Federal Rules of Civil Procedure," 1 Fed. Rules Dec. 337.

2nd Annual Conference, San Francisco, Cal., June 19-21, 1941. No printed report. Address: Hon. Leon R. Yankwich, "Increasing Judicial Discretion in Criminal Proceedings," 1 Fed. Rules Dec. 746.

TENTH CIRCUIT:

Conference held at Denver, Colorado, June 27, 1934. No proceedings published.

Conference held at Denver, Colorado, May 22 and 23, 1939. No proceedings published.

(*1st Annual*) *Conference* held at Denver, Colorado, June 12-13 and 14, 1940. No proceedings published.

(*2nd Annual*) *Conference* held at Santa Fe, New Mexico, June 5, 6, 7, 1941. Proceedings of the Conference of the 10th Judicial Circuit held at Santa Fe, New Mexico, June 5, 6, 7, 1941 (typewritten, 6 pages).

Addresses:

"The Administrative Office of the United States Courts," by Henry P. Chandler (mimeographed, 27 pages) (1941) 7 JOHN MARSHALL L. Q. 173.

"The Selection of Names to be Placed in the Jury Box," by Mr. W. A. Keleher, Member of the New Mexico Bar (mimeographed, 14 pages).

"Condemnations under the Federal Code," by Hon. Franklin E. Kennamer, retired United States District Judge for the Northern District of Oklahoma (mimeographed, 17 pages).

Lack of Uniformity of Sentence in Criminal Cases and the Indeterminate Sentence Plan," by Hon. Bower Broadus, United States District Judge for the Northern, Eastern and Western Districts of Oklahoma (mimeographed, 10 pages).

"The Indeterminate Sentence Plan," by Hon. Edgar S. Vaught, United States District Judge for the Western District of Oklahoma (mimeographed, 11 pages).

DISTRICT OF COLUMBIA

"On June 16, 1938, the Judges of the District Court of the United States for the District of Columbia and of the United States Court of Appeals for the District of Columbia held their first preliminary conference for the purpose of discussing matters relating to the improvement of the administration of justice in the District of Columbia, but no report of the proceedings was ever made, although accounts thereof appeared in the Washington newspapers of that date or thereabout.

"As a result of the preliminary conference of June 16, 1938, the first formal conference of the District and Circuit Judges for the District of Columbia was held on November 4-5, 1938, at Charlottesville, Virginia. No report of the conference was made, but accounts thereof appeared in the Washington newspapers on or about those dates." (Letter dated January 30, 1942, received from Joseph W. Stewart, Clerk, U. S. Court of Appeals for the District of Columbia, Washington, D. C.)

Addresses given at the conference of Judges of United States Court of Appeals and District Court of the United States for the District of Columbia, November 4 and 5, 1938, Charlottesville, Virginia.

"The Philosophy and Function of the Judicial Conference," by Hon. John J. Parker. "Constitutional Separation of Powers between Federal Government and State Government," by Thomas Benjamin Gay.

"What Can Be Done to Make Judges Happy?" by Dean Armistead M. Dobie, School of Law, U. of Virginia.

First Annual Conference, Washington, D. C., May 24-25, 1940.

Condensed Report of Judicial Circuit Conference of the United States Court of Appeals and the District Court of the United States, may be found in Journal of the Bar Association of the District of Columbia, Volume 7, pages 364-388, 412-417, 483-492, 513-535.

Second Annual Conference, pursuant to the Act of August 7, 1939, Washington, D. C., May 22-24, 1941.

Condensed account of proceedings may be found in Journal of the Bar Association of the District of Columbia, Vol. 8, No. 11, November, 1941, pages 473-492; Vol. 8, No. 12, December, 1941, pages 528-540; Vol. 9, No. 1, January, 1942, pages 35-48; to be continued.

Addresses to 1941 Conference

"Some Objectives of the Administrative Office," by Will Shafroth (mimeographed, 14 pages).

"The Relations Between Bench and Bar," by Hon. Bolitha J. Laws (mimeographed, 11 pages).

"Judicial Review of Administrative Action," by Carl McFarland (mimeographed, 5 pages).

"An Integrated Bar for the District of Columbia" by Charles H. Houston (mimeographed, 4 pages).

"The Integrated Bar-Desirable or Undesirable in the District of Columbia?" by Paul F. Hannah (mimeographed, 18 pages).

"Suggestions for Changes in the Federal Rules of Civil Procedure," by Lawrence Koenigsberger (mimeographed, 8 pages).

Reports to 1941 Conference

"Report of the Committee on Pre-Trial Procedure," by Alexander Holtzoff. (mimeographed, 12 pages; also appears in 1 Fed. Rules Dec. 759).

"Report to the Judicial Conference by the Committee on Defense of Indigent Persons Accused of Crime," by Hon. James M. Proctor. (mimeographed, 4 pages).

"Preliminary Report of Committee on Standardized Jury Instructions," by Edmund D. Campbell (mimeographed, 9+(110) pages).

Report of Edward M. Curran, United States Attorney, Chairman of the Criminal Rules Committee. (mimeographed, 11 pages).

Third Annual Conference, Washington, D. C., February 26-28, 1942.

Addresses and reports to the 1942 conference (other addresses and reports than those listed below will appear in the Journal of the Bar Association of the District of Columbia).

Addresses to 1942 Conference

"Lawyers and Judges in the War Efforts," by Edmund Beckwith. (mimeographed, 7 pages).

"Subjects of Interest to Patent Lawyers Practicing before the Courts in This Jurisdiction," by S. Warwick Keegin. (mimeographed, 7 pages).

"Simplification of Practice of the Law," by Hon. Bolitha J. Laws. (mimeographed, 4 pages).

"Speeding the Jury Trial," by Hon. Jesse C. Adkins. (mimeographed, 5 pages).

"The Business of the United States Courts," by Hon. Henry P. Chandler. (mimeographed, 9 pages).

"Oral Argument," by Justin Miller. (mimeographed, 5 pages).

Reports to 1942 Conference

Report of Committee on Standardized Jury Instructions to the Judicial Circuit Conference, by Edmund D. Campbell (mimeographed, 9 pages).

Report of the Committee on New Rules of Criminal Procedure for the District of Columbia Circuit, by Edward M. Curran. (mimeographed, 40 pages).

Report of Edward M. Curran, United States Attorney, Chairman of the Criminal Rules Committee. (mimeographed, 6 pages).

Report of Committee on Integrated Bar. (mimeographed, 20, A-29, B-32 pages).