

Brandies Given Credit for Modern Concept of "Supremacy of Law"

By WELBURN MAYOCK
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When Dicey defined the essence or supremacy of law in 1885, his definition practically excluded the idea of administrative adjudication.

In 1936 Mr. Justice Brandeis stated a more modern concept. "The Supremacy of Law," he states, "demands that there shall be opportunity to have some court decide whether an erroneous rule of law was applied; and whether the proceeding in which the facts were adjudicated was conducted regularly."

Dicey spoke of breaches of law being "established in the ordinary legal manner before the ordinary courts of the land." Mr. Justice Brandeis insists only that a court decide whether or not a rule of law was erroneously applied. He insists that as to the proceedings in which the facts were adjudicated that they be regularly conducted.

Old Distinction
The old distinction between questions of law and questions of fact form the basis of the new concept. "Experts" acting as administrators are thus the ones who try the facts and apply the law but it is only the latter category that their judgments may be reviewed. Courts assisted in this distinction. The right to review findings of fact was the former rule and it was against this rule that Mr. Justice Brandeis expressed the views just stated in a dissent.

It seems odd, very odd, as a three judge court has stated, that a Constitution which expressly makes findings of fact by a jury of inexperienced layman, conclusive if supported by substantial evidence, prohibits Congress from making findings of fact, by a highly trained and especially qualified administrative agency likewise conclusive provided they are supported by substantial evidence.

Views Prevail
The views of Mr. Justice Brandeis have prevailed. Agency rulings on facts if supported by substantial evidence are controlling under the Administrative Procedure Act. The words "substantial evidence," give scope to administrative interpretation. Senator McCarran in an article in the American Bar Association Journal quotes his Senate Judiciary Committee Report and says that evidence must meet the tests of reliability and probity prevailing in Courts of Law or equity in non-administrative cases. I wish the term had been so defined in the statute. As it now reads the administrator who is usually an expert in something else and not in the judicial process gives a lay interpretation to the terms and reliable means only that he considers it worthy of reliance, probative means only persuasive to him and substantial means having substance in his opinion. The standard set by a few centuries of experience and observation in courts of law are not imposed upon the lay-administrator when he doubles in the role of a judge.

Administrative Law
Administrative law has been defined by Goodnow, the pioneer American scholar in the field as "That part of the law which fixes the organization and determines the competence of the authorities which execute the law and indicates to the individual remedies for the violation of his rights." To which I might add that in practice it also indicates to the individual the extent to which his rights can be successfully invaded and how completely he has been divested of a remedy.

In the basic sense, Administrative Law is a part of the Common Law.

Curbs to Power
Habeas Corpus, quo warranto, certiorari, mandamus and prohibition were all protective writs to curb arbitrary officials in their execution of Administrative Law.

The injunction, suits for damages against officials and recently the Declaratory Judgment all serve to keep officials from exceeding their powers or punishing them by damages if they do so. I don't see why these remedies have not been given greater scope in America. Perhaps we have lacked a normal quota of John Hamptons during these latter years.

The growth of Administrative agencies in America is not new but it has been rapid during the last fifty years. The Final Report of the Attorney General's Committee on Administrative Procedure gives the following statistics as to the origin of these agencies:

1789-1800	3
1800-1860	8
1860-1900	6
1900-1918	9
1918-1930	9
1930-1940	17
Total	52
22 outside regular departments.	
30 within regular departments.	
World War II had its host of agencies:	
1939	9
1940	15
1941	44
1942	48
1943	28
1944	19
1945	19
1946	20
Total	202
Total of Peacetime and War Agencies: 254.	

The increase in civilian employees from 1,703,099 in 1942 to 3,649,769 in 1945 shows how vast has been the increase of both jurisdiction and function in the Administrative Process.

Enabling Acts
Each agency in its enabling act is given a rule-making power. They operate in separate fields. They develop their own procedures in conformity to the desire of their separate experts. Now there is a myth that should be exposed. The myth of the expert. An expert is a person who has restricted his attention and interest to a particular segment of human knowledge. By devoting abnormal attention to a part of human knowledge he has perforce neglected human knowledge and experience as a whole. Yet with respectness in restriction field only he is charged with the duty of making rules for the general conduct of mankind.

We are heavy-laden with experts. Sometimes "expert" is only an assumed name. For instance, the "expert" who wrote the O.P.A. Regulations for citrus fruits and juices was a very young Negro lawyer who had never had any experience in the growing, marketing or processing of citrus fruits and whose only factual information was gained from his stenographer who formerly lived in Florida.

Problem International
The problem of the expert is not restricted to America. England has had its troubles too.

In 1929 Lord Chief Justice Hewart made a spirited attack on bureaucracy. He stated the Creed of the Bureaucrats as follows:

"1. The business of the Executive is to govern.
"2. The only persons fit to govern are experts.
"3. The experts in the art of government are the permanent officials, who, exhibiting an ancient and too much neglected virtue, think themselves worthy of great things, being worthy."

"4. But the expert must deal with things as they are. The 'four-square man' makes the best of the circumstances in which he finds himself."

"5. Two main obstacles hamper the beneficial work of the expert. One is the sovereignty of Parliament, and the other is the rule of law."

"6. A kind of fetish-worship, prevalent among an ignorant public, prevents the destruction of these obstacles. The expert, therefore, must make use of the first in order to frustrate the second."

"7. To this end let him, under Parliamentary forms, clothe himself with despotic power, and then, because the forms are Parliamentary, defy the Law Courts."

"8. This course will prove toler-

ably simple if he can (a) get legislation passed in skeleton form, (b) fill up the gaps with his own rules, orders and regulations, (c) make it difficult or impossible for Parliament to check the said rules, orders and regulations, (d) secure for them the force of statute, (e) make his own decision final, (f) arrange that the fact of his decision shall be conclusive proof of its legality, (g) take power to modify the provisions of statutes, and (h) prevent and avoid any sort of appeal to a Court of Law."

"9. If the expert can get rid of the Lord Chancellor, reduce the Judges to a branch of the Civil Service, compel them to give opinions beforehand on hypothetical cases, and appoint them himself through a business man to be called 'Minister of Justice,' the coping-stone will be laid and the music will be the fuller."

Professor's Views
Professor C. K. Allen of Oxford states:

"We remain unconvinced, then, of the necessity for specialist tribunals and a specialist administrative law. Unless we are prepared to admit that the whole constitutional centre of gravity has moved from the legislative to the executive; unless we are willing to be governed not by ourselves through our representatives but by officials who are responsible to no electorate; unless, in short, we are disposed to revise the whole theory and practice of the constitution which has so long been our boast; unless we are prepared to go thus far, then what is most urgently needed, and what is in no sense beyond practical possibility, is to make administrative powers as responsible *de jure* as it is efficient *de facto*. And this we believe will be done only by means of a wholesome dose of administrative law developed in harmony with the traditional principles of the general legal system."

Interest Lacking
In America, interest in Administrative law has been almost wholly lacking. As late as 1934 only about half of the great law schools in America gave any course in the subject and those who did, made them elective or post-graduate courses. The American Bar Association agitated for Administrative Reform and attracted some attention but only 63% of our law schools gave courses as late as 1940.

But citizens have been feeling the impact of the Administrative Process and their reactions are interesting. They have been complaining for generations about the law's delay. Well, they can get injustice quickly nowadays before an Administrative Agency. And they are sometimes given little opportunity to "kick at the decision." I believe that the period of reaction should set in.

Some Criticism
Most of the justified criticism which has been directed toward the Administrative Process has dealt with its exercise of Judicial Powers. The old legal maxim that a person should not sit as a judge in his own cause has been too firmly accepted as a maxim of fairness to be discarded on the grounds of expediency. It is on this point I believe that history will show a change in present Administrative Methods. I don't know why it is that we seem required to repeat our mistakes year after year. I know in my own field of Politics we seem bound at the beginning of each campaign to make all the old mistakes over again before we can settle down to business. I suppose it is the same with Congress.

Probably the oldest Administrative Agency which exercises Legislative, Executive and Judicial powers is the Patent Office. It stems out of the Constitution itself. It was officially created as the Patent Office in 1836. From 1790 to 1793 the Secretary of State together with the Secretary of War and the Attorney General granted patents. From 1793 to 1836 the Secretary of State acted alone.

Legislation Increased
There has been much legislation in the last 113 years in relation to Patents, particularly in the selection of appellate tribunals to review the work of the Patent Office. For self last 100 years Congress has been experimenting with tribunals and changing laws in respect to the review of Patent Office practice. Casper W. Ooms, former Commissioner of Patents, stated, "A study of the variety of legislative efforts to meet the special need of a reviewing agency adequate to the specialized work of the Patent Office reveals the entire anatomy of administrative review."

Although this wealth of material was available and although the Patent Office furnishes the most prominent example of a fair and effective Administrative Agency the Committee on Administrative Procedure appointed by the Attorney General completely ignored it. It is only mentioned in a footnote as follows: "the highly specialized character of the Patent Office and the insufficiency of the Committee's Staff led first to the postponement and later to the abandon-

ment of plans to study this agency." My lips have not been touched with prophecy but I will venture a feeble guess that the procedure of the Patent Office will gradually be imposed upon our other Administrative Agencies as the remedy for their defects.

In the Patent Office, over a century of trial and error has shown that the Judicial Process is an inseparable adjunct to the administrative Process. Over a century of trial and error have shown that the citizen is entitled to the Judicial Process to protect him from the error or oppression of an Administrative Agency. Any citizen who is denied a patent can have a trial *de novo* in a District Court of the United States on the issue of his right to a patent or trademark. He can also appeal within the Patent Office to the Board of Appeals. He may later appeal from the Board of Appeals to an Administrative Court known as the Court of Customs and Patent Appeals.

Remedy of Appeal
On "interference cases" the citizen is given the alternative remedy of Appeal to the court of Customs and Patent Appeals or a civil action in the District Court of the United States.

After a patent is granted any citizen who is aggrieved by an attempt to enforce the rights of the patentee may seek the protection of the District Court and have the validity of the Patent adjudicated.

I have been informed that every threat which has arisen in Congress, to take away the right to a trial *de novo* in the District Court of the United States has been met with violent opposition by a group of experts known as Patent Lawyers who have found that the threat of having a Court pass upon his conduct has softened the arrogance of many an aggressive Administrator.

If there is one thing an Administrator hates and fears it is a court of law. Our real difficulty is one of men and not of law. Melver in his recent book, "The Web of Government," indicts bureaucracy as follows:

Value Exaggerated
"In general a bureaucracy sets an exaggerated value on the maintenance of the institutional scheme of which it is the guardian, while the individual member of the bureaucracy magnifies his own function within it and is jealous of any encroachments by other functionaries. Each member becomes entrenched in his particular routine. There is a meticulous grading of functions with their specified prerogatives. The system acquires a sanctity unrelated to the service it renders. There is a tendency to make things more complicated, more roundabout for those who require its services. The public, instead of being regarded as the client of the office, for whose benefit it exists, must accommodate itself to the convenience of the office holder. Administration is canalized into a set of hard and fast methods without consideration of more efficient procedures. The bureaucrat complacently rejects experiment and innovation. Seniority gives priority, apart from merit or achievement. Nepotism flourishes. Ability is less esteemed than 'correctness.' The bureaucrat shuns responsibility. His decisions are never his own, but those of the department. It is impossible to smoke him out. He takes refuge behind the 'protocol' of office."

Crux is Cited
Roscoe Pound states the following as the crux of the matter today.

"... The administrative process has not... any well developed technique of determination. It tends to override what judicial experience has taught us are fundamental principles of securing full and fair hearing to all interested parties and objective decisions. It has no well-defined ideals. Each administrative agency is likely to think of its immediate practical purpose as paramount and so as something to which all individual interests must give way. The judicial process has long since achieved a definite authoritative technique of determination, applied in the light of definite authoritative ideals."

"Again, the administrative process is primarily concerned with the guiding or directing function. Hence, too often it shapes its exercise of an incidental determining function to the exigencies and in the mold of the directing function. The judicial process, on the other hand, is primarily concerned with the function of determination. Hence, it sometimes shapes the exercise of an incidental administrative function to the exigencies of the determining function."

Immediate Ends
"Administration seeks to achieve the ends of social control by guidance and prevention. It is governed more directly by the immediate ends, whereas in judicial justice a balance of ends is sought by insistence upon means. Being governed by ends in unique situations and seeking to individualize determina-

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tions, the administrative process is personal and hence is often arbitrary and subject to the abuses incident to personal as contrasted with impersonal action. Well exercised it is very efficient, much more efficient than the rival system can be. On the other hand, the judicial process, acting according to law in the first sense, operates characteristically by redress or by punishment. General rules of action are formulated in advance and applied to controversies after they have arisen. In general it does not supervise action but leaves individuals free to act, at their peril of responding for resulting injury, or of restoring what they hold at the expense of others, or of complying with their undertakings if they do not act in accordance with the rules. It is characteristically impersonal and safeguards against ignorance, caprice, or corruption of magistrates. But because of these safeguards there is a certain lessening of efficiency and the process is not quick enough to meet all the requirements of a complex social organization.

Both Are Needed

We need both processes to assist in governing our Nation. We need the new Bureau because existing institutions are inadequate. Yet we don't need to pay for it in total loss of Liberty.

One hears a great deal about our great Bureau on the political rostrum and in the newspapers. We hear that we should eliminate these agencies and get back to a more simple form of government. We hear of Thomas Jefferson's aphorism to the effect that that Government is best which governs least. But I have not found many specific recommendations for the elimination of particular agencies. When I have asked advocates of governmental retrenchment which agency they would eliminate, I have been met with vague generalities and little or no specific condemnation. I think everyone knows we are not going back and that we can't go back to the simple type of government provided by the founding fathers for an agrarian nation.

Can't Go Backward

We can't go back because we can't take history back with us, and unraveled the political, economic and sociological conditions which brought about the change.

The folly of this proposition lies in the assumption that we can bring about a fundamental result by making changes in certain legal agencies while leaving all remaining human institutions unchanged. We can't change the result of our historical development without changing the conditions which caused that result.

Inventions in communications such as the telegraph, telephone and radio; in transportation such as the railroad, the steamship, the automobile and airplane; in agricultural methods such as the mowing machine, the cotton gin, the tractor and the truck; the development of electrical power, the development of mines and mining machinery; the rise of industrial plants and the development of the production line; the growth of urban communities and the settlement of the public domain; all these and many more are contributing factors in the gradual changes in government which distinguish our present plant from the simpler form of government established in 1789. If one would go back he must divert himself of these developments because the growth of the agencies many now wish to destroy are the attempts of our lawmakers to regulate the change in life which these inventions had wrought.

Growth of Commissions

It was the growth of transportation so far as I can see. After its passage, Arthur T. Vanderbilt, now Chief Justice of the Supreme Court of New Jersey held an Institute wherein various attorneys for Administrative Agencies read papers dealing with the impact of the Act, on their agency.

Mr. Caldwell, former General Counsel for the Federal Radio Commission stated he didn't believe the Act had materially changed practices at the Federal Communications Commission.

Mr. Warner, Assistant Counsel for the Civil Aeronautics Board, said "because of the safeguards already in the Aeronautics Act and the practices already adopted by the Board no drastic changes were required in the Board's procedures and methods by reason of the Procedure Act."

Mr. Ralph H. Dwan, Assistant Chief Counsel for the Bureau of Internal Revenue, explained the present practice as to Review and added, "Such a review seems adequate and it is unlikely that it is changed by the Administrative Procedure Act."

Mr. Frank Delany, Solicitor of the Post Office Department, complained of the burden and expense imposed upon the Post Office Department. He conceded that it might prove worthwhile in the long run.

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Commission stated that the Act didn't change their Review technique.

Caspar Ooms, Commissioner of Patents, stated that the statute made slight impact on the Patent Office.

Ugo Carusi, U. S. Commissioner of Immigration and Naturalization, said the Act will effect an appreciable change in the principles governing judicial review of immigration proceedings.

C. A. Miller, Vice President and General Counsel for American Short Line R. R. Association stated: "I see nothing in the Administrative Procedure Act which limits or expands judicial reviews of the orders of the Interstate Commerce Commission."

Fair Trial
The Bureaucrats don't think the Administrative Procedure Act applies to them because they believe that they have been giving all the safeguards necessary for a fair trial all along. They are experts, but not experts in the judicial process. In a Court of law a fair trial has a definite meaning. To us the words imply a proceeding held under the sanctions and safeguards attending a judicial proceeding.

In court one is limited to a mere plaintiff-defendant presentation, yet often with the little help thus given, a court is called upon to make a pronouncement on a legal point setting a National precedent. The General Public is not represented, but the General Public is involved and is affected. Administrative Agencies which have the power of investigation are often better equipped than Courts to secure an adequate presentation. In the scientific and factual fields the expert has his necessary place. In court the expert is often worthless. I have never heard an expert in a court proceedings change his opinion no matter how skillful and lengthy the cross-examination. My experience in the field of expert opinion in a rather active practice in many fields is that the plaintiff hires an expert to substantiate his claim and the expert performs for his hire. The defendant hires an expert to give the opposite answers and he does so. Sometimes the Court in an abundance of caution hires its own expert who disagrees with both of the others. And then when the Court gives a judgment at variance with all three, I ponder on the devious ways in which human judgment are formed.

New Technique Needed
Mr. Justice Prettyman of the Court of Appeals for the District of Columbia has announced the thesis that we need a New Trial Technique in courts of law and in Administrative Tribunals. He puts the blame largely upon the Bar. I suppose he is right. The Bar does need a bit of reforming. My generation is in general beyond help, as I view it. The older lawyers who learned their law over thirty years ago are too prone to rely on the old maxims and disregard the rise of administrative law. Most of us are too lazy to find out about it. It is much easier to complain. We rely on the doctrine of "substantial justice" whatever that may be, and "inalienable rights" which have already been eroded away and "constitutional guarantees" which are being re-interpreted. Now these are all fine phrases and all sound well but they don't help a modern client who has a problem involving a change in frequency for his radio station or a new service stop for his airline or a certificate of convenience and necessity for some interstate facility. A vast factual presentation and not an histrionic effort is what is required. And if that doesn't do the trick then those who are wise in human values and have little faith in the new Administrative Procedure Act which gives them a right to review in a Court of Law adopt the device of "seeing the right person" or persons in Washington and thereafter proceed through political channels.

Little Change Seen

The Administrative Procedure Act has not changed matters much so far as I can see. After its passage, Arthur T. Vanderbilt, now Chief Justice of the Supreme Court of New Jersey held an Institute wherein various attorneys for Administrative Agencies read papers dealing with the impact of the Act, on their agency.

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I have had an Administrator at a hearing wherein I quoted a regulation ask me where I got the wording of the regulation. When I told him the General Counsel had shown it to me in a little green loose-leaf book, he reprimanded the attorney, stating that those regulations were not open to the General Public. This was long after the Federal Register Act.

Men Difficult
Our difficulties in coping with the problems arising in this new field of Administrative Law are difficulties with men rather than with procedures. The Administrators tell us that experts ought to govern and propose a government of experts. But they are not even true to their own creed.

There are experts in the necessary function of arriving at truth in an adversary action, in the determination of the weight of evidence, in attaining the objectivity necessary to impartial consideration of the evidence, in the application of the elements of fairness necessary in conducting a fair and impartial trial. In a word, there is an expertise necessary for the conduct of the judicial process.

But our Administrative zealots want no experts when they apply the Judicial Process. They dispense with the help of experts in this essential category. They disguise their inconsistency by clichés such as "dispensing with technicalities," "avoiding formalism," and "refraining from being legalistic."

They want experts in everything except the Judicial Process. They want to judge without qualifying themselves for that purpose. In an Administrative Proceeding I have seen Administrators rely upon their own impromptu concept of the properties and reject as inapplicable the considered wisdom of the ages as to what constitutes fair play. The Administrative Process seeks to govern the citizen efficiently. The Judicial Process seeks to preserve the liberty of the citizen. Both are good objectives, but neither will stand alone. If a certain amount of waste or inefficiency is the price of freedom, then it's not too high a price to pay. Total efficiency at the price of liberty is too high a price to pay.

Bar Can Improve

We might all do a little toward betterment in our own categories. The Bar might develop more efficient trial techniques and pre-trial methods and avoid long trials, needless histrionics, exhibitionism, voluminous records, useless objections, tedious briefs, and prolonged cross-examinations.

The Bench might assist in developing techniques for more comprehensive fact-finding, in curtailing useless cross-examinations and discouraging the ancient trial delays which prolong trials and make them so expensive.

As for the Administrator, I think he should early come to the decision reached by Mr. Justice Holmes—that he was not God. This would be a splendid start. Thereafter, the Administrative Process should seek the assistance of the Judicial Process—not its elimination when it acts in a judicial role.

Our oldest administrative agency has found the wisdom of giving a trial de novo in a court in most of its contested matters. Perhaps this would be too much to hope for, but at least we should see to it that after a license has been given or a certificate of convenience or necessity or a certificate of any kind has been granted to a citizen, only a court can take it away in an adversary action wherein the opponents stand before an impartial tribunal and where due process of law is the order of the day.

And I am unmoved by the specter of legalism. "To require administrative tribunals to keep within the limits of the jurisdiction and powers granted by the statute creating them; to require these tribunals to take the policies they apply from the statute and not from their own ideas of particular cases; to require them to apply the standard provided by statute instead of making one of their own; to prevent their acting on no standard at all; to require them to find the facts upon which they base their orders, as all other tribunals are required to do—all this is not legalism, it is constitutionalism."

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News 10/18/57

The New Federal Judge

PRESIDENT TRUMAN has appointed County Judge Hartshorne of Essex to the United States District Court vacancy, to succeed Judge Fake, retired, and Representatives Rodino and Addonizio are depicted as unhappy, even angry, about it. Neither apparently questions the character and fitness of Judge Hartshorne. They couldn't. His standing in the community, his long service on the bench are proof against that.

Why the disgruntlement then? The answer is simple. The President, in this instance, has moved against the Democratic monopoly on the Federal bench. He has dared to appoint a Republican, for a change, and a qualified one at that. It's more than assorted machine Democrats can stand.

The facts in this case are clear. There has been a long-standing dispute within the Democratic organization over the appointment. A judgeship has been kicking around for months as first one then another candidate was proposed. The situation got so bad that Chief Judge Forman only a week ago publicly criticized the delay in naming Judge Fake's successor. He said the work of the court was suffering. No doubt it was. In the circumstances, and regardless of what the Democratic organization thinks, this is a refreshing action on the President's part.

Profile Of A Judge

Borah To Add Dignity To U. S. Court

BY JAMES HEARTY

To the judge, it was "stale news," and he didn't want to comment. Oh, he was "sorry, Jimmie, but I have nothing to say," and we knew this wasn't just the old brush-off.

Knew it because we've known Judge Wayne G. Borah for more than a couple of years; because newspaper publicity, so often in demand in other quarters, is something he likes to do without.

But the twinkle in his blue-grey eyes had already given the answer. He will accept the presidential nomination promoting him to the U. S. Fifth Circuit Court of Appeals. The present district attorney, J. Skelly Wright, has been nominated to succeed him on the district bench. Judge Borah's nomination was confirmed by the Senate yesterday. Confirmation of Mr. Wright is expected in January.

JUDGE IS HAPPY

Judge Borah had seldom seemed happier than when he walked into his chambers, shaking hands with "the boys," and accepting their congratulations.

Once inside, though, there was that sincerely expressed wish to withhold comment.

"You know as much about it as I do," he said, "go ahead and write your story, you don't need anything from me."

He was pulling on a cigaret and preparing for a string of pre-trial conferences scheduled in his office during the day.

It was an amazing turn of events, this. A Republican being promoted

by a Democratic president. And his name having hardly been mentioned at all for the job.

Court attaches said they didn't think the judge wanted to move up. In the past he had said he was perfectly content to be where he was in the district judgeship.

Since donning the black robe, he has seen plenty of action. Particularly when the "Louisiana Scandals" began making headlines throughout the country.

HEAVY BURDEN

Judge Borah was the only U. S. district judge at the start of the "Scandal" cases, so the heavy burden fell on his shoulders.

Many high political, educational and business figures were sentenced by Judge Borah.

One of the first big scandal cases was the "Levee Board Bond Refunding" mail fraud trial, which resulted in the conviction and sentencing of five men.

COSTELLO CASE

About the same time Frank Costello, reputed gambling czar, and five associates went to trial before Judge Borah on an indictment charging attempted evasion of about a half-million dollars of income taxes.

Nine days were consumed by the hearing, at the end of which a directed verdict of innocent was ordered by the court.

The money came from operations of the "Chief" slot machines in New Orleans in the mid-30's, according to the indictment.

BEGAN EARLY

By coincidence, Judge Borah was just the age of 38 when he as-



JUDGE WAYNE BORAH
... nominated

sumed the bench following the death of Judge Louis H. Burns. J. Skelly Wright, nominated to succeed him, is just 38.

Judge Borah has always enjoyed the outdoor life, but old-timers recalled that when he first ascended the bench he gave up his hunting and fishing to a large degree.

What there was of it was enjoyed on his two boats, appropriately named "The Recess" and "The Recess II."

His feelings have often been expressed to those who ran afoul of the law, as follows:

"It isn't easy to sit here and pass judgment on a fellow man," or "This court isn't extravagant with another man's time."

CAN BE STERN

But he could be stern when the occasion arose, such as in cases where federal employees are up for

stealing funds or property belonging to the government.

Recently Judge Borah signed an order rescinding a sentence imposed against a narcotic law violator who had pleaded guilty to the charge.

The man had written directly to him to state his belief that his constitutional rights had been violated; that the officers who made the arrest and found narcotics in his room had gained access through sham and without a warrant.

INTERESTED IN RIGHTS

Judge Borah immediately directed a hearing, later signed the order for the man's release.

"He is just as much interested in protecting the rights of a defendant as he is of the government," lawyers say.

He looks like a military man in civvies, erect and dignified, and was a captain in the infantry during the first World War.

Judge Borah was born Apr. 28, 1891, at Baldwin, La., the son of Charles Frank and Fannie Thomas Borah. He attended Washington and Lee University from 1910-13, and took his LL. B. at LSU in 1915.

SERVED AS DA

The same year he was admitted to practice and became a member of the firm of Borah, Himel, Block and Borah, until 1923.

He entered the U. S. attorney's office as an assistant in 1923, and served two years before rising to DA. Three years more and he was judge.

His faith is Episcopalian and he is a member of the Boston, Southern Yacht and New Orleans Country Clubs.

Mrs. Borah is the former Miss Elizabeth Pipes. Their home is at 1238 Philip.—TOMORROW: The profile of J. Skelly Wright.

Borah and Wright

President Truman has nominated Federal Judge Wayne G. Borah to the fifth circuit court of appeals and Federal District Attorney J. Skelly Wright to replace Judge Borah in the Eastern District of Louisiana.

There is nothing to be said of the Borah appointment other than it is a surprisingly good one for Mr. Truman to make. Judge Borah long ago earned such promotion by his ability and his assiduous devotion to duty. We can only hope for our fellow Orleanian that circumstances which prompted his elevation to the circuit court will repeat themselves when a supreme court vacancy occurs.

Much can be said of the appointment of Skelly Wright. It is obvious that he has many friends in high places, and for that we suppose he is to be either congratulated or envied, according to your lights. For Mr. Wright is a youngish sort of lawyer to so soon earn a federal bench. He was suggested originally for the circuit court vacancy created by the death of Judge Elmo Lee, and that may have had something to do with the sudden appreciation of Judge Borah's talents. For opposition might have been expected to develop on the floor of the Senate if the Wright nomination had been for the circuit court, inasmuch as Mr. Wright has had not too generous a portion of experience as a lawyer, and none at all as a judge.

This, however, is the prime objection anyone can find with the nomination of Skelly Wright, unless we have been completely deceived in his talents. He is by reputation an intelligent young man and attends his duties with scant regard to the many cross-currents of Louisiana politics. Mr. Truman could have gone far afield and done much worse than to name Skelly Wright.

Judicial Laurels

The first reaction of everybody to President Truman's appointment of U. S. District Judge Wayne Borah to the Circuit Court was one of complete surprise.

And the second reaction, in most circles at least, was one of unexpected pleasure.

It is no secret that Judge Borah, because of political reasons, was not given a chance at getting the promotion.

Our Senators did not submit his name for consideration.

According to the inside dope the Longs had pressured the White House in favor of Judge Gaston Porterie of Alexandria, with Dean Hebert of LSU as their second choice.

The other chief contender was Skelly Wright, who had personally endeared himself to the White House with his loyalty to the party, especially during the Dixiecrat split, and who had marked up a good record since becoming U. S. District Attorney here.

In nominating Wayne Borah to the Circuit Court the President must have got a personal chuckle out of finding such a happy solution to the political dilemma that always develops over such appointments.

Had Louisiana gone down the line for Truman in the last election, it is a sure bet that a deserving Democrat would have got the Circuit Court job. But not even the politicians can openly complain about Mr. Borah's appointment, for he obviously got it on the basis of record, experience, and merit.

That is the way all such appointments should be made.

The upshot is that Mr. Truman has had the satisfaction of snubbing the recommendations of the state's political leaders, and at the same time receiving praise for a non-political appointment.

Strange, how politics works, its wonders to perform.

In a certain sense, the appointment of Skelly Wright to succeed Judge Borah on the District Court is also non-political. Mr. Wright has no votes to deliver; he is not "owned" by any political machine; and he does not owe his success to any Louisiana political boss.

All in all, we think Mr. Truman did a good day's work.

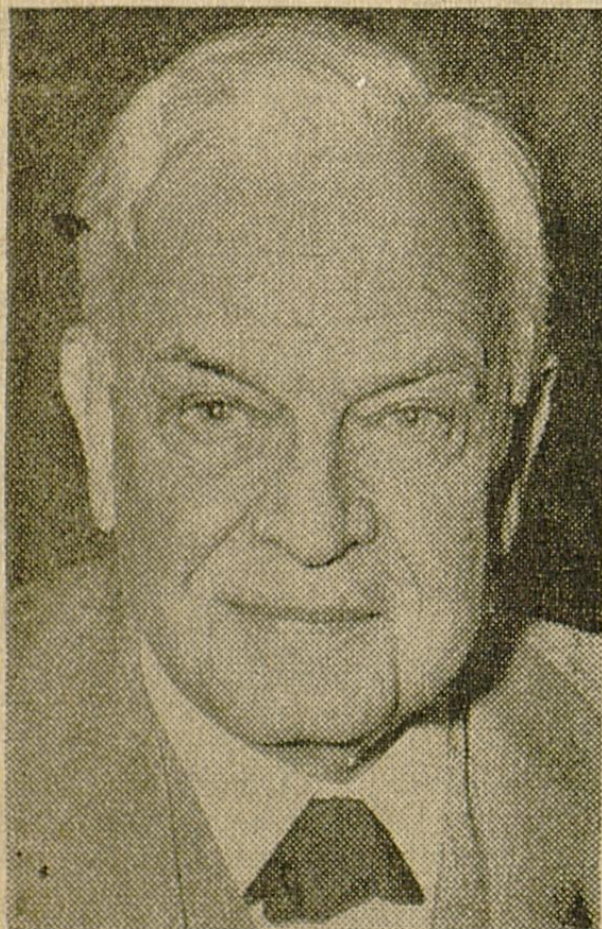
We wish both appointees many long and useful years on their respective benches.

Judge Fake to Join Active Retired List

Senior Federal Jurist for New Jersey to Remain on Call in Newark

Chief Judge Guy Leverne Fake of the United States District Court in New Jersey today announced he will go on the active retired list of Federal judges before the end of the year. He has passed the retirement age of 70 and

Stepping Down



FEDERAL JUDGE FAKE

who today said he will go on the active retired list before the end of the year.

has been a Federal judge 21 years.

In his new status, Fake will be in what amounts to semi-retirement because he will be on call for judicial assignment anywhere in the country. He will, however, remain in the Federal Building here for part-time duty.

Fake said he has written President Truman, requesting that he be placed on the list. Under the law, when a Federal judge reaches 70 he may make such a request and it is customarily granted. Fake will be 71 November 15.

Advancement for Forman

Fake's partial retirement will automatically elevate Judge Philip Forman, next senior among United States District Court judges in New Jersey, to the position of chief judge. Forman, who presides in Trenton, could sit in Newark on assuming his new role.

The change also will mean the appointment of two judges to the Federal bench in this state, one to succeed Fake and the other to fill the sixth place created by Congress more than a year ago.

United States Attorney Alfred E. Modarelli has been selected by Tru-

(Continued Page 7, Column 2)

day's balloting upped this total to at least 500.

Rent officials, even before Tuesday's election upset, had cautioned communities wanting to retain rent ceilings not to depend on Congressional action to extend the rent law, but to take action themselves under the local option feature of the present law.

Judge Fake

(Continued From First Page)

man for the new judgeship and his name is expected to be sent to the Senate when Congress reconvenes late this month.

Will Retain Chambers

Fake said he had discussed his retirement with Chief Judge John Biggs Jr. of the Third U. S. Circuit Court of Appeals in Philadelphia, and had received Biggs's approval to retain his chambers and court in the Federal Building here for the trial of cases assigned to him. Judge Biggs is the presiding judge in the judicial district comprising New Jersey, Pennsylvania, Delaware and Virgin Islands.

Fake said he will request that equity cases be assigned to him for trial. He said he will keep his personal staff, consisting of a law clerk, secretary and a bailiff.

The change in the status of the dean of Federal judges in New Jersey will leave only one Republican, Judge Forman, on the bench of the United States District Court in this district. Judges Smith, Meaney and Madden are Democrats.

Because the appointment of Modarelli will make the political division on the bench four Democrats to one Republican, it was expected that the Republican party will put up a fight to have a Republican named to succeed Fake.

Candidates

The names of a group of lawyers, some from Essex County, who were mentioned prominently for the sixth

judgeship, probably will be placed before the National Democratic Club of New Jersey for consideration as successor to Fake. Andrew F. Zazzali of Newark, a friend of National Democratic Chairman Boyle, and Gerald T. Foley of West Orange, had been considered for the post going to Modarelli.

Fake was appointed to the Federal bench February 4, 1929, by President Coolidge. He moved up from the Second District Court of Bergen County, to which he had been first appointed in 1909 by Governor Fort. In 1907-08 he was a Bergen County Republican assemblyman and served on the Bergen County Park Commission, resigning in 1927.

Fake's semi-retirement plan came as a surprise to every one except a few intimate friends. There had been rumors since he reached the retirement age last year that he planned to leave the bench on pension, but Fake always insisted he would carry on as long as his health held out.

On the active list, or in full retirement, Fake is entitled to his \$15,000 annual salary.

The judge said his decision to ease his official duties is based on a desire to give more time to looking after his health. He was troubled last Summer with an enervating cold and on the advice of his physician postponed a patent case so he could go to New England for a rest. In the last few years, he was so busy with judicial work he was unable to take a vacation.

Fake lives in Rutherford with Mrs. Fake. He has a hobby workshop in his garage. His other hobbies are historical, economical and political research, and the collection of old firearms.

Since his appointment to the Federal bench, the white-haired jurist has been an outspoken critic of government controls and the encroachment of bureaus on prerogatives of the court of law. In his speeches, he has condemned the swing to the left in government and the philosophy of communism for this country.

Many of Fake's decisions and opinions have upheld the rights of individuals as against bureaucratic regulations which he held had reached, in many instances, the effect of law.

File

Edgerton

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON 1, D. C.

HENRY W. EDGERTON
CIRCUIT JUDGE

October 31, 1951

Dear Fred:

The loyalty order, Executive Order No. 9835, was issued March 21, 1947. It appears in the Federal Register of March 25, 1947, 12 Fed. Reg. 1935.

The Washington Post of September 29, 1951 states that Senator Benton's "Case No. 1" deals with "a radio speech at Wheeling, W. Va., on February 9, 1950, in which, Benton charged, McCarthy said he had a list of 205 State Department employes who were 'members of the Communist Party.'" Time's McCarthy article in its issue of October 22, 1951 says: "McCarthy's jump from obscurity to the national lime-light began nearly two years ago, when he made a speech in Wheeling, W. Va. He said: 'I have here in my hand a list of 205 . . . '...Joe McCarthy in 1950 had hit a highly sensitive public nerve." (The article then refers to the Hiss case.) Marquis Childs's comments in today's Washington Post are, I suppose, pretty obvious as far as they go, and their currency is probably the only reason for my quoting them: "How Joe McCarthy could flourish in the same political atmosphere that produced the LaFollettes has been a puzzler. . . . There are several reasons for his continuing support. One is the fact that a great many people have come to believe that communism in Government is a threat and that McCarthy has been working effectively to remove it."

I have not made a search, but it is my distinct impression that Time is right in regarding the Wheeling speech as the first instance of McCarthyism that came to general public notice.

I believe Seth Richardson reported to a Senate subcommittee early in 1950 that "not one single case of espionage" had been encountered during the three years of the loyalty program and that the F.B.I. had found no evidence even "directing toward espionage" in its 10,000 full field investigations and three million examinations of records. The Order has not led to the discovery of any large number of communists in government service. I think Walter Gellhorn is right in saying in his book, Security, Loyalty, & Science (one of the series published by Cornell University Press under the general editorship of Robert

Cushman and made possible by grant to Cornell from the Rockefeller Foundation), that what it has done, though not designedly, is "to enforce a new concept of loyalty. This 'new loyalty,' as Professor Commager has summarized it, 'is, above all, conformity. It is the uncritical and unquestioning acceptance of America as it is--the political institutions, the social relationships, the economic practices. . . .'" The practical question is whether the chance of some day turning up some spies is worth what the program costs.

With all good wishes,

As ever,

Henry Edgerton

The Chief Justice,
The Supreme Court,
Washington, D. C.

Dec. 12/51

idea

Dear Fred:

Here's another that I simply want to get off my chest: that I think the Post editorial writer has a point of very great strategic importance.

As ever -

Henry Edgerton

They Let Us All Down

Now that the President is back, presumably ready to wield a broom in earnest, he must be tempted to say of his faithless subordinates, "They let me down!" Mr. Truman has always been loyal to his official family, sometimes excessively so; and he must be furious to discover that some of them have betrayed their trust. But we hope the President will be careful not to personalize his sense of being wronged. He might do well to remember another example, in quite another context, of a leader who felt that he, personally, had been betrayed.

We are referring to Prime Minister Neville Chamberlain, who was incensed at Hitler in 1939 for having broken a person-to-person pledge. When Hitler marched into Poland, Chamberlain told his people on the eve of war: "You can imagine what a bitter blow it is to me [*italics ours*] that all my long struggle to win peace has failed." Of course it was not just a "bitter blow" to Chamberlain; it was stark tragedy for his people, who would have to do the fighting and the dying.

In the same way, though in entirely different circumstances, the President will only anger the American people if he gives vent to a personal anger now. The corruptionists in the Administration have done much more than let the President down. They have let all of us down—all of us who pay taxes, who believe in free government, and who look upon public officials as public servants.

"I told him," McKinney said, "that I could not overemphasize the importance of drastic action being taken in the immediate future without delay."

"Will there be drastic action?" a reporter asked.

"I am inclined to think there will be," McKinney said.

"The President," he said, "is highly concerned, even to the point of being angry at being sold down the river by some disloyal employees in the Government."

He was asked if he meant employees disloyal to the Administration.

"Disloyal to him (the President)," McKinney answered.

Edgerton

Washington Post

Dec. 11/51

Washington Post

Dec. 12/51

January 5th, 1949.

Honorable Archibald K. Gardner
Chief Judge, United States Court of Appeals
Huron, South Dakota.

IN RE: No. 279 Misc. Ex Parte Louisiana Farmers
Protective Union, Incorporated.

Dear Judge Gardner:

On Monday, January 3rd, the Court denied a "Motion for Rule Nisi and for Leave to file Petition for Writ of Mandamus" which had been filed in the above styled case.

Inasmuch as this cause has been before your Court, I feel certain that you are familiar with the problems involved therein. It would appear that the original complaint was filed in April, 1939; dismissal by the district court in 1941; reversed in your Court; and the amended complaint filed in December 1946. Judge Lemley disqualified in the cause on October 25, 1948. It would seem that there is need for the prompt assignment of a Judge to hear and determine the cause.

I will be pleased if you will give this matter your prompt consideration and advise.

With kind personal regards, I am

Sincerely,

Chief Justice.

279 Misc.
RECEIVED

UNITED STATES CIRCUIT COURT OF APPEALS
EIGHTH CIRCUIT

ARCHIBALD K. GARDNER
SENIOR CIRCUIT JUDGE

Huron, S. Dak.
Jan. 10, 1949

JAN 13 9 30 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

Hon. Fred M. Vinson
Chief Justice
U. S. Supreme Court
Washington, D. C.

Re: #279, Misc. Ex parte Louisiana Farmers Protective Union, Inc.

Dear Chief Justice Vinson:

I have your letter of the 5th referring to the above matter which is ancillary to the case pending in the Eastern District of Arkansas entitled Farmers Protective Union, Inc. vs. Great Atlantic and Pacific Tea Company of America, Inc., et al.

I have become somewhat familiar with this case although I did not sit in the case when it was before this court. On October 27th last, I received advise that Judge Lemley had disqualified himself. On the same date I wrote Judge Riddick of this court, who resides at Little Rock, Arkansas, to inquire whether or not there was any reason why Judge Trimble should not be designated. On the 29th of October I received a lengthy telegram from attorneys for plaintiff, advising that they were applying to the Supreme Court for writ of mandamus directed to Judge Lemley, ordering him to recall and rescind his certificate of disqualification and to enter judgment by default as applied for by plaintiff. The telegram then states that, "The appointment of a new Judge would further delay case to the detriment

#2

and prejudice of plaintiff's rights." This telegram was confirmed by letter dated November 1, which among other things contained the statement that, "It is clear that the appointment of a new Judge at this time would be premature pending a decision of the United States Supreme Court on plaintiff's petition for writ of mandamus."

In the meantime attorneys for plaintiff communicated with me by long distance telephone, the apparent purpose of which was to have me defer taking any action toward appointing another Judge to supplant Judge Lemley. I recall stating that I would not act immediately but would not postpone action indefinitely, but that delay would depend upon their acting promptly in the matter of application for writ of mandamus. On being advised of the action of counsel for plaintiff in preparing and presenting their petition I gave assurance that I should not act until the Supreme Court had passed upon the issue presented.

I am going into this matter to indicate that the only delay that has occurred has been at the urgent solicitation of attorneys for plaintiff, and I did not think it would be proper to act while the petition for writ of mandamus was still pending in your court. I have heard nothing whatever from attorneys for defendants.

#3

On Saturday, January 8th, I received notice for the first time that this petition had been denied. I thought then that the date of denial was January 4th, but I observe that it was January 3rd. It is my understanding that the petitioners, under the rules of your court, have fifteen days within which to apply for rehearing.

In this connection perhaps I should state that attorneys for plaintiff called on me personally Saturday, for what reason I had difficulty to understand, but they expressed fear that they would be without a court because of the denial of their petition. Although they talked a great deal I was entirely unable to understand why they thought it necessary to call upon me, and I advised them that I did not approve the practice involving private conference with the court without notice to opposing counsel.

I, of course, expect to designate another Judge to try this case and should have done so promptly but for the fact that counsel advised that they were petitioning for writ of mandamus and requested me to make no assignment. I have had in mind to act as soon as the fifteen days allowed for filing petition for rehearing have expired, in the event that no such petition is filed.

With personal regards, I remain

Very sincerely,

Archibald K. Gardner

Gardner
279-Misc

UNITED STATES CIRCUIT COURT OF APPEALS
EIGHTH CIRCUIT

RECEIVED

ARCHIBALD K. GARDNER
SENIOR CIRCUIT JUDGE

FEB 4 10 07 AM '49
Huron, S. Dak.
Feb. 1, 1949
CHAMBERS OF THE
CHIEF JUSTICE
NOTED

Hon. Fred M. Vinson
Chief Justice
U. S. Supreme Court
Washington, D. C.

FEB - 4 1949

F.M.V.

In Re: No. 279 Misc. Ex Parte Louisiana Farmers Protective
Union, Incorporated.

My dear Chief Justice:

I have your letter of the 26th ult. relative to the above matter. On the 19th of January I designated Judge John E. Miller, United States District Judge for the Western District of Arkansas, to hear and determine all issues in Louisiana Farmers Protective Union, Inc., plaintiff, vs. Great Atlantic & Pacific Tea Company of America, Inc., et al., defendants, pending in the Eastern District of Arkansas. He has accepted the designation, notified counsel for all parties, and will, I believe, make disposition of the case as expeditiously as can reasonably be done.

With personal regards, I remain

Very sincerely yours,

Archibald K. Gardner

#279 Misc

January 26th, 1949.

Honorable Archibald K. Gardner
Chief Judge, United States Court of Appeals
Huron, South Dakota.

IN RE:- No. 279 Misc. Ex Parte Louisiana Farmers
Protective Union, Incorporated.

Dear Judge Gardner:-

I received your letter of January 10th regarding the above styled cause, in response to my letter to you of January 5th, the contents of which I have noted with interest and care.

You were of course acting within the province of your authority and discretion in determining to await the expiration of the period in which the petitioners' had to file petition for a rehearing and its disposition by this court. As information, the Court denied an "Application for 30 days' extension of time to file petition for rehearing on January 15th" and there has been no further application or petition filed subsequent to that date.

There was no question in my mind in regard to any delay that had taken place or that could take place in connection with the appointment of a Judge to try this case. However, the matter has been pending for several years and upon the disposition of the "Motion for Rule Nisi and for Leave to file Petition for Writ of Mandamus" by the court, I desired to call your attention to the situation, but certainly you were not called upon to act until final determination here.

With the kindest of personal regards, I am

Sincerely,

[Signed] Fred M. Vinson

January 26th, 1949.

Honorable Archibald K. Gardner
Chief Judge, United States Court of Appeals
Huron, South Dakota.

IN RE:- No. 279 Misc. Ex Parte Louisiana Farmers
Protective Union, Incorporated.

Dear Judge Gardner:-

I received your letter of January 10th regarding the above styled cause, in response to my letter to you of January 5th, the contents of which I have noted with interest and care.

You were of course acting within the province of your authority and discretion in determining to await the expiration of the period in which the petitioners' had to file petition for a rehearing and its disposition by this court. As information, the Court denied an "Application for 30 days' extension of time to file petition for rehearing on January 15th" and there has been no further application or petition filed subsequent to that date.

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With the kindest of personal regards, I am

Sincerely,

LOUIS E. GOODMAN
UNITED STATES DISTRICT JUDGE
POST OFFICE BUILDING
SAN FRANCISCO 1

Goodman
File
New York City,
March 14, 1949.

Hon. Fred M. Vinson,
Chief Justice of the
United States, ~~Supreme Court~~,
Supreme Court Building,
Washington, D.C.

RECEIVED
MAR 16 2 08 PM '49
CHAMBERS OF THE
CHIEF JUSTICE

Dear Mr. Chief Justice:

I can not tell you how much I enjoyed my visit with you last week. Particularly enlightening were your comments with respect to the functions of the Judicial Conference. I now feel that there is no real reason or basis for further urging the enlargement of the conference to include the Chief Judge of each District Court.

It might be constructively helpful, however, in the administration of the Courts, if 28 U.S.C. 331 were amended to provide that the Chief Judge of each Circuit and the senior Chief District Judge of each Circuit should annually alternate in representing each Circuit at the Conference.

Thus, the number of members of the Conference would not be increased, but there would be practically an equal participation by the District ^{and} Circuit Judges in the proceedings and decisions of the Conference.

It might be argued that this would result in a lack of continuity of the functioning of the Conference, but even as at present constituted the personnel of the Conference is not static and changes from time to time.

This is a very sketchy suggestion, but I hope to have our Ninth Circuit Conference this summer give further consideration to it.

With cordial greetings, I am,

Sincerely yours,

Allen H. Ordman

Hall.

December 6, 1949

Honorable Peirson M. Hall,
Judge,
U.S. Courthouse,
Los Angeles, California.

Dear Judge Hall:

Thank you for sending me a copy of the speech which
Honorable Welburn Mayock delivered before the conference
of District Judges for the Ninth Circuit.

With kind regards,

Sincerely,

(Signed) Fred M. Vinson

For The Ninth Circuit
Directors

Hon. Louis E. Goodman
Hon. John C. Bowen
Hon. Samuel M. Driver
Hon. James Alger Fee
Ex Officio
Hon. Peirson M. Hall
Ex Officio

President

Hon. James Alger Fee
U. S. Courthouse
Portland, Oregon

Secretary

Hon. Peirson M. Hall
U. S. Courthouse
Los Angeles, California

*File
J. Hall*

RECEIVED

DEC 6 9 37 AM '09

CHAMBERS OF THE
CHIEF JUSTICE

DISTRICT JUDGES

of

THE UNITED STATES
November 1,
1949

My dear Judge:

The conference of District Judges for the Ninth Circuit, by resolution directed that a copy of the addresses made to the conference should be mailed to the Judges of the United States Courts throughout the United States when printed copies were available.

The address by Hon. Welburn Mayock has been made available and is enclosed herewith.

Yours respectfully,

Peirson M. Hall

Secretary.

PMH:C.

Tolson personal
Holmes

July 7th, 1931 -

Dear Judge Holmes:

Thank you for your letter of June 29th and for your gracious and friendly personal references.

My ten years on the Bench have been most enjoyable, and I have no notion at this time of leaving the Chief Justiceship for any other office.

With every good wish, I am

Sincerely,

Hon. E R Holmes
United States Circuit Judge
Yazoo City, Mississippi.

EDWIN R. HOLMES
UNITED STATES CIRCUIT JUDGE
YAZOO CITY, MISSISSIPPI

June 29, 1951

Mr. Chief Justice Fred M. Vinson,
Supreme Court Building,
Washington 13, D. C.

Dear Judge Vinson:

The papers persist in saying that you may resign from the bench, become Secretary of State, and ultimately accept the Democratic nomination for the Presidency. I hope this is not true. You are making a fine judge and are badly needed where you are. Both the general welfare and your personal well being will be better served by your remaining on the bench. I shall not belabor the point or compare the two offices, because their relative duties, desirability, and opportunity for service, are as apparent to you as they are to anyone. Your work on the bench is going to get easier to you all the time, while in the presidency it would get harder and more worrisky every day. If your present work is congenial, I would let well enough alone.

With highest esteem and best wishes, I am

Sincerely yours,

E.R. Holmes

File

Hartshorne

ESSEX COUNTY COURT



RICHARD HARTSHORNE
JUDGE

COURT HOUSE
NEWARK 2, NEW JERSEY

October 19, 1951.

Honorable Fred M. Vinson, Chief Justice,
United States Supreme Court,
Washington, D. C.

My dear Mr. Chief Justice:

A little bird tells me that in a certain judicial situation you
said a word, where it would be likely to do the most good.

And it did!

I thought you might, therefore, be interested in the reaction
throughout the State of New Jersey, as epitomized in the enclosed
editorial from New Jersey's leading newspaper, the Newark Evening
News.

Needless to say, the appreciation of the object involved, far sur-
passes that.

Sincerely yours,

Richard Hartshorne

Richard Hartshorne

RH:ETD

RECEIVED
OCT 22 2 19 PM '51
CHAMBERS OF THE
CHIEF JUSTICE

HICKS

ADDRESS OF JUDGE HICK'S DAUGHTER -

Mrs. Sam Shanlever,
137 Kenesaw Avenue,
Knoxville, Tenn.

CIRCUIT JUDGES:

XEN HICKS
KNOXVILLE 12, TENN.
CHARLES C. SIMONS
DETROIT 31, MICH.
FLORENCE E. ALLEN
CLEVELAND 14, OHIO
JOHN D. MARTIN
MEMPHIS 3, TENN.
THOMAS F. McALLISTER
GRAND RAPIDS 1, MICH.
SHACKELFORD MILLER, JR.
LOUISVILLE 2, KY.

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT
MICHIGAN - OHIO - KENTUCKY - TENNESSEE

Hicks

CHAMBERS OF JUDGE HICKS
KNOXVILLE 12, TENN.

March 10, 1952.

RECEIVED
MAR 15 2 13 PM '52
The Chief Justice of
the United States,
Supreme Court Building,
Washington, D. C.

My dear Chief Justice:

I thank you for yours of March 5th. It made me
feel good and gave me encouragement.

I will continue to work for this is all that I know
to do. I have been on the bench for half of my life and
when I realized that, in the interest of the courts, I
should retire I did not hesitate. You have only to command
me when I am needed for any service I am capable of rendering.
The practical working of the courts has become almost an
obsession with me. I am looking forward to the time that
under your wise and skillful guidance whenever a case in the
Federal Court is ready to be tried a Judge will be there to
try it.

I thank you sincerely my dear Chief Justice for the
many kindnesses and courtesies you have shown me during your
tenure of office. You have served faithfully and well and
I hope for you and for the country a long and happy career.

Yours sincerely,

F. M. Vinson

XH/c

Honorable Fred M. Vinson,
Chief Justice of the United States,
Supreme Court Building,
Washington, D. C.

Hicks -

March 5, 1952

Dear Judge:

I have your letter of February 28th, informing me that you were retiring as of March 1st. I thank you for calling to my attention that Judge Simons should be notified by me of the meeting of the Judicial Conference on March 20th.

Your retirement compels me to express my feelings toward you and it. I can well understand that you have earned the right to lay down some of the great burdens of judicial office, but I am glad to know that it is retirement rather than resignation. Several of the judges, as you know, who have exercised their right of retirement are continuing their work. Whatever you do in this respect, I know it will be governed by the high purpose which has motivated you in your distinguished judicial service.

I will miss you in the Judicial Conferences over which I preside. You were always on the job giving expression to your views without fear or favor, based upon your long experience at the bar and on the bench. You were always cooperative, viewing each particular issue with a practical common sense viewpoint as a matter of policy guided by the laws under which we function. You were always able to see at least two sides to many of the issues, and you had the single purpose of promoting the best interests of the judiciary.

I always enjoyed our chats in my chambers or elsewhere, and I hope that we will have many more such pleasant visits.

I have mixed feelings in regard to your decision. I am glad that you are relieved of the tremendously heavy burdens as Chief Judge of a very important Circuit; that you will be free to give more time to doing many things you have not been able to do because of your regard to the duties of your office, and thereby will extend your span of years. I am saddened by the thought that you will not be my friendly and helpful partner around the Judicial Conference table, assisting as you have done for many years in the accomplishments of the Conference which has meant so much, in my view, in the betterment of the federal judicial system.

- 2 -

I want you to know that you have a standing invitation to attend the Judicial Conference meetings. We will always be glad to have you with us.

With the kindest of personal regards and the sincere wish that you will have many happy years before you, I am

Sincerely,

(Signed), Fred M. Vinson

Honorable Xen Hicks,
United States Circuit Judge, Retired,
United States Court of Appeals
for the Sixth Circuit,
Knoxville 12, Tennessee.

FMV:McH

CIRCUIT JUDGES:

XEN HICKS
KNOXVILLE 12, TENN.
CHARLES C. SIMONS
DETROIT 31, MICH.
FLORENCE E. ALLEN
CLEVELAND 14, OHIO
JOHN D. MARTIN
MEMPHIS 3, TENN.
THOMAS F. McALLISTER
GRAND RAPIDS 1, MICH.
SHACKELFORD MILLER, JR.
LOUISVILLE 2, KY.

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT
MICHIGAN - OHIO - KENTUCKY - TENNESSEE

CHAMBERS OF JUDGE HICKS
KNOXVILLE 12, TENN.

February 28, 1952.

My dear Chief Justice:

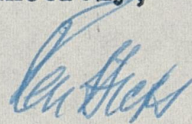
This is to advise that the President has approved my retirement as of March 1, 1952.

I am writing because I assume that it will be your purpose to notify Judge Simons, who becomes the Chief Judge on the above date, of the meeting of the conference on March 20th.

With high personal regards and best wishes,

I am

Yours sincerely,



Honorable Fred M. Vinson,
Chief Justice,
Supreme Court Building,
Washington, D. C.

Hightower

County Court of Jefferson County At Law
Jefferson County, Texas

L. B. Hightower, Judge

Beaumont, Texas
January 16, 1952.

Honorable Fred M. Vinson, Chief Justice,
United States Supreme Court,
Washington, D. C.

Dear Mr. Chief Justice:

It has recently been called to my attention that the Supreme Court rendered a decision in a case originating in the State of California, relative to the use in evidence of analyses of blood, urine, breath, et cetera, taken from a defendant, in order to prove or establish the degree of intoxication in cases wherein such condition is an issue. Particularly in criminal cases such as driving while under the influence of intoxicating liquor, negligent homicide, et cetera.

Inasmuch as the docket of my court is greatly burdened with such offenses, I naturally am interested in a controlling decision of your court. I would, therefore, consider it a very great service and favor if you would forward to me the opinion in this California case.

I have hesitated before troubling you with this matter but it is requested in order that those charged in this court with such offenses be given the full protection of the laws of the United States government, as construed and ordered by the Supreme Court of the United States.

Thanking you, I am,

Very truly yours,

L. B. Hightower
Judge

Full
LBH:D

NOTED
JAN 23 1952
A.M.V.

Hudgins

October 13, 1949

Honorable Edward W. Hudgins,
Chief Justice,
Supreme Court of Appeals of Virginia,
Richmond, Virginia.

Dear Mr. Chief Justice:

I saw the newspaper story in regard to the recent promulgation of the new Rules by your Court. I would be very happy to have a copy of them when they are available for distribution.

With kind regards,

Sincerely,

(Signed) Fred M. Vinson

File

CHIEF JUSTICE:
EDWARD W. HUGGINS

JUSTICES:
HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

SUPREME COURT OF APPEALS
OF VIRGINIA

M. B. WATTS
CLERK, RICHMOND
WILLIAM W. SMALES
DEPUTY CLERK, STAUNTON

Oct. 18, 1949

Chase City

RECEIVED
OCT 19 10 06 AM '49
CHAMBERS OF THE
CHIEF JUSTICE

Mr. Chief Justice Fred M. Vinson,
United States Supreme Court,
Washington, D. C.

Dear Mr. Chief Justice:

Your request for a copy of the new Rules
of Pleading and Practice in Virginia is duly
acknowledged and will be complied with as soon as
we receive copies from the printer, which we hope
will be in the next few weeks.

I have been urging upon different groups
the advisability of creating the office of Judicial
Administrator for the Virginia courts. In so doing,
I have taken the liberty of stating your views on
the subject, as expressed to Senator John J. Wicker, Jr.
and me in our delightful conversation with you en route
from St. Louis to Ashland, Kentucky.

With high esteem and kind regards, I am

Sincerely yours,

EWH:lt

Edward W. Huggins
Edward W. Huggins

Hudgins

November 30, 1949

Honorable Edward W. Hudgins,
Chief Justice,
Supreme Court of Appeals of Virginia,
Chase City, Virginia.

Dear Mr. Chief Justice:

I have your letter of November 29th enclosing copy of the Rules of the Supreme Court of Appeals of Virginia, which will become effective February 1, 1950, and appreciate your sending it to me.

You stated in your letter that you were also enclosing copy of a bill which the Judicial Council of Virginia will request the 1950 General Assembly to adopt. It was not in the envelope. I am interested in seeing the bill and would appreciate it if you would be good enough to have your secretary drop it in the mail.

With kind regards,

Sincerely,

(Signed) Fred H. Vinson

CHIEF JUSTICE:
EDWARD W. HUGGINS

JUSTICES:
HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

SUPREME COURT OF APPEALS
OF VIRGINIA

Nov. 29, 1949

RECEIVED

Nov 30 9 46 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

M. B. WATTS
CLERK, RICHMOND
WILLIAM W. SMALES
DEPUTY CLERK, STAUNTON

Chase City

*Thank bill
not included*

Mr. Chief Justice Fred M. Vinson,
United States Supreme Court,
Washington, D. C.

Dear Mr. Chief Justice:

Please find enclosed the official
copy of the Rules of the Supreme Court of Appeals
of Virginia which will become effective on
February 1, 1950. I am also enclosing a copy of
a bill which the Judicial Council of Virginia will
request the 1950 General Assembly to adopt. Chief
Judge Parker, Judge Soper and Judge Dobie, of the
Fourth Circuit, have expressed approval of this
measure.

*not
enclosed*

With high esteem and kind regards, I

am

Respectfully yours,

EWH:lt

Edward W. Huggins
Edward W. Huggins
Chief Justice

Hudgins

December 5, 1949

Honorable Edward W. Hudgins,
Chief Justice,
Supreme Court of Appeals of Virginia,
Chase City, Virginia.

Dear Mr. Chief Justice:

I have received the copy of the bill which the Judicial Council of Virginia will request the 1950 General Assembly to adopt, and have noted its content with genuine interest. It would seem to me that your work in this field will be of great worth in the administration of justice.

With the kindest of personal regards,

Sincerely,
(Signed) Fred W. Vinson

FMV:McH

CHIEF JUSTICE:
EDWARD W. HUGHINS

JUSTICES:
HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

SUPREME COURT OF APPEALS
OF VIRGINIA

Dec. 1, 1949

M. B. WATTS
CLERK, RICHMOND
WILLIAM W. SMALES
DEPUTY CLERK, STAUNTON

RECEIVED Chase City

DEC 2 3 58 PM '49

CHAMBERS OF THE
CHIEF JUSTICE

Mr. Chief Justice Fred M. Vinson,
Supreme Court of the United States,
Washington 13, D.C.

Dear Mr. Chief Justice:

I am sorry I overlooked enclosing in
Chief Justice Hudgins letter to you of November 29th,
a copy of the bill which the Judicial Council of
Virginia will request the 1950 General Assembly to
adopt. I am enclosing the copy herewith.

Respectfully yours,

Lillian Talley
Lillian Talley
Secretary

A BILL

To create the office of administrative officer for the courts; to provide for the appointment and term of such officer; and to define his power and duties.

Be it enacted by the General Assembly of Virginia:

1. A state office, to be known as the office of the administrative officer for the courts, to be filled by a person having the qualifications required of a judge of a court of record, is hereby created. The administrative officer for the courts shall be appointed by the Supreme Court of Appeals, shall hold office at the pleasure of the Court, and during his tenure of office shall not engage in the private practice of law. He shall receive such salary as may be fixed by the Court, not exceeding the amount provided by law. He may, with the approval of the Court, employ such assistants and other employees as are necessary for the performance of the duties of his office. The salaries of such employees shall be fixed by the Court within the limits of the amounts appropriated by law.

2. The administrative officer for the courts shall have the following duties:

(a) He shall be the Secretary of the Judicial Council;

(b) He shall be the Secretary of the Judicial Conference;

(c) He shall examine the administrative methods and operations of the courts and their clerks' offices and inquire into the state of their dockets; prepare such statistical data relative to the courts as the Chief Justice of the Supreme Court of Appeals may require; make recommendations and reports to the Chief Justice and the Supreme Court of Appeals concerning the administration and operation of the courts, and their clerks' offices, indicating where assistance may be needed to relieve congestion of the dockets; and do such other things as may be required of him by the Chief Justice or the Supreme Court of Appeals to aid that Court in co-ordinating the work of the courts, to the end that litigation may be expedited and the administration of justice improved in the courts of the Commonwealth.

(d) Judges and other officers of the courts, whether of record or not, and all other state, county and municipal officers shall furnish to the administrative officer such information as he may need in the performance of his duties.

CHIEF JUSTICE:
EDWARD W. HUDGINS

JUSTICES:
HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

RECEIVED
SUPREME COURT OF APPEALS
OF VIRGINIA
Dec 9 4 10 PM '49

CHAMBERS OF THE
CHIEF JUSTICE

Dec. 8, 1949

Hudgins
M. B. WATTS
CLERK, RICHMOND
WILLIAM W. SMALES
DEPUTY CLERK, STAUNTON

Chase City

Honorable Fred M. Vinson,
Chief Justice of the United States,
Washington, D. C.

Dear Mr. Chief Justice:

Your letter of December 5th commending the work of the Judicial Council is highly pleasing to the Council and to me.

Perhaps one of the dominating influences in concentrating the attention of the bench, the bar, and the laymen of the State to the necessity for the creation of this office has been the speech made by you before the Conference of Chief Justices in St. Louis last September. We have had more than one hundred copies distributed to the committees in the different sections of the State which are making effective use of it.

The Council has just completed and submitted to the printer, a condensed statement of its activities for the past two years which is required by statute to be made to the General Assembly and the Supreme Court of Appeals. When the printed copies are available, I shall be glad to send one to you.

With high esteem and kind regards, I am

Sincerely yours,

EWH:lt

Edward W. Hudgins
Edward W. Hudgins

Hudgins

December 20, 1949

Honorable Edward W. Hudgins,
Chief Justice,
Supreme Court of Appeals of Virginia,
Chase City, Virginia.

Dear Mr. Chief Justice:

I have your letter of the 9th in which you ask my permission to use my letter to you of December 5th relating to the bill providing for a Judicial Administrator for state courts and your other work in the field of judicial administration.

If you are of the opinion that my letter of the 5th will be helpful in the consideration of this measure, you may use it as indicated in your letter of the 9th.

With the kindest of personal regards,

Sincerely,

(Signed) Fred M. Vinson

FMV:McH

CHIEF JUSTICE:

EDWARD W. HUGGINS

JUSTICES:

HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

SUPREME COURT OF APPEALS
OF VIRGINIA

Dec. 9, 1949

M. B. WATTS

CLERK, RICHMOND

WILLIAM W. SMALES

DEPUTY CLERK, STAUNTON

RECEIVED

DEC 10 9 55 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

Mr. Chief Justice Fred M. Vinson,
Washington 13, D.C.

Dear Mr. Chief Justice:

The editor of the Commonwealth Magazine, published by the State Chamber of Commerce, has requested that we prepare an article on Judicial Administrator for State courts, which will be published under the name of State Senator M. M. Long. The article will contain extracts from your speech before the Conference of Chief Justices, and extracts from speeches delivered by two judges of nisi prius courts. I would like to include in this article your letter to me of December 5, with any changes that you may desire to make. Your endorsement of the specific bill will carry the weight necessary to secure its passage. The magazine will be published in January and copies thereof will be laid on the desk of each member of the General Assembly.

Awaiting your permission before giving the matter to the printer, I am

Sincerely yours,

EWH:lt

Edward W. Huggins
Edward W. Huggins

RECEIVED
CHAMBERS OF THE
CHIEF JUSTICE

DEC 10 9 50 AM '49

RECEIVED

Hudgens

January 21, 1950

Honorable Edward W. Hudgins,
Chief Justice,
Supreme Court of Appeals of Virginia,
Chase City, Virginia.

Dear Mr. Chief Justice:

I received your letter of January 14th, enclosing the January issue of "The Commonwealth, The Magazine of Virginia," and also your letter of January 18th with which you transmitted a copy of the Report of the Judicial Council for Virginia.

I have looked through the Report of the Judicial Council, and I think it is a splendid document. The Handbook for Jurors is a new wrinkle to me, but I think it is a very good thing. In the course of time, coupled with the grand jury charge, it will strengthen the trial process.

I note your explanation in regard to not using my letter to you because you thought it might look too personal. My conclusion is contra. I did not feel that its terms were strong enough. As a matter of fact, I considered writing a more commendatory letter that you could have substituted for the note. I decided against it because it would be writing for the record. Then when I examined my language in the note, I concluded that it was a sincere statement of appreciation for the job that you were doing but, frankly, I do not think it was strong enough. From time to time, I hear of interest in the basic objectives of the Conference of State Chief Justices, and I hope that as the years go by both systems will be soundly improved. You will properly receive the thanks and appreciation of thinking people for your work in this important field. I know that your purpose is not motivated by self-acclaim, but sometimes it takes courage to stand for change.

With high esteem, I am

Sincerely,

(Signed) Fred M. Vinson

FMV:McH

CHIEF JUSTICE:
EDWARD W. HUGGINS

JUSTICES:
HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

SUPREME COURT OF APPEALS
OF VIRGINIA

M. B. WATTS
CLERK, RICHMOND
WILLIAM W. SMALES
DEPUTY CLERK, STAUNTON

January 14, 1950

RECEIVED
JAN 16 4 48 PM '50
CHAMBERS OF THE
CHIEF JUSTICE

Honorable Fred M. Vinson,
Chief Justice of the United States,
Washington, D. C.

Dear Mr. Chief Justice:

I am enclosing herewith the January issue of "The Commonwealth, The Magazine of Virginia," in which we took the liberty of publishing excerpts from your speech before the Conference of Chief Justices in St. Louis.

I decided that while your personal commendation of me was very highly appreciated, it would look too personal in an article of this kind.

The Report of the Judicial Council for Virginia will be off the press next week and I will take the liberty of sending you a copy.

With high esteem and kindest of personal regards, I am

Sincerely yours,

EWH:lt

Edward W. Huggins
Edward W. Huggins

CHIEF JUSTICE:
EDWARD W. HUDGINS

JUSTICES:
HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

SUPREME COURT OF APPEALS
OF VIRGINIA

January 18, 1950

M. B. WATTS
CLERK, RICHMOND
WILLIAM W. SMALES
DEPUTY CLERK, STAUNTON

RECEIVED
JAN 20 9 23 AM '50
CHAMBERS OF THE
CHIEF JUSTICE

Honorable Fred M. Vinson,
Chief Justice of the United States,
Washington, D. C.

Dear Mr. Chief Justice:

You will find enclosed a copy of the
Report of the Judicial Council for Virginia
just off the press.

With high esteem, I am

Sincerely yours,

EWH:lt

Edward W. Hudgins
Edward W. Hudgins

CHIEF JUSTICE:
EDWARD W. HUDGINS

JUSTICES:
HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

SUPREME COURT OF APPEALS
OF VIRGINIA

September 8, 1951

Chase City

M. B. WATTS
CLERK, RICHMOND
WILLIAM W. SMALES
DEPUTY CLERK, STAUNTON

RECEIVED

SEP 10 9 22 AM '51

CHAMBERS OF THE
CHIEF JUSTICE

File

Honorable Fred M. Vinson,
Chief Justice of the United States,
Supreme Court Building,
Washington, D. C.

Dear Mr. Chief Justice:

The Conference of Chief Justices convenes at the Roosevelt Hotel in New York on September 13th. After September 17th, we will meet jointly with the Section of Judicial Administration of the American Bar Association. On Tuesday, September 18th, at 8:00 p. m., we will have dinner at the Waldorf-Astoria Hotel.

While you have already been invited to attend these meetings of the Conference, I want to assure you that we shall be highly honored to have you attend any or all of the meetings. Your presence would add so much.

I would feel highly honored to have a few minutes talk with you at any of these meetings or at any other time while the American Bar Association is in session.

With high esteem, I am

Sincerely yours,

EWH:lt

Edward W. Hudgins
Edward W. Hudgins

Hudgins

October 5, 1951

Dear Mr. Chief Justice:

I truly regretted not seeing you in New York during the Bar Association meeting.

En route from the train to the hotel, I asked Mr. Franklin Parker to get on your trail, and ask you to come up to see me, and later requested Cody Fowler and another gentleman to assist me in finding you - all to no avail.

I have delayed writing you because of the heavy burden incident to the Judicial Conference, and preparing for the Court conferences this week. But I wanted you to know that I certainly regret not seeing you as I like you a lot.

With kindest regards,

Sincerely,

(Signed) Fred M. Vinson

Honorable Edward W. Hudgins,
Chief Justice,
Supreme Court of Appeals of Virginia,
Chase City, Virginia.

FMV:McH

Hulen

UNITED STATES DISTRICT COURT
CHAMBERS OF JUDGE HULEN
ST. LOUIS 1

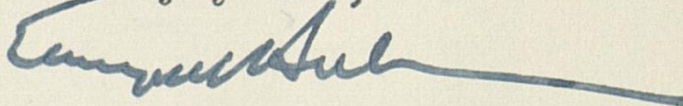
January 17th, 1952

Dear Justice Vinson:

It occurred to me that as a matter of general information you might be interested in the jury pamphlet I have prepared, a copy of which I enclose.

I should be glad to have any criticism of it that occurs to you, should you have time to examine its contents.

Sincerely yours,



File

Honorable Fred M. Vinson
Chief Justice
United States Supreme Court
Washington, D. C.

NOTED

JAN 21 1952

F.M.V.

To: _____

A Member of the Jury Panel:

As Judge of the United States District Court for the Eastern District of Missouri, I have been informed of your selection to serve as a Juror in the Court where I preside.

I believe you will find your jury service interesting and will complete it satisfied you have taken part in a direct contribution to the function of our Republic, and that you have discharged one of the highest responsibilities of citizenship under our Constitution and laws.

As a Juror you are an officer of the Court. You will be accorded the courteous consideration due your office. Every effort will be made to conserve your time, to avoid delays and unnecessary calls to attend Court.

Yours will be a serious duty. It will involve matters of great importance to those involved. I believe you will find this booklet of interest and aid to you in the work you are about to perform as a Juror in a United States District Court.

Individual Service is the Life of Democracy

★ ★ ★

The vitality and endurance of our democratic institutions can find ultimate safeguard only in the hearts, minds and wills of the citizen. The strength of democracy does not depend on the law but in the collective and common effort of a free and independent people, acting individually when and where opportunity permits, to discharge the obligation of citizenship. If our work is earnest, honest, intelligent, and patriotic, intended to preserve and promote the basic principles of our form of government, even when self-sacrifice is called for, democracy will not fail. One citizen's default casts a burden on his neighbor and lends support to those forces which seek destruction of our democratic processes.



The Juror's Creed

[The Committee on American Citizenship of the American Bar Association has issued a booklet, "The Responsibility of the Citizen as a Juror." "The Juror's Creed" is an excerpt from that publication.]

I am a juror. The building in which I sit is a courthouse. It is also a temple of justice if the judge and I perform our sacred functions.

My right to serve as a juror was purchased for me by the blood and agony of my forefathers who wrested this precious right from tyrants.

Under our system of law no person can be deprived of life, liberty or property without the consent of a jury of his fellow citizens. This is the very essence of freedom.

I recognize the importance of the court as an agency to settle disputes and to punish criminal acts. By my participation I preserve and perpetuate democratic processes.

Trial by jury is a basic right guaranteed to me and to my fellows. All who seek their day in court are entitled to a fair hearing, and as a juror I will see that they get it from me.

I will welcome the opportunity to serve as a juror and regard it as the most important civil function I have to perform. I will ask to be excused only in case of real emergency.

Chosen first by lot and then by consent of the parties, I recognize that I represent this community in settling this controversy.

I do not believe that justice is served when competent citizens evade jury service and leave it to the indigent and loiterers about the courthouse.

My oath as a juror imposes upon me a sacred obligation which I will neither avoid nor shirk.

On my oath I will well and truly try each case submitted to me, and a true verdict render according to the law given me by the judge and the evidence produced at the trial, to the best of my ability, without fear, favor, or hope of reward.

Before sitting in a particular case I will frankly disclose to court and counsel any knowledge of the facts, any relationship to parties, and any bias or prejudice I may have against the parties, participants, cause or the law on which it is based.

I will listen attentively, patiently, with tolerance and understanding to all of the testimony,

instructions and arguments, and will withhold my decision until all the evidence has been introduced and the jury instructed on the law.

With a patient and impartial mind I will carefully weigh the evidence in search only for the truth.

I will consider only the evidence introduced at the trial as it has been admitted by the judge as being competent under rules representing the experience of mankind in the search for truth.

I will consider all the evidence of both sides fully and fairly, and will search for the truth without regard to wealth or poverty, friendship or enmity, of any party or witnesses.

I will remember that I am not trying the lawyers, the judge, the witnesses, or even the parties, but only the issues of fact in the case.

I will follow the instructions of the judge as to the applicable rules of law, regardless of my opinion of what the law ought to be.

In deliberating with the other jurors I will express my views frankly and urge the others to do the same.

The opinions of my fellows are entitled to my respectful consideration. Their life experiences are probably as broad as mine and I will recognize their competence in helping solve our common problem.

When convinced of the correctness of my views I will adhere to them, but I will be open-minded and remember the desirability of reaching a unanimous verdict.

Whether my verdict is for friend or foe, rich or poor, is alike immaterial. What is important is that it be just and speak my honest conviction of the facts.

It will not be based on race, class, creed or color, nor on any other extraneous consideration, but only on the law and evidence.

Mine is a great and heavy responsibility, for my decision may mean the difference between liberty or chains, poverty or affluence, to some one.

In criminal cases I will remember that while I may be merciful I must be just, both to the defendant and to the community.

In civil cases involving property rights I will remember that it is not my property, and, though my decision may bestow it on one or withhold it from the other, my action must be based on the law and the facts, and on nothing else.

Justice, once but a dream, is now a reality when I perform my full duty as a juror. No act

of mine shall bring our system of liberty under law into disrepute. If this system fails it will not be because of me.

As a juror I understand the importance of my function and I will perform it.

THINGS A JUROR SHOULD KNOW

Judges and lawyers are familiar with the manner of selection of jurors and procedure in the court room. To a juror serving for the first time court room procedure may seem strange. The purpose of this booklet is to explain to you in a general way the manner in which lawsuits are tried and the part which you, as a juror, will have in seeing that justice is done.

In each case in which you act as a juror the judge will give you instructions applicable to that case. The information in this pamphlet is not intended to take the place of and must not encroach on those instructions.

KINDS OF CASES—CIVIL AND CRIMINAL

Generally speaking, a jury may be called upon to decide factual issues in two kinds of cases—civil or criminal.

A civil case, submitted to a jury, ordinarily is one involving issues concerning money damages. The case is started in court by the plaintiff (or the party bringing the suit) setting forth his claim in a written "complaint" and filing it with the Clerk. This is served upon the defendant (or the party who is being sued). There may be more than one plaintiff or more than one defendant. The party or parties being sued set forth their answer to positions on the claim in written "answer" and this answer is filed with the Clerk. From the complaint and answer filed with the Clerk the issues to be decided by the jury are determined.

A criminal case is an action brought in the name of the United States, as plaintiff, against a person, persons, or a corporation, charging a crime. The action is brought either by an indictment or information. If the action is initiated by the finding of a grand jury, it is known as an "indictment". If the charge is initiated by the United States District Attorney, without the use of a grand jury, it is known as an "information". The person charged with the offense if admitting the charge does so by entering the plea of "guilty". If the person charged

denies the charge this is done by plea of "not guilty". In a criminal case where a plea of not guilty is entered a jury may be called on to decide whether the defendant is guilty or not guilty of the offense charged.

SELECTION OF A JURY

Many citizens are never called to serve as a juror. You may never be called again. If you serve, you cannot be called again for a long time. As a citizen, it is your duty and your business to serve if it is possible, and it is your business to uphold the laws of your country.

Ordinarily 18 jurors are required to be qualified (exception: criminal case involving a felony) and when qualified constitute the jury panel for the case they are qualified on.

Before the panel of 18 jurors is qualified they are examined and asked questions to determine their qualifications as jurors in the particular case. Every juror should be careful to pay strict attention to these questions and to answer frankly. No juror should consider the purpose of these questions is to pry into his personal affairs, but it is necessary that some personal questions be asked. Should it be ascertained that any prospective juror is not qualified for the particular case he is excused and another of the jurors present in court takes his place.

When a panel of 18 jurors is qualified counsel for each side may strike from the list the names of three jurors, and the 12 remaining top names on the jury list will constitute the jury to try the case.

Any person excused from jury service during the qualification process, or by having his name stricken by the lawyers for the parties, should not consider the challenge or retirement from the jury panel as any reflection on his integrity or intelligence. None was intended by the judge or lawyers.

OATH OF A JUROR IN CIVIL CASE

Each juror is required to take a solemn oath (or to affirm) that he will "well and truly try the matters in issue and a true verdict render according to the evidence and the law". When you take this oath you become a judge of all questions of fact, and are in duty bound to act fairly and impartially. You are no longer free

to act upon your feelings or emotions, but are bound by your oath to use your reason and judgment.

POWER AND DUTY OF JUDGE AND JURY

During the trial the judge decides all disputes about the law and the rules for trying the case. At the close, he will instruct you on the law and tell you the principal questions you are to decide. The case is then turned over to the jury. The power and the responsibility moves from the bench to the jury room. The jury must decide what the facts are. They must decide what testimony they will believe. If it is a damage case, you will fix the amount of the damages if any are awarded. If it is a criminal case, you will decide whether the defendant is guilty. All the power given by the people is in your hands. Yours the duty and yours the responsibility. If you do your duty well, your verdict is generally final.

CONDUCT OF JURORS DURING THE TRIAL

After you are sworn as a juror in a case on trial there are some rules that you should observe.

Do not be late for court sessions. Since each juror must hear all the evidence tardiness causes delays and a waste of time to the remaining members of the jury, the court, and the attorneys and witnesses. The usual hours of court are: Court convenes in the morning at 10 o'clock. Lunch hour is 12:30 to 2:00 p.m. Adjournment is between 4:30 and 5:00 p.m. There is a short recess in the middle of the morning and afternoon sessions, and at any time a juror should desire one.

Always sit in the same seat in the jury box. This enables the Judge, the Clerk and the lawyers to identify you more easily from the list of names they have constituting the jury.

Do not talk about the case. When you are a juror you should not talk to anyone about the case or permit anyone to talk to you about it. You should not discuss the case even with the other jurors except in the jury room after the case has been finally submitted and you are considering the verdict. If any person persists in talking to you about the case, or attempts to talk about it in your presence, you should report that fact to the Judge immediately.

Inspecting the Scene. It may be that the suit involves some place or thing, such as the scene of an accident, the operation of traffic lights or the like. If it is thought necessary and proper that the jury should make an inspection, the judge will send the jury in a body in charge of the bailiffs. It would be improper for any juror to make an inspection unless ordered by the court, so be careful not to do so. Conditions may have changed. An unauthorized inspection might force a retrial of the case.

Radio and Newspaper Accounts. In order that the mind of each juror be kept open until all the evidence, argument and the instructions of the court have been heard, jurors must not listen to radio accounts of the trial or read articles about it which may appear in newspapers during the trial. Such articles sometimes give one a biased or unbalanced idea of the case.

Talking with Parties or Lawyers. Do not talk with parties, witnesses or lawyers during a trial. Someone may believe that something unfair is going on.

You should not indicate during a trial, by exclamations, facial expressions, or by any other act, how any evidence or incident of the trial affects you.

If during the trial, or at any time you are subject to jury call, you are in doubt about your rights or duties as a juror, you should ask the Judge for information or instructions.

If an emergency arises affecting your jury service, consult the Judge about it.

Never make up your mind or attempt to reach a conclusion in a case until all the evidence has been introduced, arguments have been made, and you have heard the Judge's instructions. Often evidence introduced by one side which sounds very convincing may be overcome, or explained away, by evidence from the other side heard later in the case.

OBJECTIONS TO EVIDENCE

From time to time during a trial the lawyers may make objections to a question asked, or an exhibit offered, by the other side. A lawyer is perfectly within his rights in making objections to the evidence and exhibits which he believes are not proper in the case. If the Judge believes the evidence objected to is not proper the objection will be sustained. If he thinks the

lawyer is mistaken in his objection he will overrule the objection. In any event the matter to be decided is wholly a legal question. Objections by the lawyers, or the ruling of the Judge with regard to them, should not cause the jury to draw inferences of any character for or against either side. It may happen in a particular case that a lawyer will make objections which you believe should not have been made. Never let any such action by a lawyer influence you in a case in any way. A trial is not a contest of learning, skill, or tact between lawyers, but a proceeding to find out the truth according to the evidence received and the law as explained by the Judge.

CONFERENCES OUT OF YOUR HEARING

There are occasions during a trial when the Judge may call the lawyers to the bench, or the lawyers may approach the bench, and there engage in conversation with the Judge out of the hearing of the jury. At such times law matters or procedural matters are being discussed and this manner of doing it is to save the inconvenience of sending the jury from the court room. Inasmuch as a jury passes only on factual matters it is felt to be the best policy to discuss law matters and procedural matters out of their hearing in order to avoid any chance of confusion to the jury. This practice should give you no concern and you should not even attempt to draw any conclusions as to what is being said out of your hearing.

HEARING AND SEEING WITNESSES

Each juror should pay close attention to the witness who is testifying, both to hear what the witness says and watch his manner and actions.

Some witnesses do not talk so that they can be heard by all jurors. On any such occasion if you cannot hear a witness you should speak to and let the Judge know you cannot hear.

SOME TERMS YOU WILL HEAR IN COURT AND THEIR MEANING

Action, Case, Suit, Lawsuit: These words mean the same thing. They all refer to a legal dispute brought into court for trial.

Civil Case: A lawsuit is called a "civil case" when it is between persons in their private capac-

ities or relations, or between the Government or some department of the Government suing an individual under some Federal law as distinguished from prosecuting a criminal charge.

Criminal Case:

A lawsuit is called a "criminal case" when it is between the United States on one side as plaintiff, and a person or corporation on the other side as defendant. It involves a question of whether the defendant has violated a Federal law defining a crime and the verdict is usually "guilty" or "not guilty".

Pleadings:

The complaint (or petition) and answer, which the parties in a lawsuit must file with the Clerk of the Court are statements of their claims against each other, stating their claims against each other. These are called "pleadings".

Complaint:

The paper filed with the Clerk and served on the defendant by which the person who brings the suit (plaintiff) sets forth his claim against the defendant, is called a "complaint" or "petition".

Answer:

The paper filed with the Clerk of the Court in which the defendant answers the claims of the plaintiff and sets forth his position on the claims of the plaintiff.

Counterclaim:

A "counterclaim" is filed in some cases. When you hear the term used it means that the defendant in his answer to the complaint claims he is entitled to some relief from or against the plaintiff.

Record:

This refers to the pleadings, the exhibits and word-for-word record made by the reporter in shorthand of all the proceedings at the trial.

Parties:

The plaintiff and defendant in the case, they are sometimes called the litigants.

Plaintiff:

The person who starts a lawsuit.

Defendant:

The person against whom the lawsuit is brought.

Jury Panel:

The whole number of prospective jurors, from which the trial jury of 12 is chosen.

Trial Jury:

Twelve jurors sworn in as a jury to try a particular case.

Bailiff:

The term "bailiff" or "crier" refers to the officer of the Court who waits upon the Court, the jury, and maintains order in the Court.

Clerk:

The Clerk sits to the right of the Judge and is an officer of the Court and keeps a record of papers filed. He has custody of all the pleadings and records the orders made by the Court during the trial and the verdict at the end of the trial. The clerk administers the oath to the jurors and all witnesses before they testify. He also marks all exhibits before they are offered in evidence.

Reporter:

The reporter is an officer of the Court and takes down in shorthand everything that transpires which constitutes the stenographic record in the case. The shorthand notes are subject to be transcribed later should occasion, such as appeal, require it.

Opening Statement:

Before introducing any evidence for his side of the case, a lawyer may make an opening statement telling you what his client claims, and will outline to you the evidence by which he expects to prove this claim. You should remember that these statements of the lawyers are not evidence, but only explanations of what each side claims, and that claims must be proved by evidence. The conflicting claims constitute the issues.

Subpoena:

The document issued by the Clerk of the Court at the request of any litigant and which is served on a witness and by which he is compelled to appear in Court. It frequently happens that witnesses are beyond the distance that they can be subpoenaed to appear in Court.

Deposition:

If a party to a lawsuit or a witness cannot be in Court because of illness or absence, his

juror to refuse to listen to the arguments and opinions of others—in other words, to be bull-headed and stubborn. When one has listened to all the opinions of others, and considered the reasons for their opinions, and has reasoned the matter out and formed his own judgment, he should, of course, stick to it unless he is persuaded to change his mind. No juror should ever vote against his conscience. He should vote according to his honest judgment. If everyone is fair and reasonable, a jury can almost always agree. If a jury cannot agree within a reasonable time, it generally means a new trial, which is a great expense to the parties and the Government, so jurors are expected to be fair, reasonable and courteous to each other, and try to reach an agreement which is a "true verdict".

The Issues:

In his instructions the judge will tell you the "issues" or questions you are to decide. If there is more than one question consider them one at a time, after such general discussion as the jury thinks proper.

Law of the Case:

The judge will tell you what the law is for each case, so that you may apply the law to the facts as you find them to be. The kind and amount of proof required will be pointed out.

Your Verdict:

Your verdict will show how reasonable, fair, just and sensible the jury is. Verdicts may indicate to other people who have disputes in the future, whether they can wisely and safely submit their disputes to a jury for settlement or whether it is better judgment to suffer wrongs in silence because they are afraid of jury justice. Your findings on a disputed question of fact, which are based on substantial evidence, are almost always final and will seldom be set aside by the judge or a higher court, so in all verdicts you must be careful to be just.

CONCLUSION

Jurors are selected to perform jury duty in the Federal Court, not by chance, but because the Jury Commission, after investigation, believes they are citizens of good reputation for citizenship, intelligence, and fairness. A juror cannot, and is not expected to, change his character on being sworn as a juror. A juror should keep an open mind in hearing a case, and never permit his judgment to be influenced by any consideration other than the evidence and judge's instructions as to the law in the case. The argument

of counsel is to help you apply the evidence to the issues and to suggest the weight you should give to evidence and credibility you should assign to the testimony of witnesses. If the argument of counsel appeals to you as fair, reasonable and intelligent, give to it that effect to which you think it is entitled, but do not permit yourself to be swayed by appeals to passion or prejudice, if any are made.

If you have some physical disability which in your judgment would prevent your efficient performance of jury duty, or if your circumstances are such that in candor and good faith you believe jury service would cause you a hardship, to an extent that is improper for your Government to call on you for this service, and you feel that in all fairness another citizen should be required to serve in your stead, then under those conditions you should get in touch, by mail or personally, with me, prior to the day on which you have been notified to appear for jury service, and your request for relief will be given due consideration.

Jurors should never forget they will make a definite contribution to efficient judicial administration if they arrive at a just and proper verdict in a case. In closing I remind you that in your deliberations in the jury room there can be no triumph except the ascertainment and declaration by your verdict of the truth.

Jurors report for jury service at the time and on the day notified and a jury is selected from their number. It is then ascertained when the next case will be for trial and the balance of the panel is excused, and not required to remain at the courthouse when their time is not required. While you may be subject to call for an extended period, the number of jurors on the panel is such that the actual days during that period you will actually be serving will not be a heavy burden, unless you should serve on an extended case. Cases taking over two or three days are exceptional.

RUBEY M. HULEN,

United States District Judge
United States Courthouse
11th and Market Streets
St. Louis 1, Missouri.

Hutcheson

October 27, 1949.

Dear Judge:

Thanks for your letter and the clippings.

I am pleased that the reaction was so favorable.

I look forward to seeing you next month.

With personal regards,

Sincerely,

(Signed) Fred H. Vinson

Honorable Joseph C. Hutcheson, Jr.,
Judge, United States Court of Appeals
Houston, Texas.

PLK

Joseph C. Hutcheson, Jr.
U. S. Circuit Judge
Houston, Texas

RECEIVED
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CHAMBERS OF THE
CHIEF JUSTICE

October 24, 1949

Dear Mr. Chief Justice:

I write to thank you for your aid in securing the appointment of Judge Borah to our court.

I was in New Orleans for a day on my way home from Atlanta, and I found, as the enclosed clippings show, an atmosphere of universal surprise at, and universal approval of, Borah's appointment.

Sincerely yours,

J. C. Hutcheson

Honorable Fred M. Vinson,
The Chief Justice,
Supreme Court of the
United States,
Washington, D. C.

Hutcherson
Joseph C. Hutcherson, Jr.
U. S. Circuit Judge
Houston, Texas

March 29, 1949

RECEIVED

APR 1 9 34 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

Dear Mr. Chief Justice:

I know you would have felt thoroughly repaid for your indulgence in excusing me from the second day of the Conference if you had seen the hit I made with those Law Review students from the universities in the Southern States when I said:

"You owe my presence here to the kindness of the Chief Justice in letting me go before the Conference was completely over, and the next time you write to the Chief Justice I want you to thank him for having done so."

You would have thought that I was Will Rogers himself the way the boys laughed and applauded at the underlying assumption that they were in the habit of carrying on an active correspondence with you.

It was quite a representative attendance from the Law Schools of your state and mine and some other southern states, and it was right for me to be there and for you to let me go.

Sincerely yours,

JCHutcherson

Hon. Fred M. Vinson,
Chief Justice,
The Supreme Court,
Washington, D. C.

*P. S. I forgot to ask Kelly to remind you to write to
Judge Kennedy I am reminding you myself
JCH*

United States Court of Appeals

Fifth Judicial Circuit

July 7, 1951

Joseph C. Hutcheson, Jr.,
Chief Judge,
Houston, Texas

Hon. Spessard L. Holland,
United States Senate,
Washington, D. C.

Re: Senate 1203

Dear Senator Holland:

I am glad to receive your letter of June 28th, in regard to the need in the Southern District of Florida for an additional judge.

Before answering your specific inquiries, I feel that I should in a preliminary way clarify my position. Such actions as I have taken and such recommendations as I have made have been in my capacity as a member of the Judicial Conference, representing, as Chief Judge, in that conference the Fifth Judicial Circuit. My position there has been not wholly, or even mainly, that of a judge, it has been more that of a legislator.

Representing the Fifth Circuit in the Conference, it has been my obligation to advise with the Conference on the needs of the Fifth Circuit. It has also, and in the final end, been my duty as a member of the Conference to take an overall view of the judicial system, and, in acting as a member of the Conference, to recommend no action with reference to my circuit unless I could conscientiously support comparable action with reference to other circuits.

I have particularly felt my obligation not to act in the Conference as a partisan for the Fifth Circuit or in any manner engage in horse trading or log rolling. When, therefore, I have recommended against an additional judgeship or other provision for the Fifth Circuit, I have not done so in my personal capacity, nor have I felt that it was my duty or obligation to personally oppose actions of the Legislative Branch of the Government in respect of additional judicial places.

I begin, then, by saying that I am not, and never have been opposed to the action of any senator in what he regards as the proper interest of his state in proposing or furthering bills for the creation of additional judgeships, even where I have felt that, as a member of the Conference, it was my duty to otherwise advise the Conference.

#2 - Hon. Spessard L. Holland

With every assurance, then, of my understanding and appreciation of your interest in the welfare of your state, and with no disposition to personally oppose or question or change your views as United States Senator from Florida as to the needs of your state, I come to the precise questions your letter poses: (1) the reasons for my recommendation to the Judicial Conference last year; and (2) whether, as the result of recent developments, I would feel that I could consistently recommend to the Judicial Conference the creation of at least one additional judgeship for the Southern District of Florida.

As to the first question, let me say that I fully agree that statistics as such are not always safe guides. When, however, throughout a fairly uniform judicial system they are carefully gathered, interpreted, and applied in the same general way, they do furnish quite a reliable basis for general action, and that in administering an entire system as large as the federal system is, they must be, and they are, accepted as basic guides.

The result of this fact has created in the annual reports of the Administrative Office a set of figures based on the general experience of the districts as a whole throughout many years, and paramounting certain considerations.

The first of these considerations is that, while from time to time particular criminal cases do take considerable time for disposition, by and large, in estimating the needs of new judicial man power, the figures as to criminal cases are not entitled to, they are not given, much weight. What is given weight is, in general, the civil business and, in particular, the private civil business. Here, too, in occasional cases, United States private cases will consume considerable time of a court, but by and large the United States civil cases are not the time consuming ones.

Thus we reach the final factor which is entitled to the most consideration, the number of private civil cases. As this case load goes, so goes the burden on the judge and the court.

If you will take the annual report of the Director of the Administrative Office for the fiscal year ending June 30, 1950, you will find it all most interesting reading, but for our purpose, you will find the following pages sufficient, pp. 31-32, where the national average of 222 civil cases

#3 - Hon. Spessard L. Holland

per judge is first stated and then districts are set out where the case load per judgeship is in excess of this average.

You will not find the Southern District of Florida listed there. If you will turn to Table C(1), Civil Cases Commenced and Terminated, during the fiscal year ending June 30, 1950, you will find that during that fiscal year there were commenced 883 cases, or 220 cases per judge, in the Southern District of Florida and only 109 in the Northern District of Florida.

While, as I have said, criminal cases are not really significant, to complete the picture, if you will turn to Table D(1), Criminal Proceedings commenced and terminated in the Fifth Circuit, you will find that the Southern District of Florida, with its four judges, commenced 513 criminal cases and that this average of criminal cases per judge is lower than that of any other district and much lower than that of many of them.

If, finally, you will turn to Table X(2), a Ten Year Table of Civil Business in the United States Courts, from 1941 to 1950, you will see that, while the business in Florida over this ten year period has increased some, this increase is very slight, 691 cases in 1941 and 883 in 1950; whereas in other districts, notably Eastern Louisiana, where there are two judges, it has doubled; in Northern Texas, where there are three, it has increased from 540 to 860; in Eastern Texas, where there is one, it has increased from 313 to 475; while in Southern District of Texas, which until 1948 had only two judges, when two more were appointed, it has increased from 422 to 1087.

With these figures, from the Fifth Circuit, confronting me, it was quite clear to me that to recommend a fifth judge for the Southern District of Florida would not be reasonable as this would further reduce the average per judge in Florida below the national average and practically to the minimum.

Let me say here that I do not believe in the notion of the national average as any fair criterion. If you will look on that same page, you will find a great many what I call splinter districts, a few of them in the Fifth Circuit, the Northern of Florida, Middle and Southern of Alabama, Northern of Mississippi, and Southern of Georgia, where the

#4 - Hon. Spessard L. Holland

business is quite small. In other parts of the country there are even more of these small business districts. When these little splinter districts are thrown in with the districts where the judges are really working, they tend to create a national average which is not a fair criterion of the amount of work that should be done per judge. That should be gotten from working districts like the Southern District of Florida, Eastern District of Louisiana, which has only two judges, and most of the Texas districts.

In addition to the fact that the commencements in Florida in 1950 do not impose an undue burden on those judges, you have the fact that the Northern District of Florida has very little business, and it is due to this fact that during the illness of Judge Strum, the business of the Southern District was kept going by the free use of that judge in Jacksonville, in fact such free use, that I feel that Judge DeVane is entitled to a little resting up in his own district, small as it is, now that you have four active judges in the Southern District.

If, however, the whole state of Florida would be made into one district with five judges, the situation would be ideal and the burden of none of the judges would be heavy.

With all these facts in mind, I did not feel that I could justly recommend that Southern Florida have another judge, thus further reducing the case load per judge below even the national average.

I now come to your second question, whether in view of the experience of the past with the Southern District equipped with four judges, I would feel that I could consistently at the next meeting of the Judicial Conference recommend an increase. My answer, but for the pending business which the judges do not seem to be able to reduce, would be no. It is this pending business there and this alone and the inability of the four judges to reduce it, which it seems to me might justify considering another judge on a permanent basis, with the understanding that when there was a vacancy in the combined judgeship for the Northern and Southern Districts, the place, which Judge Whitehurst now holds, that place would not be filled because by that time the pending load should have been reduced to its proper bounds.

#5 - Hon. Spessard L. Holland

Speaking with perfect frankness, I must say that on the basis of statistics, both actual and comparative, the only basis on which I could do this is on the basis of these arrearages in Florida, which indicated that, for some reason or other which is not entirely clear to me, the four judges in the Southern District of Florida cannot do as much work as three judges in the Northern District, or four in the Southern District, of Texas, and per judge as the two judges in the Eastern District of Louisiana and in the Northern District of Georgia, and not nearly as much as the one judge in Southern Mississippi and in Eastern Texas.

I know that it is true that some judges are better administrators than others, and that the whole trouble may be a want of good administration, that is the faculty to dispatch business in some quarters of the district. While I perhaps ought not to say so, I was one of those district judges who felt and acted on the principle that good administration was a prime part of good judging, a principle which some judges are able to put in practice better than others. You and I know that in business, in the practice of law, in judging, and in the Senate, the faculty of ordering, arranging and dispatching business is the prime faculty.

If that is lacking in any part of the district, that will explain why it is that these four judges cannot make better headway. There is no longer any occasion there for the view that illness has done it because all of the judges seem to me to be in good health and vigor.

One thing I might note. During our last Fifth Circuit Judicial Conference, in a discussion of the full and effective use of pre-trial, it was made quite clear that while in many of the districts in this circuit, pre-trial is freely and fully used, the Florida judges have so far not consistently and fully done so. In my judgment a proper use of this great aid to dispatch would make a considerable difference there.

But, whatever the cause, I must agree with you that it exists in Florida and that the Southern District is not able, as at present functioning, to do much if any more than keep up with its current business and that very little inroad is being made upon the pending cases.

Unless we are to abandon all regard for the lessons of the statistical information as to the business of

#6 - Hon. Spessard L. Holland

the United States Courts in the country at large, I could not justly claim that Southern Florida is entitled to five judges, thus giving the State of Florida six, with a resulting case load per judge not only far below the average in the Fifth Circuit and below the average in the country as a whole, but almost below the minimum established for the country as a whole, when, as is the case, I oppose increases in other parts of the country of a comparable nature.

If, however, my recommendation were precisely based on the accumulation of arrearages and on the understanding that four judges should normally be sufficient to take care of the Southern District of Florida, and the so-called roving position of Northern and Southern District would not be filled when a vacancy occurs in it, I would be willing, in view of my conferences with the Southern District judges, to recommend a fifth judge.

I hope this very long letter has not unduly troubled you. I have written it because I have the warmest personal feeling for every judge in Florida, and, as a judge of the circuit for twenty years, I regard every state in the circuit as my own state. It is necessary, however, for me to make and keep my position as a member of the Conference clear, and this I have tried to do.

Very sincerely yours,

Correspondence Judge
H

July 26th, 1951 -

Dear Joe:--

Upon my return to the office after an absence of several days, your letter of July 9th enclosing copy of your letter to Senator Holland respecting the necessity for additional judges for the Southern District of Florida, was brought to my attention.

I have read your statement with genuine interest. It is an able, clear-cut, conscientious presentation.

Your remarks with regard to your functions as a member of the Conference was of especial interest.

With personal regards,

Sincerely,

Honorable Joseph C. Hutcheson, Jr.,
Chief Judge,
United States Court of Appeals
Houston, Texas.

United States Court of Appeals
Fifth Judicial Circuit

Joseph C. Hutcheson, Jr.,
Chief Judge,
Houston, Texas

July 9, 1951

Hon. Fred M. Vinson,
The Chief Justice,
Supreme Court,
Washington, D. C.

Dear Mr. Chief Justice:

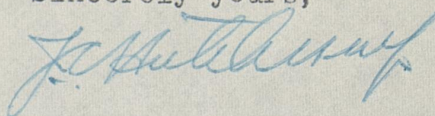
In connection with Senate Bill No. 1203, to provide two additional judges for the Southern District of Florida, Senator Holland, who is sponsoring the bill, wrote me a letter as to my present attitude.

In it, referring to my recommendation to the Judicial Conference and its action last year and to conferences which the judges of the Southern District of Florida had with me in May, on the occasion of the Circuit Conference, he asked me whether, in view of the last year's experience, I would be willing to now recommend at least one additional judge.

In order that he might have a complete picture of the situation from my standpoint, I wrote him fully on the subject. Since my letter quite clearly sets my views out, I am sending a copy of it to you, not for any action by you or by the Conference at this time, but so that you may know the position I have taken with Senator Holland and the recommendation I will probably make to the Conference.

I am, with regards,

Sincerely yours,



Hutcheson

December 17, 1951

Honorable Joseph C. Hutcheson, Jr.,
Chief Judge,
United States Court of Appeals
for the Fifth Judicial Circuit,
Houston, Texas.

Dear Judge Hutcheson:

I have your letter of December 10th in which you suggest that, if possible, the spring meeting of the Judicial Conference of the United States be held on March 10th and 11th.

When I received your letter, I had already set the Conference for March 20th and 21st. However, it would have been impossible for me to have it on the dates you suggest because we will be hearing argument during that week.

I am sorry that I am unable to concede to your request because I realize that it is difficult for you to make the two separate trips.

With kind regards and the Season's Greetings,

Sincerely,

(Signed) Fred M. Vinson

United States Court of Appeals
Fifth Judicial Circuit

Joseph C. Hutcheson, Jr.,
Chief Judge,
Houston, Texas

December 10, 1951

Dear Mr. Chief Justice:

I have received notice of the meeting of the Council of the American Law Institute for March 12, 13 and 14.

I am very much occupied with the business of this court, with its very large and growing docket, and find it difficult to get away.

Because I am, and because I remember your consideration last year in fixing the spring meeting of the Conference with the meeting of the Institute Council in mind, I write to ask that you consider March 10th and 11th, for the Conference, and if you can reasonably do so, fix the Conference for that date.

I am, with regards,

Sincerely yours,

J. C. Hutcheson Jr.

Hon. Fred M. Vinson,
The Chief Justice,
Supreme Court of the
United States,
Washington, D. C.

*advise
date of
fixing conference*

Hutcherson

United States Court of Appeals
Fifth Judicial Circuit

Joseph C. Hutcherson, Jr.,
Chief Judge,
Houston, Texas

Sept. 25, 1952

RECEIVED
SEP 29 9 43 AM '52
CHAMBERS OF THE
CHIEF JUSTICE

Dear Mr. Chief Justice:

I write to thank you for your kindness in not vetoing my plan to take the morning non-stop plane for Houston.

After four hours of smooth and steady flying, it delivered me in Houston, sound in mind and body and free of the qualms to which I am subject on a long flight with many stops. Thanks to this, I was in my office at 2:30 for an afternoon's clean up of accumulation on my desk.

The other plane, on which I had made reservations, left at 5 o'clock, made three stops enroute, and would have taken me eight hours, landing me in Houston around midnight, sick, sore, and ill at ease.

LH
A good Presbyterian, I was raised in the belief that the meeting is not over until the Doxology has been sung, and if I had felt that any of the matters left on the agenda were at all controversial so that I should have been there to speak my piece, I would not have yielded to temptation when I found that I could get a seat on the morning plane.

I left my power of attorney with Judge Simons. I am sure you found him as docile and tractable as you always find me.

Thanking you for the many courtesies extended by you, not least of these your having us as guests for luncheon, I am

Sincerely yours,

Hon. Fred M. Vinson,
The Chief Justice,
Supreme Court of the
United States,
Washington, D. C.

J. C. Hutcherson

Hutcheson

November 25, 1952

Dear Judge:

I have your letter of November 15th in regard to the Spring meeting of the Judicial Conference of the United States.

I wish it were possible for me to call the Conference either immediately prior to or following the Council of the American Law Institute but, unfortunately, I am unable to do so. The Court is hearing arguments during the weeks of March 9th and 16th so it would be impossible for me to have the Conference during that time.

The Conference date has been set for March 26, 1953, and the letters will go out to the judges within the next day or two.

I sincerely trust that this will not inconvenience you too much. I know that you know I would be glad to do anything I can to make life easier for you people, but in this case it was just impossible.

With kindest regards,

Sincerely,

(Signed) Fred M. Vinson

Honorable Joseph C. Hutcheson, Jr.,
Chief Judge,
United States Court of Appeals
for the Fifth Judicial Circuit,
Houston, Texas.

United States Court of Appeals
Fifth Judicial Circuit

Joseph C. Hutcheson, Jr.,
Chief Judge,
Houston, Texas

November 15, 1952

RECEIVED

Nov 18 10 30 AM '52

CHAMBERS OF THE
CHIEF JUSTICE

Dear Mr. Chief Justice:

Because of the fact that we have no fixed date for the spring meeting of the Judicial Conference and the decision is not usually made until shortly before the call, I have had difficulty, with our heavy dockets and frequent sittings, in adjusting myself to the date when it is announced.

Another thing that has usually given me trouble is that the Council of the American Law Institute usually meets in March - this year it will be the 11th, 12th, 13th and 14th, and, while because of the membership of several of us in the Council, you have been thoughtful enough on one or two occasions to fix the meeting date so that one trip east will suffice, sometimes you have not been able to do so.

What has caused me considerable trouble in the past has been that it has been our practice to have our March court sessions in Jacksonville and New Orleans at the same time, so that it requires all of us to be present.

The purpose of my writing now is to ask whether the spring conference meeting will be in March as usual and whether you are, or will shortly be, in a position to indicate the probable date of the call.

If I could get some approximate information, I could then be in a better position to arrange the March terms for New Orleans and Jacksonville. I fully realize that you may not be in a position to give me any helpful answer, and I will do the best I can with what I can get. It would help me though if you are in a position to forecast or prophesy a little, and I will be greatly obliged to you for what help you can give me.

With kindest regards, I am

Sincerely yours,

J. C. Hutcheson, Jr.

Hon. Fred M. Vinson,
The Chief Justice,
Supreme Court of the United States,
Washington, D. C.

For complete file - see -
ADMINISTRATIVE OFFICE -
Budget - Judiciary

Hutchinson, Joseph

February 18, 1953

Dear Joe:

There has been a development here about which I thought you should be advised prior to the meeting of the Judicial Conference.

I am enclosing herewith two copies of the report of the House Committee on Appropriations on the second supplemental appropriation bill for 1953, and two copies of that portion of the hearings before the House Subcommittee dealing with travel expenses.

You will note that there are two items which did not pass muster. One, for miscellaneous salaries in the amount of \$18,500, is for law clerks and secretaries for judges appointed to fill present vacancies. Apparently, there will be no trouble getting the necessary funds for this purpose when such appointments are made.

The second item is the disallowance of the estimate for travel expenses in the amount of \$17,500. On the third page of the Committee report, you will find the reasons assigned for not granting this item, which includes the per diem allowances for judges.

The Subcommittee called for a statement showing travel costs for each circuit judge for the calendar year 1952. They already had received a report in respect to travel expenses for 1951, two copies of which I am enclosing herewith. Mr. Chandler informs me that it will require two or three weeks for the General Accounting Office to work up the report for 1952.

On February 6th, H. R. 2689 was introduced by Representative Budge, two copies of which are enclosed for your information. This bill amends § 456 of Title 28 of the United States Code. It is now pending in the House Judiciary Committee.

As I recall it, Mr. Budge comes from Idaho which is Judge Healy's state, and he questions the maintenance expenses for Judge Healy and Judge Pope. Mr. Bow, who is a member of the House Subcommittee on Appropriations, I understand is interested in this change in the law, and he cites the expenses of Judge Major and Judge Swaim of the Seventh Circuit.

You will note from the table enclosed that in 1951 there were four other judges whose maintenance expenses exceeded \$1,000. Two of them, Judge Russell and Judge Holmes, are on your court.

As I understand it, the members of the Subcommittee suggested that the matter should be referred to the Judicial Conference for serious consideration, and I assume that if we do not handle the matter to their satisfaction, they will act.

There are two ways by which they can operate in this field. One is by simply declining to appropriate funds, or they can put limiting language on the item in the appropriation bill. The problem confronting us is whether the Judicial Conference will endeavor to work out the matter or whether we will stand by and see the Congress take over without suggestions from us.

Frankly, it seems to me that there are only four judges, whose maintenance expenses exceed \$2,000, who could well come within the concern of the Subcommittee. Judge Denman advises that this situation has prevailed in the Ninth Circuit for many, many years, and I am informed that this also is true of the Seventh Circuit. You have or will receive shortly from Mr. Chandler copies of letters from Judges Denman, Pope and Healy.

I have examined the expense accounts of Judge Russell and Judge Holmes, and it seems to me that they are in a different category from the other judges involved. They sat in various courts in the five states, and my construction of the statute is that they fall within its provisions, so the maintenance expense for them is okay.

However, if the Congress passes H. R. 2689, it not only will affect them but every circuit judge in the country. I would not like to see the bill pass in its present form. As a matter of fact, I do not think that legislation is necessary to meet the Subcommittee's viewpoint, but I do not know about Mr. Budge's attitude toward working it out without legislation.

As I understand it, the Subcommittee apparently does not question the expense under \$1,000, which amount for a number of the judges includes maintenance expense for Judicial Conferences, pre-trial conferences and other official expense.

We will have before us at the Conference the question of whether or not the existing law can be interpreted as it has been. But aside from that, we must consider the contemplated amendment to the statute, and we must come forth with a policy that will not circumscribe judicial activities and at the same time satisfy the Subcommittee.

In my judgment, the Congress can easily pass limiting language in the appropriation bill for the next fiscal year that will affect all the circuit judges.

When you get a chance to think this through, I will be glad to have your views.

With the kindest of personal regards,

Sincerely,

(Signed) Fred M. Vinson

Honorable Joseph C. Hutcheson, Jr.,
Chief Judge,
United States Court of Appeals for the
Fifth Circuit,
Houston 2, Texas.

FMV:McH

P.S.: Since dictating this letter, Judge Biggs has informed me that he has talked to Judge Major on the phone, and that Judge Major's position is similar to Judge Pope's, and that Judge Swaim will act similarly.



CHAMBERS OF
JED JOHNSON
JUDGE

UNITED STATES CUSTOMS COURT
201 VARICK STREET
NEW YORK 14, N. Y.

4-25-49

NOTF *Johnson*

APR 30 1949

F.M.V.
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APR 27 3 10 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

Dear Fred:-

It was good to see you again
and have an old-time visit.

Concerning the proposed Judicial
Salary-Increase Bill, Judge Ewald of the U.S.
Customs Court, has just shown me a letter
from Sen. Morse advising that the Senate
Judiciary Committee has received no
endorsement of the bill in question either
from the Attorney General or the American
Bar Association. It occurs to me
that you might like to have this in-
formation. Am assuming that endorse-
ments by both will be forth-coming.

Thanks again for everything

Yours friend -

Jed Johnson

P.S. Am anxious to know
if you've had time to look over
my opinion. Regards

Johnson

October 25, 1951

Dear Luther:

I have your letter of October 23rd, with which you enclosed copy of letter you wrote to Alben Barkley.

It recalls many memories. Just to test mine, I believe you were filling the engagements that had been made for Senator Thaddeus Carroway of Arkansas. I recall your visit to Headquarters vividly. It was rough going.

I join you in your estimate of the Vice President.

With kindest regards,

Sincerely,

(Signed) Fred M. Vinson

Honorable Luther A. Johnson,
Judge,
The Tax Court of the United States,
Washington, D. C.



JUDGE'S CHAMBERS

THE TAX COURT OF THE UNITED STATES
WASHINGTON

October 23, 1951.

RECEIVED

OCT 24 9 45 AM '51

CHAMBERS OF THE
CHIEF JUSTICE

Dear Fred:

Enclosed is carbon copy of letter I am
mailing Alben Barkley.

Since you were one of the principal actors
in the campaign therein referred to, and my letter
is intended as a joint tribute to you and Alben,
thought you would like to see it.

Your friend,

L. A. Johnson

Luther A. Johnson.

The Honorable Fred M. Vinson,
Chief Justice of the United States,
Washington, D.C.

*Ack
It recalls many
memories just to
let me believe
you were feeling the
engagements that had
been made for Senator
Huddles Arrowood
of Arkansas. I shall
your visit to headquarters
vividly. It was
rough going. I
join you in
expressing estimate
of the Vice President
Sincerely*



THE TAX COURT OF THE UNITED STATES

WASHINGTON 25, D. C.

October 23, 1951.

Dear Alben:

Several days ago I received the enclosed note and attached clipping from my brother, W. N. Johnson, of Dallas, Texas. The clipping is from the Dallas News of October 16, 1951, and under the heading, "Twenty-Five Years Ago Today", it states:

"Congressman Luther Johnson of Corsicana campaigned in Kentucky in behalf of the Democratic ticket."

I remember with much pleasure that week of campaigning in Kentucky in 1926, when you were the Democratic nominee for the Senate and I was pinch-hitting for Senator Carraway. Having reached the age of reminiscence, I recall three incidents:

1. The conductor on a through train stopping it at an unscheduled stop, at my request, "so that I could make a speech for Alben W. Barkley for the Senate". Upon telling him that I was a Congressman from Texas, I had to assure him that I was not Tom Blanton, and then he remarked, "If you are speaking for Barkley, the train will stop".

2. Fred Vinson's accurate forecast of what your majority would be. Billie Oldfield had asked me to get the low down on the outcome of the election, and in Louisville I relayed his request to Fred, who was, as I recall, in charge of the campaign, and after some "figuring" he told me within a few hundred votes the majority you later received.

3. The great speech I heard you make at the opera house in Louisville that Saturday night. You had already made many speeches that day, but you spoke with the same vigor and earnestness as though it were your first of the day.

As the saying goes, "Much water has gone over the dam since then". You and Fred have since achieved national eminence and ably served your country in many ways, but as Minnie Pearl would say, "I am just proud" to have known and worked with you both in the beginning of your rise to greatness.

Your friend,

Luther A. Johnson.

Honorable Alben W. Barkley,
Vice President of the United States,
Washington, D.C.

THOMAS M. KENNERLY

MAN OF FAITH

Address of Judge J. C. Hutcheson, Jr.,
Houston Bar Association Dinner
Honoring Judge Thomas M. Kennerly,
January 22, 1949

ALPHA LAW BRIEF CO., HOUSTON

THOMAS M. KENNERLY *

MAN OF FAITH

Before entering upon my role as Tom Kennerly's stooge, I feel that I should remind you how great is your debt to the Program Committee and to me. Not, I hasten to add, because they gave me, and I accepted, a minor part, though candor compels me to say they might have gone farther and done worse.

You are indebted to the committee because, instead of the usual dreadful and boring program of endless and foolish introductions of endless and foolish people and equally endless and foolish "I knew him when" speeches, they have proved again that "The Play's the Thing". They have done this by providing a one-act play with St. John, or maybe it is now "Sam Jones", Garwood as curtain raiser, me as the prologue, and Judge Kennerly as chief actor and monologist.

You are indebted to me because, supremely conscious of my ability to fill not only the role subordinate they had assigned to me, but the principal role as well, I heroically forebore to press the point. Instead, I accepted, fixing only two conditions. One condition was that if there were to be only two speakers, Little Joe and Long Tom, Long Tom's speech must be a real one and not a mere thank you. The other was that, instead of speaking learnedly and laboredly upon the law or the gospels, on which I knew he was equally prepared, he talk to us in reminiscent vein of old days, old ways, old friends, at the bar. In doing this he will relume for us the

* Chief Judge, United States District Court for the Southern District of Texas.

long way he has come from the waters of the West Yegua, in the Shady Grove community in Lee County, where he was born, and no doubt immersed, to "Got-A-Little-Home-to-Go-to", near the headwaters of Brays Bayou, where this water conscious Baptist has dug in for his last stand in a sprinkling world.

The committee, one of them a primitive footwashing, immersing, hard-shell Baptist, the other a sprinkling, fundamental, Southern Presbyterian, readily agreed, too readily I feel. For, as they were departing, they had the nerve to say, "You know, Joe, no souls are saved after twenty minutes, and we believe you would save more if you stopped at fifteen". I am not, however, in the soul saving business, and, if I were, I wouldn't expect to do any worthwhile business at a bar meeting of this kind.

I am, though, in the business of having to listen too much and talk too little to lawyers. While, therefore, I accepted the committee's assignment on its terms, I did so with my tongue in my cheek, and with the firm determination I have seen in so many of you to run as far over my time as I can get by with. Unlike Marc Anthony, on his celebrated visit to Cleopatra, I did come here to talk.

Why not? It is early. You haven't any other worthwhile place to go. At least none that you ought to go to. Besides, unless you were deadheaded like I was, you have paid for your dinner a good deal more than what you have had to eat is worth, and you ought to get something more for your money, if it is only a sense of acute boredom, as the sharper said to the sucker when he took his money, and, for good measure, knocked him in the head.

"Moreover", as my colleague McCord is fond of inserting

in his opinions when he has run out of all plausible reasons but wants to keep on writing, "Moreover", I have got a difficult job to do. I am expected to speak for the bar in praise of a judge, and I am expected to do it decently and in order, not overdo it with fulsomeness and flattery.

It is a good, a decent, feeling which makes men chary of publicly praising the living, lest truth itself seem flattery that thrift may follow fawning. Human nature is so weak. Envy is so ready to disparage motive. The kind of gratitude which is the lively anticipation of favors to come is all too common among us.

Per contra, I believe in bringing flowers to the living when it is decorous to do so. Can you imagine a more decorous approach than mine will be? As Hamlet said to Horatio, not, I will admit, in exactly these words, I can say to Long Tom, "Think not, Kennerly, I mean to flatter thee. Why should I? Thou canst not decide against me. Thou canst not reverse me. Thou canst not supervise me. I don't know anything thou canst do to me except cuss me, and I have been cussed by experts. On the other hand, I can, and do, and will reverse thee. I can, and will, mandamus thee. I can, and will, prohibit and enjoin thee. I can, and will supervise thee. I shall then set down naught in malice, naught extenuate. If I speak well of thee, it won't be flattery; if ill, it won't be malice."

I begin, then, by confessing that when the matter was first broached to me, I felt that in casting me in the role of praiser, Kennerly in that of praised, the bar and the committee had made a great mistake. "Why do they do this to me?", I thought. "What has he got that I haven't got?" "Am I not as photogenic as Honest Abe?" If it is his long gangliness in contrast with my sawedoffness, his long legs with

my short ones, I scorn mere length. To back me in that scorn, I call to witness Abraham Lincoln, with his considered dictum that "A man's legs are plenty long if they reach from his body to the ground", and mine always have. I call to witness, too, old Isaac Watts, the mighty mite, rhymist and maker of hymns. Twitted by a long legged empty head about his small statute, Watts drew himself to his full five feet four, and, with flashing eyes, declaimed:

"If I could reach from pole to pole,
Or compass ocean with a span,
I would be measured by my soul,
The mind's the measure of the man."

If it is his big voice in contrast to my small one, I answer that, after all, the bar has many Bulls of Bashan.

Neither did a comparison of our brief biographies furnish me the answer. Kennerly was born a baby, but so was I.

He was an infant prodigy, and so was I.

He got admitted to the bar at 19, and I didn't get in until I was 20. I am told, though, that the judge who admitted him, when asked how in the world he had qualified Tom Kennerly as a lawyer, replied, "I didn't qualify him. I only swore him in. All hell couldn't qualify him." I was given my license by the Supreme Court of Texas, and I am sure that august body wouldn't admit to practice any man whom all hell couldn't qualify.

Kennerly had brothers and sisters, and so did I.

He has two children, Everton and Irl. I have two, Joe and Mary. He has five grandchildren, and I have two.

Of lawyers in the family, I have seven, a son, a brother, and five nephews. He has only his two sons.

He was born in Lee County. I was born in Harris.

I made two races for public office, one for district judge and one for mayor of Houston. I lost the former and won the latter. He made a race for mayor of Houston Heights and lost it to a friend, and one for School Trustee, and won it.

Both of us have been district judges of the Southern District of Texas, but there I go one up on him. Because the lawyers of this district wanted to get a good judge here, and the Republicans wanted a Republican on the bench, a Republican President lured me upstairs to the circuit bench to put Kennerly in my place. He is a Lincolnian Republican, and I am a Wilsonian Democrat, but I don't think either of us has the edge there.

He is a Baptist and I am a Presbyterian, and there, I admit, he has me, not in making a better choice of his faith, but in working more faithfully at it.

We come of the same good stock. His ancestors were Irish and English and so were mine.

Last, but by no means least, he has his Lula B, but I have my Lizzie.

Finally, however, the light broke, and, as they say in the song, "At last I knew the meaning of it all". Kennerly is a septua—and I am a sexa-genarian. He is living on borrowed time, and I haven't quite begun to borrow. "So", I thought, "The bar isn't so dumb after all". They knew my character and my established reputation for modesty and quiet self-

effacement. They knew that if they chose me for the minor part, they would get a speech about two judges for the price of one. They knew, too, that I am such another orator as Marc Anthony, and if you will lend me your ears, you will not know when I give them back to you whether I came to bury Kennerly or to praise him. I thought then, "If I must, I can wait, and maybe if I do this job right, when I am as ancient as Old Tom is, they will give another dinner and this time it will be for Little Joe".

Having thus at long last arrived at the substance of my speech, with a good part of my time gone, I have decided that the best thing for me to do in this presence of "has-been judges", "would-be judges", and "judges still in being", will be to say nothing directly in praise or dispraise of Judge Kennerly. Following the example of Pietro Calamandrei, in his exquisite little book, "Eulogy of Judges", I shall speak generally in praise of judges and of judging. I shall set down the virtues of judges as we would like, and their faults as we know, them to be. Having thus set them down, I shall leave to you who have known Judge Kennerly, some of you for the eighteen years of his judgeship, and some for the greater part of his life, to hold the mirror up to nature and see in it for yourselves how greatly he has measured up to, how little he has fallen short of, the picture of the good and just judge.

Before drawing this picture, however, I must first draw a picture of the lawyer and of lawyer's law. The fundamental principle which conditions the exercise of judicial power as we know it is that actual litigation alone can call it into existence. Because this is so, the part lawyers and the guiding power of their advocacy play in our case law system of judges and judging is an indispensable one. It is from the bar, too, that our judges come.

Lawyers, like their clients, live not cloistered but in full contact with life. They are concerned with the affairs, the interests, and the rights of men at their points of controversy and conflict.

What has made, and will continue to make it safe, therefore, for common-law judges, not only to state, but sometimes to make, the law, is not that judges are "on the whole more able than the bar"; it is the fact that clients have lawyers and lawyers are advocates, and that the driving impulse to bring about the client's success not only makes the lawyer burrow industriously for precedents, but makes him belabor and cudgel the brains of the listening judge to bring him into agreement.

Lawyer's law is, therefore, no common thing. Its understanding and enunciation require intuition, insight, courage, and the flash of imaginative power. Ehrlich tells us that "Lawyer's law is no rigid dogma, but a living power"; that "though in theory decisions are but the application of existing rules to states of fact as they successively arise for classification, in fact the declaration of law is by its nature creative"; that "in their great mass rules and decisions are determined at any given time by the changing conditions to which they are applied." It is bound to be true then that lawyer's law flowers best and fruits most where lawyers and judges are most creative; and that, while law writers and legislators have their positive, their great, function, to gather up and weave into the seamless fabric of the law the threads of truth spun in decision-making, it is trials and the decisions and opinions emerging from them which are the real seed beds of the law.

It is the practicing lawyer, relentless in his fighting for the particular against the general, and in his tireless pressing

for individualization and for relativity, with his unfailing insistence that circumstances alter cases, and not the law teacher or the judge, who keeps the touch between law in books and law in action, who keeps the law, in short, a living, growing thing, which, living grows and growing, lives.

It is the lawyer who keeps the law what it is, no common stuff "monopolized and traded in by tickets and statutes and standards; no staple commodity marked and licensed like our broadcloth and our woolpacks", but a living power, expanding with and adapting to the life it explains and serves. I know personally that these things are so, for, though a judge now, I was once—and not so very long ago—a lawyer like yourselves, and, if I do say so who ought not, as good a trial lawyer as any of you are or likely to be.

Given a bar of such trial lawyers, and the Houston Bar is full of them, it is essential that the judges before whom they practice be at least their equals in character and learning and have at least the zeal and power of advocacy for their client, the right solution, which the lawyers have for their clients, the litigants they represent.

Holdsworth, the great legal historian of England, declares:

"A system of case law demands a group of learned lawyers, both at the bar and on the bench, who are bound together by a common professional tradition. It demands an independent well paid bench which is on the whole more able than the bar."¹

The continental law writers speak in the same vein. Says Ehrlich:

¹ Quoted in "Judgment Intuitive", by J. C. Hutcheson, Jr., Chapt. IV, *LAWYER'S LAW and the LITTLE SMALL DICE*, p. 56.

"There is no guaranty of justice except the personality of the judge. * * * It is the simple truth that the greatest task that can be given a man, to discover justice, requires a standard of mental and moral greatness far above the common average."²

While Gény, speaking of the difficult cases where the court cannot rest secure upon a mere concept or formal rule but must trust to his own skill in finding the proper decision, thus states the judge's function:

"We may say, then, that the central and normal part to be played by the judge consists of a personal, mental activity."

In difficult and unprovided cases he needs

"also a process of reasoning which starts from an intuition, supplemented by the feeling for what is just, and arrived exact conclusions by a series of deductions under this constant guidance and control of practical common sense."³

Everyone knows that when the path of the law is plain, the judge is bound, whether he likes it or not, to follow the beaten way. When, however, the way is not plain and the judge, hardly pressed, buffeted and beaten in the clash of advocacy, finds logic unavailing, what is he to do? I think in such cases, remembering that "there is a spirit in man and the breath of the Almighty giveth him understanding", the judge must wait, brooding over the cause for the feeling of what is just to come. The feeling, which by an intuitive flash of understanding, the jump spark connection between

² Quoted in "Judgment Intuitive", Chapt. IV, *LAWYER'S LAW and the LITTLE SMALL DICE*, p. 55.

³ Quoted in "Judgment Intuitive", Chapt. IV, *LAWYER'S LAW and the LITTLE SMALL DICE*, p. 50.

question and answer, makes the mind luminous, and where the path seems darkest for the judicial feet, sheds its light along the way.

Let us look for a moment at some other pictures of judges showing what is required of them, and their lacks. In these days when demagoguery and Marxian class consciousness seems dedicated to favoring the poor in judgment, it is refreshing to turn to Leviticus 19:15, and find there what the Judge of all the world requires of a just judge:

"Ye shall do no unrighteousness in judgment. Thou shalt not respect the person of the poor, nor honor the person of the mighty, but in righteousness shalt thou judge thy neighbor."

Hobbes, enamored of natural law, declaring it to be the eternal law of God, does, in his picture of the ideal judge, a little overemphasize natural reason, a little overdisparage learning, but the picture is none the less appealing:

"The things that make a good judge, or good interpreter of the laws are, first, 'a right understanding' of that principal law of Nature called 'Equity' which depending not on the reading of other men's writings, but on the goodness of a man's own natural reason and mediation, is presumed to be in those most that have had most leisure and had the most inclination to meditate thereof.

Secondly, 'contempt of unnecessary riches and preferments'. Thirdly, 'to be able in judgment to divest himself of all fear, anger, hatred, love and compassion'. Fourthly and lastly, 'patience to hear, diligent attention in hearing, and memory to retain, digest, and apply what he hath heard'.⁴

⁴ Quoted in "Judgment Intuitive", Chapt. VII, JUDGE WIGMORE'S CONTRIBUTION TO JUDGING AS ADMINISTRATION, p. 99, Footnote 4.

From the other side, Wigmore, in one of his fits of righteous indignation, thus laid his indictment of the actual judge and his lacks as he saw them in 1923:

"1. A lack of acquaintance with legal science. (a) Acquaintance with legal history is almost totally lacking. (b) The philosophy and jurisprudence of the law are unknown. (c) Judges use as authority any book bound in buckram.

2. Indifference to legal science.

3. Unfamiliarity with the body of controlling precedents.

4. Overemphasis upon the technique of legal rules and corresponding underemphasis upon policies, reasons and principles.

5. Undue servitude to the bondage of precedents."⁵

But he is not despairing. He sees clearly and thus sets down the remedy:

"Our judges and our practitioners must improve in spirit as a prerequisite for any hope of real gain to be got from better rules. In the end the man is more important than the rule. Better rules avail little if the spirit of using them does not also improve—. Counsel must become less viciously contentious, more skillful, more intent on substance than on skirmishing for position. . . Judges must become stronger and better equipped at the trial bench, and more liberal and more justice seeking on the appellate bench. The rules must be treated only as means to an end, and this cannot be until the men on the bench see them in that light, and make it a prime aim to treat them so. The rule is the complement of the man. The weaker the man as a dispenser of jus-

⁵ Quoted in "Judgment Intuitive", Chapt. VII, DEAN WIGMORE'S CONTRIBUTION TO JUDGING AS ADMINISTRATION, p. 101.

tice, the more the rule is exalted and the stiffer its bonds become. All the rules in the world will not get us substantial justice if the judges and the counsel have not the correct living moral attitude toward substantial justice."⁶

If all of this is true of judges in general, it is twice true of American judges. Here, in addition to doing ordinary justice, they must, instant in and out of season in its defense, stand guardians of our Constitutional way of life. Able, ready, and willing to protect the individual against the government in the enjoyment of the rights and liberties our Constitutions guarantee, they must stand eternally vigilant. How necessary it is that a federal judge truly believe in the Constitution and its guarantees, how essential that he have faith, a living, breathing, fighting faith in it and them.

If I could put my finger on the one great lack in and out of the courts today, I would say it is the lack of a deep abiding faith,—faith in a living God,—faith in a living Constitution,—faith in the individual,—faith in the American way of life. By faith I do not mean the uncritical acceptance of the views of every self-appointed interpreter as to what faith in a living God and faith in a living Constitution requires of a judge or lawyer. For while I envy men of simple faith, with Tennyson I deny that "doubt is devil born!" I think no finer lines were ever penned than these from "In Memoriam":

"Perplexed in faith but pure in deeds,
At last he beat his music out.
There lives more faith in honest doubt,
Believe me, than in half the creeds."

⁶ Quoted in "Judgment Intuitive, Chapt. VII, DEAN WIGMORE'S CONTRIBUTION TO JUDGING AS ADMINISTRATION, p. 103.

"He fought his doubts and gathered strength,
He would not make his judgment blind;
He faced the specters of the mind,
And laid them; thus he came at length
To find a stronger faith his own."

But, however he comes at it, whether by simple, childlike acceptance or by working out his own salvation in fear and trembling, a judge must have faith,—faith in the Constitution,—faith in the rights of man,—faith in human destiny. I am, therefore, not in any doubt that the source of the present uncertain and confused course of decision in the courts is the fact that pragmatism and determinism with their defeatist, materialistic conceptions of the universe, their discrediting of natural law and constitutional principles, their exaltation of the state above the individual, has completely undermined the fighting faith of some of the judges in our constitutional way of life, in human destiny, and in man as a collaborator with his God.

In his concluding article on the Supreme Court, in the December, 1948 Bar Journal, Ben Palmer thus points this out:

"If the pragmatics happen to be justices of the Supreme Court of the United States or of any other court, they will not agree upon the principles and rules they believe should govern society. To expect any large measure of agreement among such is to expect the impossible."

How differently the matter stands with our Judge Kennerly, all here present know. Indeed, I think the complete explanation of his life and its influence, of his strength as a man and as a judge, lies in the fact that above all else he is a man of faith! Faith in God! Faith in himself! Faith in the

Constitution and in the constitutional way of life! Faith in the rights of man! Faith in human destiny! Faith, in short, in man as a collaborator in evolution with his God!

No defeatist materialism, no Marxist determinism, no pragmatic casuistry, disturbs this honest simple faith. When Kennerly reads, "Ye believe in God, believe also in Me", it is not rhetoric to him, it is the simple truth that he is reading. It is not a matter of surprise to him to read in DuNouy's incomparable little book, "Human Destiny":

"Let every man remember that the destiny of mankind is incomparable and that it depends greatly on his will to collaborate in the transcendent task. Let him remember that the Law is, and always has been, to struggle and that the fight has lost nothing of its violence by being transposed from the material onto the spiritual plane; let him remember that his own dignity, his nobility as a human being, must emerge from his efforts to liberate himself from his bondage and to obey his deepest aspirations. And let him above all never forget that the divine spark is in him, in him alone, and that he is free to disregard it, or kill it, or to come closer to God by showing his eagerness to work with Him and for Him."⁷

* * * *

"The destiny of man is not limited to his existence on earth and he must never forget that fact. He exists less by the actions performed during his life than by the wake he leaves behind him like a shooting star."⁸

* * *

Every one of us leaves a trail either modest or brilliant, and this conviction should make itself felt in all the acts of our lives."⁸

⁷ "Human Destiny", duNouy, Chapt. 18, p. 273.

⁸ "Human Destiny", duNouy, Chapt. 17, pp. 253-5.

He has always known that this is so, and his life has been patterned on his knowledge.

When, too, he reads:

"The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times and under all circumstances."⁹

and

"Arbitrary power and the rule of the Constitution cannot both exist. They are antagonistic and incompatible forces; and one or the other must of necessity perish whenever they are brought into conflict."¹⁰

his hackles rise and his eyes flash fire, while, without a moment's hesitation, he takes his place on the fighting line with those who fight for this liberty and this justice.

This is not the occasion for a review of the work of the court over which, as chief judge, he so efficiently presides. It suffices to say that, an exacting district when I had it, it has continued to grow with the growth of the community. Beginning in about 1938, and with and since the war, when all over the country the federal courts have in increasing measure become government courts, its growth has been enormous. The civil case load per judge in the district has grown until it is now two and one-half times that of the average for the United States and twice that of the average for the Fifth Circuit, so that we greatly need, and I believe soon will have, a third judgeship.

In addition, this district has always had a heavy criminal

⁹ *Ex Parte Milligan*, 71 U.S. at p. 120.

¹⁰ *Jones v. S. & E. C.*, 298 U.S. at page 24.

load, and, with the enormous number of condemnations going on, the district court has become big business, having handled many millions of dollars.

Through it all, Judge Kennerly has kept his serene and even course. With a rare faculty of adapting himself to, and taking advantage of new aids and methods for the orderly and expeditious dispatch of business, exceeded by none of the younger judges in the country, and equalled by few, he has availed himself in the fullest way of the administrative aids the New Federal Rules provide. Thus he has been able to carry at all times at least, if not more than, his full share of the work.

And so, without a stain on his armor or a blot on his escutcheon, this man of faith whose life and career have given proof, if proof were needed, that "kind hearts are more than coronets and simple faith than Norman blood", has reached his seventy-fifth year full of honors and blessed with the confidence and affection of the bar and the community in which he lives.

But, lest his ego be inflated by all of this, let him read again Tennyson's *Isobel*, the while he ponders John Ruskin's "No man's armor is ever well set to his heart unless a woman's hand has braced it". "It is her's to see the hidden equities of Divine award and to catch sight through the darkness of the fateful threads of woven fire which connect error with retribution". Let me remind him, too, that but for the fact that in good times and bad times, in hard times and easy times, in sickness and in health, in joy and in sorrow, Lula B., his wife, like a little wren shepherding a gray eagle, has been always at his side, he could never have come so fast and so far to reach this bright journey's end. His critic and his comforter, his counselor and his friend, his

inflater and his deflater, his spiritual refresher and his boon companion, the bar cannot honor Judge Kennerly without, likewise honoring her. Let him go home tonight, then, saying, not, "I and Lula B", but "Lula B. and I killed a bear".

One personal word more, and this time for myself. I wonder if you know, Judge Kennerly, how pleased I was when the mantle of this district fell from me to you; how comfortable I have been in the long years that have passed in the feeling that my old district and its bar, a bar which has been so uniformly kind and generous to me, were in your competent and kindly hands; how considerate and thoughtful of me and of my works I feel that you at all times have been; how grateful, in short, I feel to you for your good stewardship of the place I left, but, more than that, how greatly I have prized our friendship. In saying to you and Lula B., then, in closing, "Well done, thou good and faithful servants", my hand goes with the saying in token of my deep and abiding friendship for you both.

J. C. HUTCHESON, JR.,
Chief Judge, United States
Court of Appeals, Fifth Circuit

Jan. 22, 1949,
Houston Bar Dinner,
Honoring Judge Kennerly

JOHN H. CROOKER
JNO. H. FREEMAN
W. B. BATES
CARL G. STEARNS
LEON JAWORSKI
NEWTON GRESHAM
M. S. McCORQUODALE
W. N. ARNOLD, JR.
CHAS. W. BELL
HUGH Q. BUCK
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The Honorable Fred M. Vinson
Chief Justice of the United States
Washington 13, D. C.

My dear Mr. Chief Justice:

Recently the Houston Bar Association honored Senior Judge T. M. Kennerly, United States District Court for the Southern District of Texas, on the occasion of his seventy-fifth birthday. Judge J. C. Hutcheson, Jr. was the principal speaker.

At the request of the Houston Bar Association, Judge Hutcheson made available a copy of his classic address so that it could be printed. I am pleased to hand you here-with a copy of this address.

Respectfully yours,

Leon Jaworski

LEON JAWORSKI, President
Houston Bar Association

LJ:sms
Enclosure

Mr. G. - It is "just that"

March 21, 1949

Mr. Leon Jaworski,
President,
Houston Bar Association,
Second National Bank Building,
Houston 2, Texas.

Dear Mr. Jaworski:

On behalf of the Chief Justice, I wish to acknowledge
and thank you for your letter of March 7th, enclosing a
copy of Judge Hutcheson's address before your Association.

Very truly yours,

Executive Secretary
to the Chief Justice.

April 20, 1949

Honorable Thomas M. Kennerly,
Chief Judge,
United States District Court,
Houston 2, Texas.

Dear Judge Kennerly:

My attention has been called to the address by Judge
J. C. Hutcheson, Jr., at a dinner honoring you by the Houston
Bar Association.

May I state that I think it is a wonderful tribute uttered
by your long-time friend. He characterizes you as a "man of
faith! Faith in God! Faith in himself! Faith in the Constitu-
tion and in the constitutional way of life! Faith in the rights
of man! Faith in human destiny! Faith, in short, in man as a
collaborator in evolution with his God!" No higher tribute
could be paid. May I add my felicitations.

With kind personal regards,

Sincerely,

FMV:McH

Chambers of
Thomas A. Kennerly
United States District Judge
Houston, Texas

April 28, 1949

~~SPEECHES - MISC~~

Kennerly -

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MAY 2 9 24 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

Honorable Fred M. Vinson
Chief Justice
Washington, D.C.

Dear Mr. Chief Justice:

I have yours of April 20th
last.

The Bar Dinner and Judge
Hutcheson's speech filled my cup of joy
almost full. Your letter runs it over.

With high personal regards,
I am

Sincerely yours,

T. A. Kennerly

Kirkland, James

May 6, 1953

Dear Jimmy:

Thanks very much for your nice letter of the 4th enclosing a copy of IN KENTUCKY.

'Twas a sweet day when my home town did me that great honor. I will remember it until the end of the road.

I am certain you will enjoy your visit to Kentucky.

With kindest regards and every good wish,

Sincerely,

Honorable James R. Kirkland,
Judge,
United States District Court,
Washington, D. C.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMES R. KIRKLAND
JUDGE

May 4, 1953

The Honorable Fred M. Vinson
The Chief Justice of the United
States
Washington 13, D. C.

Dear Chief:

Now that the 79th running of the Kentucky Derby is over, I am forwarding for your file a copy of the official publication of the Commonwealth of Kentucky for Autumn 1951.

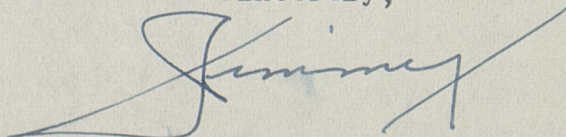
On page 49 there is a very fine likeness of you and a story of the unveiling of a monolith to you at Louisa, Kentucky.

The article must have been written by a Republican and I like especially the reference, "The monolith marks the spot where Vinson was born--site of the old jailer's residence". Possibly some of our graduates, now trying to secure their degrees at Lorton Reformatory, will like the reference to you as the old jailer. Of course, when you come down to it, that is what we fellows are.

My family plans to make a motor circuit of the country this summer, and your native state is on the itinerary, which accounts for our receiving this publication.

With personal best regards to Mrs. Vinson, yourself and the boys,

Sincerely,



JRK:amt
Encl.

*Thanks
I am a great
day to
I am certain you
will enjoy your
copy*

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In KENTUCKY



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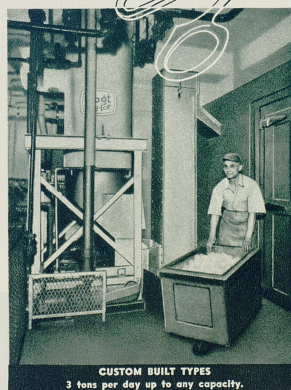
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Page Three

KENTUCKY DISTILLERS' HIGH PROTEIN FEEDS produce champion-quality beef

Kentucky will play host to the nation's livestock feeders on December 4 and 5, at Louisville's Bourbon Stock Yards. The occasion is the sixth annual Bourbon Beef Show . . . a national show sponsored by the Bourbon Beef Cattle Assn. Under the expert eyes of many qualified judges, the Grand Champions of the various classifications will be selected and crowned, with prize money and fame to reward the owners.

Kentucky distillers' dried grains and solubles provide the protein supplement in the balanced daily diet of these champion bourbon beefs. This by-product of Kentucky distillers is used throughout the nation in fattening cattle and in feeding other livestock. Past experience shows that the addition of these dried grains and solubles produce beef of higher quality and profit.

Because of the important service rendered the nation's livestock industry by these annual Bourbon Beef Shows, the Kentucky Distillers Association wishes them every success and offers its wholehearted support.

MEMBERS OF KENTUCKY DISTILLERS ASSOCIATION

Anderson County Distilling Co.
Associated Distillers Co.
Barkheim Distilling Co.
Blair Distilling Co.
Blue Ribbon Distilleries Co.
Brown-Forman Distillers Corp.
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Double Springs Distilling Co.
Dowling Bros. Distilling Co.
Elkhorn Branch of National Distillers
Frankfort Distilleries, Inc.

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Glencoe Distillery Co.
Glennville Distilleries Co., Inc.
Hoffman Distilling Co.
James B. Beam Distilling Co.
James E. Pepper Co.
John A. Wathan Distilling Co.
John A. Dent Distillery Co., Inc.
Kentucky River Distillery, Inc.
Labrot & Graham
H. McKenna, Inc.

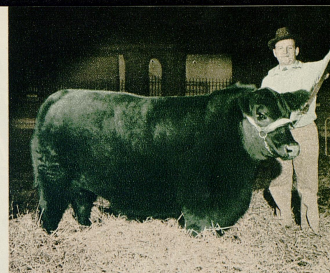
Medley Distilling Co.
National Distillers Products Corp.
Oldtime Distillers
Old Kentucky Distillery
Old Pendergast Distillery, Inc.
Old Peatrice Distillery, Inc.
Park & Tilford Distillers, Inc.
Pabst-Belford Dist. Co.
Schenley Distillers Products Corp.
Jas. E. Seagram & Sons, Inc.
Stitzel-Weller Distillery

Sunny Brook Distillery Co.
The Blue Grass Distillery Co.
The Dent Distillery Co.
The Fleischmann Distilling Corp.
The Geo. I. Steeg Co.
The Heritage Distillery Co.
The Old Crow Distillery Co.
The Old Grand Dad Distillery Co.
The Old Taylor Distillery Co.
Waterfill & Frazier Distillery Co.
Yellowstone, Inc.

Page Four



GRAND CHAMPION—1950
Owned and shown by J. F. Mommson & Sons, Miles, Iowa



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Owned and shown by C. V. Whitney Farms, Lexington, Ky.

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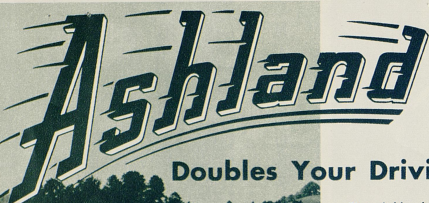
JAMES R. (BUCK) RASH, JR.,
Manager, Bourbon Beef Show

ED HAZARD
Head Buyer, Armour & Co.



GRAND CHAMPION CARLOAD—1950
Owned by J. F. Mommson & Sons, Miles, Iowa

Kentucky
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VOLUME 15 AUTUMN ISSUE, 1951 Number 3

The People Of Kentucky Deserve Credit

ATTENDANCE figures for the Kentucky state parks during the fiscal year 1950-51 recently released by the State Division of Parks show that more and more people are visiting our attractions. It was shown in the attendance report that 2,041,743 persons visited the parks during that period, which was an increase of 291,610 over the previous year and 1,068,154 over the year 1947-48. The park improvement program was started in 1948.

While figures and statistics are not always accepted as proof by all, we believe it is a readily accepted fact that the state parks of Kentucky have grown during the past three and one-half years. Nearly every park in the system has received some sort of improvement during this time.

Four completely new parks have been developed—Kentucky Dam Village, Kentucky Lake, Carter Caves and Cherokee (for Negroes)—and another will be developed on Wolf Creek reservoir as soon as present building restrictions are removed.

The people of Kentucky have awakened to the fact that a sound state park system is vital to the economy of our state. Without the interest of the people it would have been hard to develop and improve this system.

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ABOUT THE COVER—As hunters take to the field in search of game, we think this still life scene is appropriate for the fall season. These objects depict hunting in Kentucky. A stone fence, logs, hunter's coat, cap, boots, hunting bag, gun and shells, along with the downed quail add to the color of hunting season.

Speaking of Kentucky

Aetna Oil Company has recently published an interesting booklet entitled, "Know Your Kentucky," and its contents is based on the "Romance of Kentucky Quiz Show," a radio show featured on many Kentucky stations by the Ashland Oil Company and Aetna Oil Company.

The booklet is prepared in quiz form and many questions concerning Kentucky are featured. One section deals with Kentucky cities and their identifying phrases. For instance, the booklet says that Lexington, in its early history, was known as the "Athens of the West," for it was a seat of learning and culture.

Maysville is known as The Golden Buckle on the Burley Belt; Berea is identified by the phrase, The Mountains, The Bluegrass; The Gateway to the South identified Louisville; Paris—Center of the Bluegrass Seed Industry; Henderson has the novel slogan of On The Ohio But Never In It; Glasgow proudly boasts The Biggest Little City in Kentucky; Bowling Green is The Fair City; Corbin is The Hub of the Valley of Parks; The Capitol of Western Kentucky is Paducah; Murray is the Birthplace of Radio; Owensboro—Fastest Growing City in the Middle States; and Middlesboro, according to "Know Your Kentucky," is the Magic City of the Cumberlands.

Other facts contained in question form in the booklet are that the dome of the State Capitol Building in Frankfort is a reproduction of the Tomb of Napoleon and that Kentucky Lake is spanned by only one bridge, Eggen's Ferry Bridge where U. S. Route 68 crosses the lake.

In the section on geography, "Know Your Kentucky" points out that Kentucky has six natural physiographic regions: Mountain, Knob, Bluegrass, Pennyrile, Western Coal Field, and Purchase.

It also informs its readers that the lowest point in Kentucky is but 257 feet above sea level and that this point is in Fulton County near Hickman.

In the history section of the quiz book, there is a question dealing with the way Stanford received its name. It seems the Indians failed to capture Logan's Fort and thus named a Kentucky town "Standing Fort," which was later contracted to the present name of Stanford.

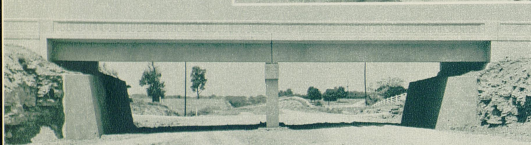
Questions about actors and actresses bring out the fact that the following are native Kentuckians: Una Merkel, Henry Hull, Douglas Dick, Irene Dunne, Victor Mature, and Patricia Neal.

"Know Your Kentucky" is illustrated throughout and has sections devoted to travel, geography, literature, sports, history, state and national parks, prominent persons, music, laws and government, and a miscellaneous section. With hundreds of questions about Kentucky, it should be interesting reading for many.

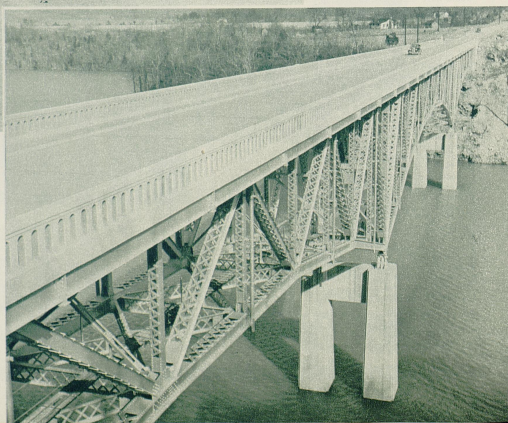
Right. The Cumberland River Bridge where U. S. 27 crosses Wolf Creek Lake was opened earlier this year. This modern structure is near Burnside.



Left. This bridge is part of the by-pass at Lexington. This by-pass will route traffic around the city.



Right. Pitman Creek Bridge crosses another part of Wolf Creek Lake and is located on U. S. 27.



Record Amount For Roads Is Spent In Three Years

MORE than \$100,000,000 of road improvements covering 8,168 miles in three and one half years is the record claimed by the State Highway Department.

The construction includes some 200 modern bridges, large and small, more than 350 major and minor improvements to city streets, and more than 3,000 miles of rural roads that cost more than \$30,000,000.

The new road construction includes over 5,000 miles of main and primary highways—wide, smooth, hard-surfaced roads to carry the commerce of the State—curve elimination, by-passes, overheads, widening and completed new surfaces all being part of the program.

The beauty of the program, too, according to Commissioner of Highways William P. Curlin, is that road construction is on a pay-as-you-go basis, no bonded debt or tolls to be paid by future generations. The entire financing program is on a current basis, paid for with cash in hand out of current revenues.

There is now in progress more than \$48,000,000 of work being done or for which contracts have been let—represent-

ing all phases of improvements—from rural road improvements to large bridges—all part of the transportation life-line of Kentucky.

The program has been termed by Gov. Lawrence W. Wetherby a "balanced" one, calculated to benefit rural and city dwellers alike.

A lot of work is required to properly plan for road building—tedious labor that requires many months of endeavor before the work actually begins. This includes right-of-way procurements, designs and plans preparation, surveys and blueprints to guide a contractor in his work.

The result is not so much a system of "hits, runs and errors" but a system of smooth, new highways and fine, modern bridges that contribute so much to a better Kentucky.

The record has placed Kentucky in the forefront of road building in the United States—ranking it in the first seven in the nation in the number of miles improved.

It is evident that Kentucky's roads have been so improved that the phrase, "detour state," is seldom heard.

The truck in the picture below is turning off on the new by-pass which goes around Bowling Green. The car at left is taking the route through the business section. All pictures were taken by Department of Highway photographers.





The William Whitley House in Lincoln County has been renovated and furnished in the period of 1792, approximately when it was built. Notice Whitley's initials over door.



This is the living room at the William Whitley House in Lincoln County. The picture above the mantel is of the famous Indian fighter and pioneer.



This was Col. Whitley's bedroom in his home, which was the first brick house west of the Allegheny Mountains. The stairway-ladder at left was used as an escape during Indian attacks.

Whitley House Is Attractive Shrine

KENTUCKY has opened another shrine to the public after months of study, renovation and refurnishing. "Sportsman's Hill," better known as the William Whitley Home, takes its place along with My Old Kentucky Home as one of the state's most attractive shrines.

Built about 1792 by famous Indian fighter Colonel William Whitley and his wife, Esther, it was the first brick house built west of the Allegheny Mountains. It is located in Lincoln County, eight miles southeast of Stanford, off U. S. Route 150.

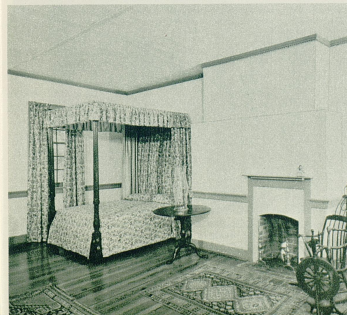
The Whitley house is furnished in the period of 1792 and guests should enjoy visiting this historic shrine and then making a tour to My Old Kentucky Home near Bardstown, which is furnished in the 1850 period.

Before restoration was started on the Whitley home, the Division of Parks supervised research to determine what should be done. It was discovered that the Whitley home was similar in many respects to the George Wythe House at Williamsburg, Virginia. It was also discovered that Mrs. Whitley was a direct descendant of the Wythe family, leading historians to believe that the architecture of the Wythe home may have had some influence in the construction of the Whitley house.

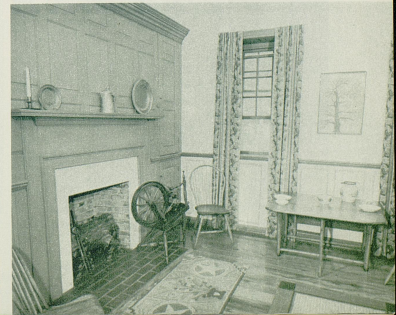
The home is now completely furnished in the period during which Whitley lived. Most of the furniture still has its original finish. The interior of the house was painted and refinished, as was the exterior wood trim. The bricks were tuck-pointed and the road leading to the home from U. S.

[Continued on page 44]

This is another of the bedrooms in the William Whitley House. Furniture in the home is of the 1792 period.



The dining room was in the front of the home. Col. Whitley kept his guns in this room to fight off Indians.



Hunters Should Have No Trouble Finding Game In State This Fall

By HARRY TOWLES, Editor
Happy Hunting Ground



A QUAIL and rabbit hunting season reminiscent of the "good old days" is indicated in early reports from throughout the Commonwealth for this season. Definitely there will be more rabbits than for the past decade, while the bobolinks' whistles throughout the State this summer indicate that a great number, probably more than for any one year since before World War II, are awaiting the hunters' barrage.

Notwithstanding the bright outlook for rabbit and quail, the Kentucky Game and Fish Commission has decided to hold back on a longer hunting season or a greater bag limit this year. Recommendations have been received for at least an increased bag limit on rabbits, but the Commission, after preliminary surveys, believes it would be better to go along with the old limits rather than risk a heavy kill of potential breeders for future years.

On the other side of the picture early reports indicate that the dove and squirrel hunter will find less game during the current seasons. Already the hunters are hanging away at the squirrel and except for the eastern mountain area, the Bushy Tails are not so plentiful as they were last year. This decline is believed due to the lack of food during the cold weather of last winter when a number of squirrels were found dead due to freezing and the scarcity of food.

For the past few years doves, a migratory bird, have been hard hit by diseases. The crop this year, according to early reports from this and other states, indicates a steady decline in their population. With that in mind the U. S. Fish



Quail should be plentiful in Kentucky this fall, according to reports from the State Division of Game and Fish. If this hunter looks familiar, he should because he's Vaughn Monroe, popular singer who hunted at Fort Campbell recently.

and Wildlife Service has announced a later hunting season, Sept. 15 through Oct. 14, and a smaller bag and possession limit for this season. In place of 10 doves as permitted for last year only eight may be taken per day this season.

[Continued on page 48]



This hunter keeps a sharp lookout for squirrels. He has already bagged several, shown by his side.

Page Twelve



This scene will be familiar in Kentucky this fall as hunters take to the fields in search of quail.

Road Across Wolf Creek Dam Is Now Open To The Public

THE road across the top of Wolf Creek Dam was dedicated September 1, and is now open to the public. Both State Route 35 and 55 lead across the dam.

The dam itself was dedicated the same day with Vice-President Alben W. Barkley as principal speaker.

This is the newest step in the development of the Wolf Creek Dam and reservoir area since it was filled early this spring. The opening of the road will make the entire area more accessible to the vacationing and traveling public.

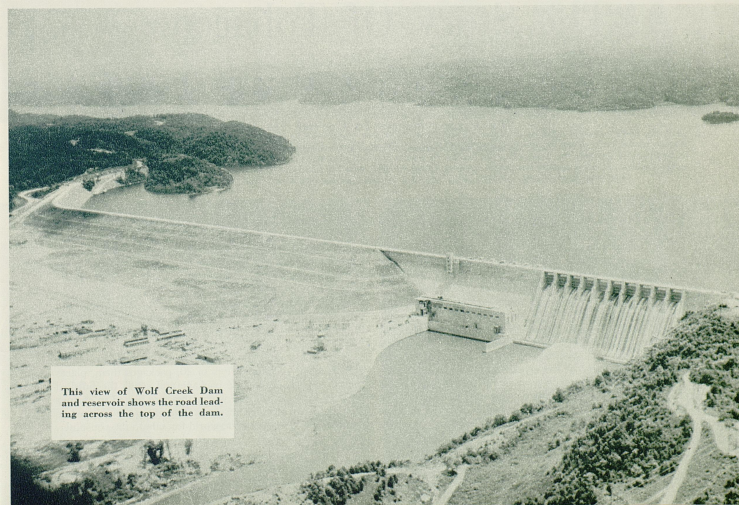
The view from atop the dam looking out over the expansive body of water presents an awe-inspiring sight for the visitor.

A state park will be located on a 3,000-acre tract of land, three miles above the dam and 10 miles from Jamestown, in Russell County. It can be reached by State Route 35 and is located on an arm of land surrounded on three sides by the lake. A high rock bluff overlooking the lake will be one of the feature attractions of the park.

Private boat docks have been established along the lake and the State Division of Game and Fish reports that fishing will be "good" there next year. Anglers report large catches this year.



This infra-red picture of Wolf Creek reservoir shows the arm of land on which the new state park will be located. The cleared section at the tip of the arm is on the park property.



This view of Wolf Creek Dam and reservoir shows the road leading across the top of the dam.



These 1,000-pound hogsheads of tobacco are loaded to be shipped from the tobacco warehouses to the manufacturing plant.

The Story Of Tobacco— From Warehouse To You

*It's A Long Process To Convert The Leaf
From Its Original State To A Usable Product*

DID you ever wonder just how much work goes into making the cigarettes you smoke?

Well, it takes a lot of talent and hard work to turn the tobacco sold on the market into usable products. The pictures on these pages graphically illustrate just how some 1,500 workers at the Brown and Williamson Tobacco Corporation plant at Louisville go about turning out cigarettes and pipe tobacco.

After the farmer sells his tobacco, the leaf is packed in hogsheads holding some 1,000 pounds and redried before being shipped to the warehouses at the plant. The tobacco is allowed to age two or three years before being used.

It is then brought from the warehouses in the hogsheads and placed in vacuum units where steam increases the moisture in the tobacco so that it can be handled without damaging the leaf. The tobacco is then removed from the

hogsheads and various grades are blended together according to the formulas of the plant.

The stem is removed from the leaf, and the tobacco is constantly checked for foreign matter. It must then be shredded and flavored before it is ready for use in the cigarette.

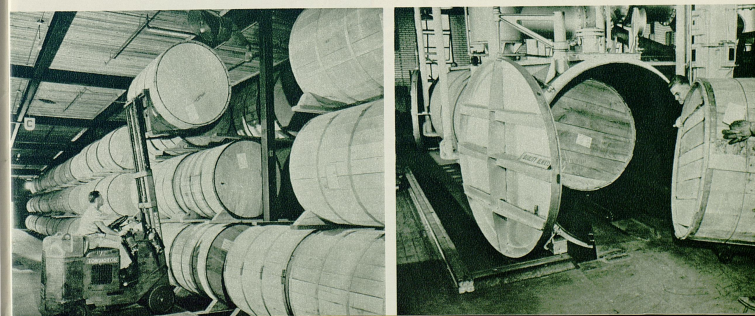
A cigarette-making machine then takes the finished tobacco and manufactures the product at the rate of several thousand per hour. If the cigarette is to have a filter or cork tip, machinery also handles this process.

A long assembly line of various types of machinery gathers the cigarettes in lots of 20, packages them, places the revenue stamp on the package and sends the finished package by conveyor belt where they are placed in cartons and the cartons placed in cases. The cases are shipped to distributors throughout the world for sale to the consumer.

Page Fourteen

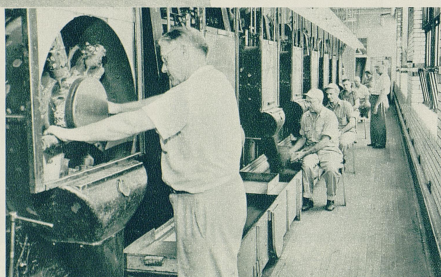


Hogsheads of tobacco are shown above stored at the Brown and Williamson warehouses at Louisville. Tobacco must age from two to three years before it can be used. In the picture at below left a worker is using a mechanical lift to place the hogsheads of tobacco in stacks in the warehouse. One of the vacuum units is shown at below right. Workers are placing a hogshead of tobacco in the unit where steam is forced through the tobacco to increase the moisture content and thus make the tobacco easier to handle. This unit will hold five hogsheads of tobacco. It is left in the unit for about twenty minutes.



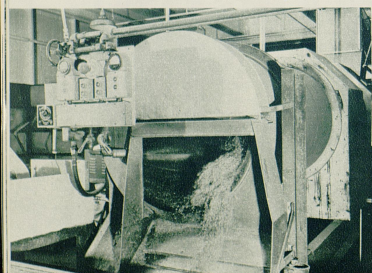


Workers at left remove the tobacco from the hogsheads after it has been taken from the vacuum units. Above, women workers are shown blending various grades of tobacco. The blended tobacco is carried to the next process on a conveyor belt.

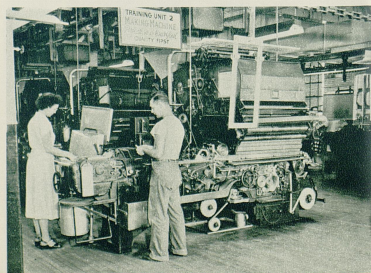


Above are shown the cutting and shredding machines at Brown and Williamson's Louisville plant.

Below left is one of the flavoring drums. The tobacco is revolved in the drum while flavor is sprayed on.



Below right is a cigarette making machine. A tray of cigarettes can be seen directly in front of the woman in the picture.



Pipe Tobacco Is Also Made

FOR those who prefer pipe smoking, the Brown and Williamson plant has a section that does nothing but manufacture this type tobacco.

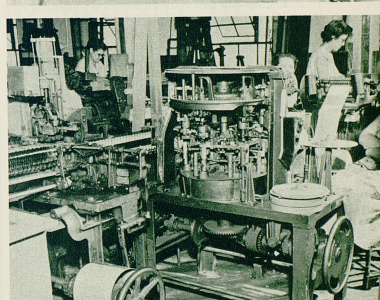
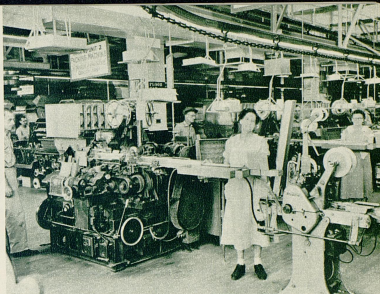
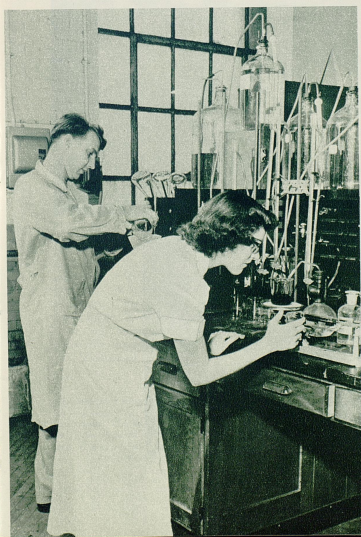
Machinery wraps several ounces of tobacco and packs it into tins. These, in turn, are placed in cartons for shipment to the distributor and ultimately to the consumer.

The plant also has a large laboratory section where constant tests are made on existing brands and research is done to develop new methods for improving the manufacture of cigarettes and pipe tobacco.

Officials at the plant encourage visitors to tour the plant and see the various operations. Guides accompany the guests and explain the different processes.

It's a long step from the time when our ancestors first grew tobacco and then processed their own "long green" for smoking!

Above right, this machine packages the finished cigarettes. Conveyor belts carry the packaged cigarettes to another station where they are placed in cartons. The cartons are then packed in cases. Below is a scene in the Brown and Williamson laboratory.



The machine above packages pipe tobacco in tins. The finished tins of tobacco can be seen on the conveyor at left. Guides at Brown and Williamson take visitors on a tour of the plant. Below, Guide Marilyn Day shows Mr. and Mrs. Gordon Kuhns of Harrisburg, Pennsylvania, a finished cigarette.



New Breed Of Beef Cattle Makes Debut In Kentucky

A NEW breed of beef cattle—larger than the normal breeds—has made its appearance in Kentucky.

The Santa Gertrudis strain of cattle—a cross between the Brahma and Shorthorn—have been brought from Texas' King Ranch, operated by Robert J. Kleberg, Jr., to his Kentucky establishment—the King Ranch Farm near Lexington.

According to J. Howard Rouse, manager of the King Ranch in Kentucky—a part of the estate of the late Colonel E. R. Bradley—the new strain of cattle are approximately three-eighths Brahma and five-eighths Shorthorn type.

The new strain inherits from its Brahma ancestry a heavy resistance to heat and insect pests and from the Shorthorn side a propensity to fatten and early maturity, with packers claiming the strain dresses out favorably when slaughtered.

Four-year-old steers usually average approximately 1,400 pounds when finished on grass for market under range conditions.

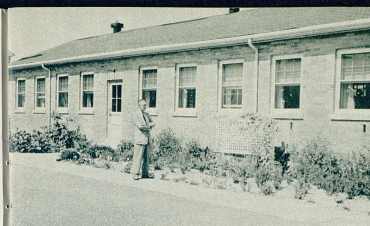
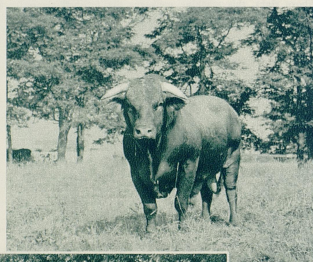
The Santa Gertrudis breed—developed by the operators of King Ranch whose brand is the running W—is the first breed of beef cattle developed in America—the other breeds having been imported from abroad.

More than 300 head of the new breed have been brought to the King Ranch farm in Kentucky where visitors from afar come to view the new beef cattle wonder—under supervision of Harold Kitchen.

There is a steady increase in the demand for Santa Gertrudis bulls in the South and from many foreign countries. Females of the breed have not been offered for sale.



These views of the new breed of Santa Gertrudis cattle show the difference from other strains of beef cattle. Notice the similarity to the Brahma strain. The animal above has the running W brand on its side, as does the one shown in picture at above right.



Dr. R. S. Ahrens, superintendent of Kentucky State Hospital, looks over the flower garden in front of the patients' clubroom.



A kitchen in one end of the clubroom is equipped to serve meals to the patients during the day. Patients usually prepare meals.

Clubroom Helps Mentally Ill

ABOUT a year ago, Evelyn White, who is responsible for psychiatric nursing at Kentucky State Hospital, near Danville, had an idea that would hasten recovery of mentally ill patients. Her idea was a clubroom where patients could relax and enjoy a daily routine as near normal as possible.

On the hospital property there was a building where tin cans used in the hospital cannery were stored. Room was found elsewhere for the cans and work started on the clubroom. The carpenters arrived and built a modernistic lattice-work partition at one end of the room, making a lounge. Unsightly double doors at one end of the room were converted into bookcases. Colorful drapes were hung at the windows and gradually the room changed from a bare, cold, unattractive place for storage into a warm, restful and comfortable clubroom. Lounge chairs and floor lamps were placed around the walls; tables were provided for cards and checkers.

Patients now enjoy shuffleboard, fingerpainting, drawing, clay modeling, radio and records, as well as numerous other occupations. In the kitchen of the clubroom meals are prepared by the patients. The patients show a great interest in the books, magazines, and newspapers that are provided for them.

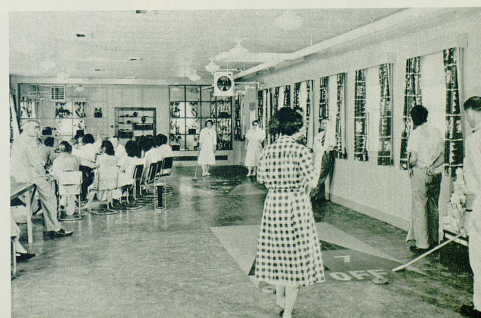
The project has the blessings of Dr. R. S. Ahrens, superintendent of Kentucky State Hospital, Commissioner of Welfare Luther Goheen and Dr. Frank Gaines, Director of Division of Hospitals and Mental Hygiene. The clubroom will accommodate 25 patients for therapy and it is the

[Continued on page 38]



The clubroom was the idea of Evelyn White, head of psychiatric nursing at Kentucky State Hospital. She is shown at one end of the clubroom.

Patients and hospital personnel are shown enjoying themselves in the clubroom. The faces of all patients in these pictures have been blacked out. Persons with faces showing are hospital personnel.



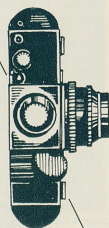
The Winner Of Our Photo Contest

ON THIS page is a picture by photographer Curtis Wainscott of Cumberland, Ky., of an airplane high over the Cumberland Mountains in Southeastern Kentucky. This is the picture that was judged winner of the "In Kentucky" magazine photo contest for the Autumn issue.

As the plane reached a break in the clouds, photographer Wainscott snapped this striking picture. Silhouetted against the sun, with the clouds and the mountains forming a perfect frame, this picture was judged winner over many entries received in the first photo contest "In Kentucky" has spon-

sored. Numerous photographers entered the contest. Because of the interest shown throughout the state, this contest will be continued for the Winter issue. All pictures must be taken in Kentucky and must be printed vertically on 8 by 10 inch glossy paper and all prints must be black and white. Contest rules will be sent contestants by writing to: Editor, "In Kentucky" magazine, New State Office Building, Frankfort, Kentucky.

Photographer Wainscott's picture won him \$10. Why don't you enter the "In Kentucky" magazine photo contest? The deadline for the Winter issue is November 1st.



Fort Harrod Is Renovated

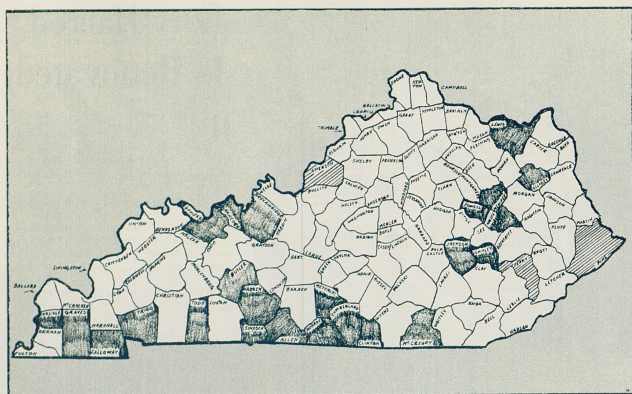
RENOVATION work at Old Fort Harrod at Pioneer Memorial State Park, Harrodsburg, is now complete. Many of the logs in the stockade were rotted and have been replaced, adding to the attractiveness of the fort.

Two blockhouses were completely rebuilt and the chinking in the others has been replaced. It was found that many of the blockhouses were in bad repair and the renovation work has helped bring the fort back to its original state.



Above left is one of the blockhouses at Old Fort Harrod that has been rebuilt under the renovation program recently completed there. Above right are shown Mr. and Mrs. Jim Jehn, Covington, relaxing at the spring in one corner of the stockade. Below is a view of the front of the fort, where a number of logs were replaced.





The above map shows where Kentucky counties are getting their electricity. The striped areas are served by private electric utilities only; the dark areas are served by rural electric co-operatives only; white areas are served by both.

Kentucky Farms Are Now 85 Per Cent Electrified

ELECTRICITY on the farm is coming into its own in Kentucky, with eighty-five per cent of Kentucky's farms electrified, and relieving the farmer and housewife alike of many of the drudgeries formerly performed by hand.

Public Service Commission records indicate that all areas of the State are being served by either private utilities or publicly financed rural electric co-operatives—so that electricity is within the reach of all.

The last decade has witnessed an amazing growth of electric facilities in rural Kentucky with some 262,000 rural customers being served—157,433 by co-operatives, and 104,451 by private utilities. Three years ago the figure was 100,000 less.

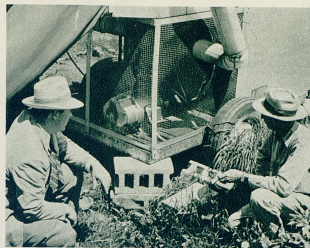
The phenomenal growth of rural electricity has been such that seventeen years ago fewer than five per cent of Kentucky's farms had electric service. Now the figure is eighty-five per cent. According to one leading private

[Continued on page 38]

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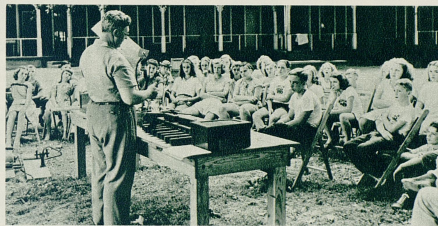
Three-year-old Nancy Carol Phelps examines two chicks beside a hover-type electric chicken brooder on the farm of her father, Joe Phelps, Jr., Fayette County.



William Johnson, left, Kentucky Utilities farm service adviser, and Clay Truitt, Fayette County farmer, look over the mechanism of an all-purpose hay drier.



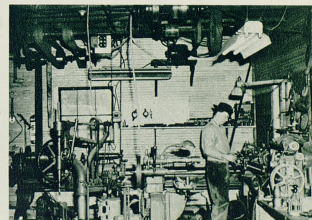
This all-purpose corn and hay drier is operated by a 5 horsepower electric motor. Such devices are now a reality on many Kentucky farms since electricity is available.



Young Kentucky 4-H members learn the advantages of electricity and how it can benefit them from E. R. Murphy, KU farm service director. Murphy is shown demonstrating an electric heater for homemade brooders.



Harry Gibson, left, Mercer County farmer, and W. H. Dearen, KU farm service adviser, look over some of the 8,000 chicks raised by Gibson every two months by the heat lamp method.



Electrical items galore fill this farm workshop of J. D. Gay, Fayette County farmer. In addition to the many electrically operated items, the shop is lighted by fluorescent lamps.

Page Twenty-three

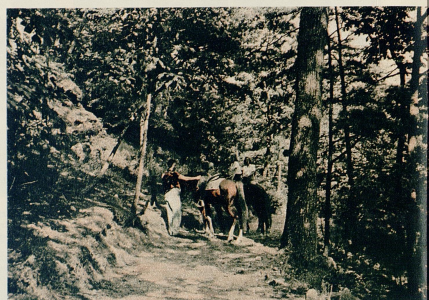
A Wonderland Of Autumn Color

*Kentucky's Scenery
Beautiful In Fall*

THE scenery of Kentucky is beautiful in the fall. Shown on these pages are some of the typical scenes that can be viewed in the state as the leaves turn to a golden brown and yellow this fall.

As the Master takes His paintbrush and splashes color over the countryside. He does a wonderful job in Kentucky. In the Red River Valley near Natural Bridge, the landscape is a wonderland of colorful beauty. Or, at Cumberland Falls State Park, the visitor can find gorgeous scenery.

There is no prettier season in Kentucky than the Fall. Get in your car and drive through Kentucky as Nature changes the greenery of summer into the rainbow colors of Fall and you'll see what we mean.



Horseback riders at Cumberland Falls State Park pause for a rest on one of the many bridle paths winding through the park.



From atop Natural Bridge, the visitor gets a view of colorful fall scenery.

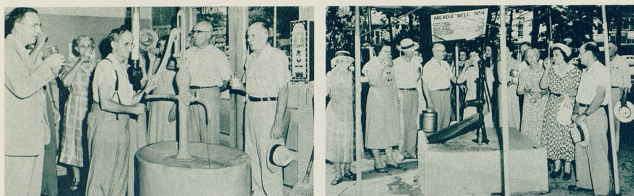


Above. This scene from atop Natural Bridge depicts some of Kentucky's most beautiful fall scenery. The landscape for miles around can be seen from this point.



Left. Hikers at Natural Bridge State Park rest under the mammoth arch after a thrilling climb to the top. Other hikers climb to the top of the bridge up the natural staircase at right.

Dawson Springs— City Of Mineral Water



Two of the most popular mineral wells in Dawson Springs are the Hamby Well (left), and the Arcadia Well No. 4.

A YEAR-ROUND health resort operates at Dawson Springs, Hopkins County, on U. S. Highway 62 and State Route 109, drawing folk from many parts of the country who partake of the curative mineral waters and mineral baths for which the community has become famous.

Seventy years ago, mineral waters were discovered at Tradewater Station, now known as Dawson Springs by W. I. Hamby—a circumstance that has contributed to the growing fame of the community as a popular resort.

Known far and wide as a health resort, prior to 1900 the town flourished with some fifty or more hotels and rooming houses—there being a lesser number now. In conjunction with the hotels operating there—leading ones being the New Century, Hendrix House and the Hamby—and the mineral bath houses.

Typical of the bath houses is the Walesby Clinic and Mineral Bath House, operated by Dr. D. G. Walesby, Sr., and his son, Dr. D. G. Walesby, Jr., where baths, massage, electro and colon therapy treatments are available. The clinic is complete in every particular.

A noted health resort for many years, the town is equipped to care for those who come long distances for treatments—providing them with good hotel facilities, home-cooked meals and plenty of recreational facilities.

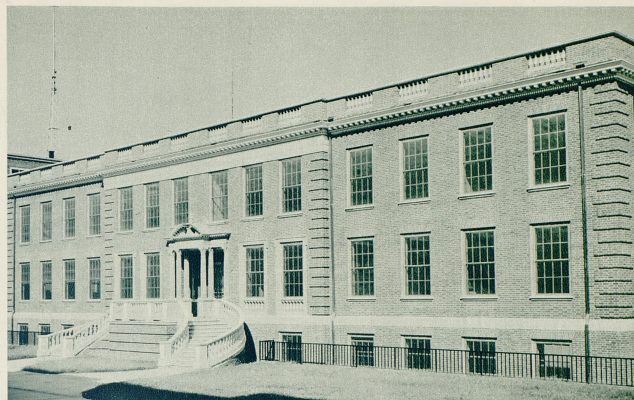
The name of the town is deceiving since the mineral water does not actually come from springs, but from shallow wells scattered

throughout the city. There are cases of two wells located within a few yards of one another although the water is of completely different analysis.

Dawson Springs has been the site of the National Fox Hunt twice and will be the host city this year for the third time. The Fox Hunt was held there in 1926 and last year.

From 12,000 to 15,000 persons attended the event last fall with representatives from 31 states taking part. This year's event is expected to attract from 20,000 to 25,000 persons. It will be held from November 11-18.

A view of the New Century Hotel, one of the oldest mineral bath hotels in the city. The Hamby Well is next door to the Hamby Hotel.



When the University of Kentucky opened its fall term this year, journalism students started their classes in this new, \$400,000 building. This is the first permanent home of the newly created School of Journalism.

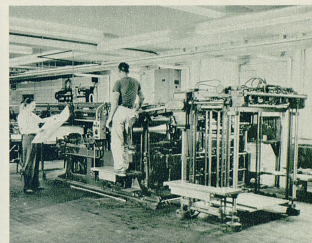
Much Moved Journalism School Gets New \$400,000 Home At U.K.

A NEW, \$400,000 journalism building to house the University of Kentucky's recently established School of Journalism was ready for occupancy by the opening of the fall semester September 10.

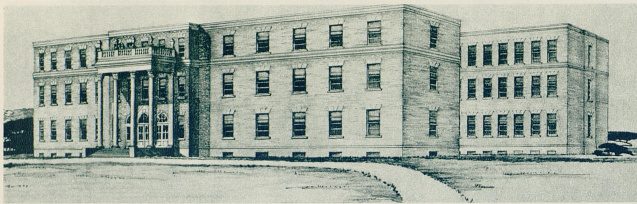
Completion of the three-story, brick structure gives University journalism students their first permanent campus home. Since 1914 when the late Prof. Enoch Grehan established a Department of Journalism at U.K., Kentucky's embryo newsmen and women have attended classes in four other buildings, the latest being a temporary, war-surplus structure that long ago exceeded its normal life expectancy.

Now, after 37 years, it appears that they finally can settle down. The new building could hardly have been completed at a more opportune time. Just last summer, the U.K. Board of Trustees voted to change the old Department of Journalism to a School of Journalism, a move calculated to add greater prestige to the University's entire program of journalistic education.

Dr. Niel Plummer, onetime city editor of The Lexington [Continued on page 48]



Don Grote, supervisor of the U.K. printing plant, looks over some of the work from one of the new presses located on the first floor of the journalism building.



This is an artist's sketch of the Central Baptist Hospital at Lexington. When finished it will have 160 beds.

New Hospitals Over Kentucky Will Help Care For The Sick

THE undenied need for additional hospital beds in Kentucky is being met partially through independent efforts of Protestants, Catholics and Jews in sponsoring new and enlarged hospital facilities in a number of Kentucky centers.

The program is part of the answer being made by men and women of religious bent, to meet the need that is admitted for additional centers to care for the ailing. A State Board of Health survey recently disclosed the need for 5,207 beds and 2,500 more nurses.

Kentucky Baptists already have two hospitals under construction and a third is to be enlarged as part of its \$2,000,000 building program to help meet the requirements.

The West Kentucky Baptist Memorial Hospital at Paducah, now under construction, is to contain 140 beds and all necessary auxiliary rooms.

The Central Baptist Hospital, Lexington, will provide, when finished, 160 hospital beds, completely modern.

Additions to the present Baptist Hospital in Louisville will provide an additional 60 beds. In addition, a new School of Nursing is proposed for this hospital.

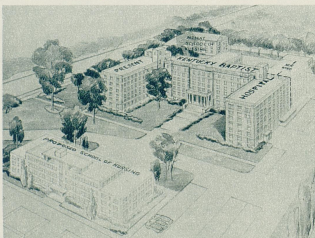
A new hospital is in the planning stage and will be constructed on a 25-acre site near Bellefonte, Greenup County, to serve the Ashland industrial area. It will have a capacity of 65 beds, with service facilities to accommodate 25 more beds in a future additional story, and will cost an estimated \$1,500,000. It is being planned under auspices of the Catholic Diocese of Covington with Monsignor Charles A. Towell, President-elect of the Catholic Hospital Association of the United States and Canada, in charge of its plans. It will have all up-to-date facilities.

A proposed new Jewish Hospital in Louisville—to cost \$3,000,000—will have 136 beds and is being built so that it may be expanded to 200 beds. The new hospital will include two classrooms which will be available for use by the

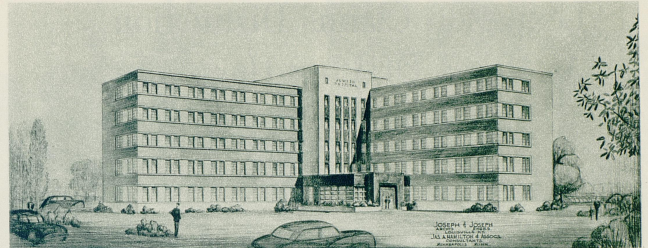
University of Louisville Medical school for their work. Each of the new hospitals call for complete surgical and obstetrical departments—modern in every particular.

Doors to these hospitals—when finished—are open to all regardless of faith or creed. This effort on the part of religious groups is but part of the drive to meet the unfilled need of more than 5,000 new hospital beds throughout Kentucky.

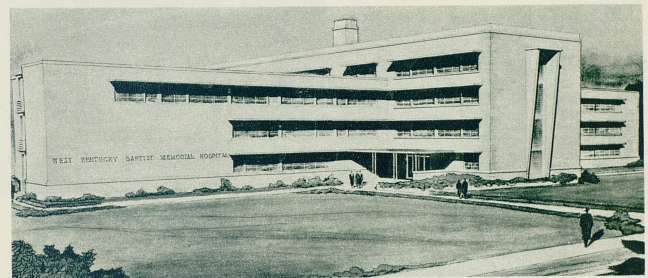
Numerous public bodies throughout the State—such as counties and cities—already have finished or have plans for new hospitals afoot—all part of the drive to meet a pressing need for additional facilities by men and women of good will and noble purpose.



Additions will be made at the Baptist Hospital in Louisville. The building at lower left is the proposed School of Nursing. A new wing at right rear will provide for 60 additional beds at this hospital.



This proposed Jewish Hospital in Louisville will cost \$3,000,000 and will have 136 beds. It is being built, however, so that it may be expanded to 200 beds. It will include two classrooms which will be used by the University of Louisville Medical School.



The West Kentucky Baptist Memorial Hospital at Paducah is now under construction and will contain 140 beds.



This proposed hospital will be constructed on a 25-acre site near Bellefonte in Greenup County. It is being planned under the auspices of the Catholic Diocese of Covington and will cost an estimated \$1,500,000.

Lexington Claims Distinction As Home Of Plug Horse Derby

THE Plug Horse Derby, an event which was started in Lexington in 1945 to raise money for the city's Stop-Over-Station or U. S. O. club, has spread throughout the country until many major cities now stage the race. Proceeds from the event have gone for charity since it started.

The idea of a Plug Horse Derby was the brain-child of Thomas L. Adams, circulation sales manager of the Lexington Herald-Leader, and he is president of Plug Horse Derby Foundation, Inc. Any city that stages a Plug Horse Derby must enter into a contract with the Foundation, which includes the phrase that "the entire proceeds from said Plug Horse Derby shall be used for worthwhile charitable purposes."

In Lexington, some 25 local charities benefit from the proceeds from this unusual race. This year the race, which was run Labor Day, was sponsored jointly by the Lexington Junior Chamber of Commerce and the Lexington Lions Club.

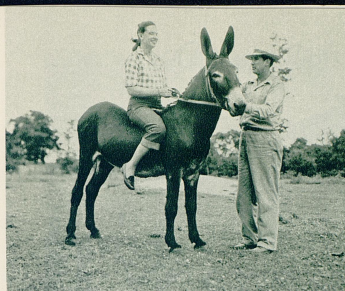
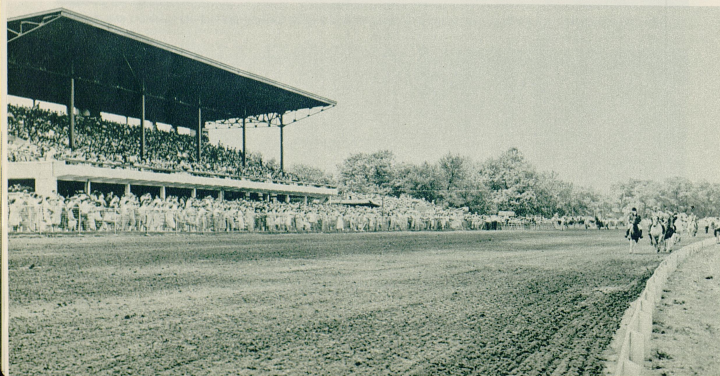
The Labor Day event each year not only features the Derby race but a number of other plug horse races as well. One of the most popular features is the mule race. There is also a pony race.

Each year some luncheon or civic club has sponsored the event and members work hard and long to make the affair a success. Several other Kentucky cities have staged Plug Horse Derbies this year and from the way the idea has grown, it looks as though the Plug Horse Derby will soon be a national institution.

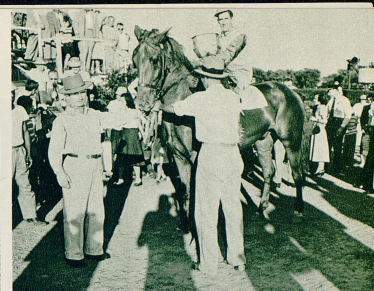
It might be that Kentucky will soon be noted for two Derbies—the Kentucky Derby and the Plug Horse Derby.



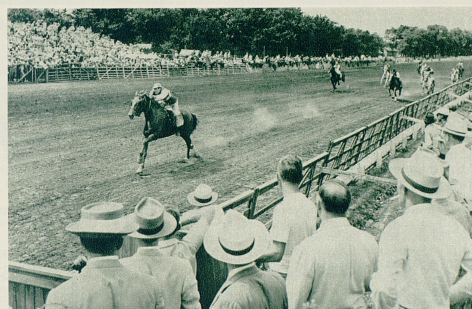
Thomas L. Adams (right), president of the Plug Horse Derby Foundation and originator of the idea, talks with Charley Kenney, manager of Coldstream Farm. The first Derby was run in 1945. Below is shown a portion of the crowd at last year's running of the race.



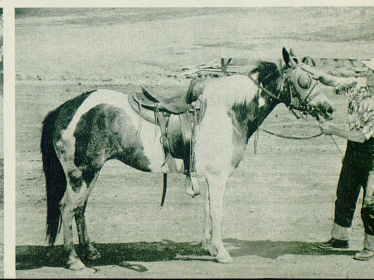
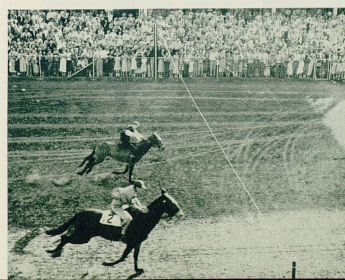
This is one of the mules entered in the mule race, one of the events of the day.



Kenneth Hughes holds his plug which won the 1950 running of the Plug Horse Derby.



Above is shown the finish of the 1950 running of the Derby. Below left, is the finish of the mule race, one of the most popular events during the day. Below right, David Burgin of Cynthiana holds his pony which won the pony race last year.





This is one of the new Wherry housing units at Fort Campbell. These apartments will house military personnel.

Fort Campbell Is Expanding

FORT CAMPBELL—the 101,000-acre home of the Eleventh Airborne Division in Christian and Trigg Counties, Kentucky, and Montgomery County, Tenn.—is undergoing rapid expansion with additional housing, hospital facilities and other installations costing upwards of \$8,000,000.

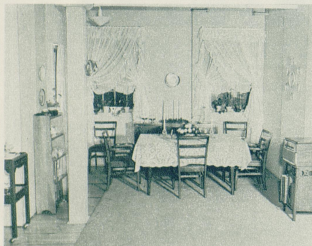
The project includes a second 400-unit apartment project—to cost \$3,600,000—to provide additional housing for military personnel. The units will be amortized with rental payments over a period of years under terms of Wherry law and are known as Wherry units. The first group of Wherry

apartment units at the camp were completed last year.

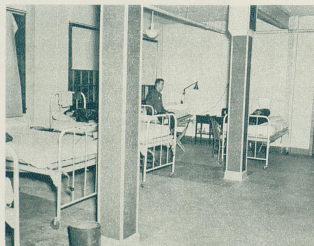
The Fort also is remodeling its hospital to convert it into a permanent type treatment and convalescent center for Korean casualties. It has been of the semi-permanent variety. These renovations are being undertaken at a cost of \$1,750,000.

Eight reinforced concrete barracks, costing \$3,600,000 are being constructed and will be ready for occupancy January 1.

In addition, according to Brig. Gen Wayne C. Smith, [Continued on page 38]



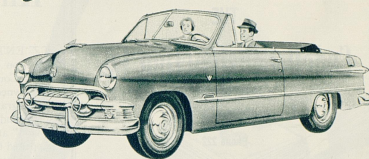
This is the way one of the hospital wings looked before renovation started at Fort Campbell.



This is one of the hospital wings after it had been converted from living quarters for personnel.

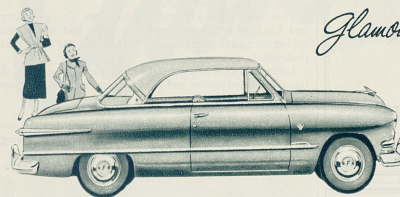
Outdoor Girl

You can pay more but you can't make a better buy in a convertible! You get the quiet, get-go power of a V-8 engine . . . the type of engine now powering the top models of America's highest priced cars. It's fuel-saving power, too, with Ford's Automatic Mileage Maker squeezing the last ounce of power out of every drop of gas. And you get a ride that's the equal in comfort of far higher priced cars with Ford's Automatic Ride Control self-adjusting the ride to the road.



They're built for the years ahead!

Glamour Girl



If you want to enjoy the wide-openness of a convertible and still have a steel-topped car, you can't buy better than Ford's new Victoria! Besides sleek styling that puts it out front of all other cars of its type, it offers you your choice of 5 smart new two-tone color combinations (with color harmonized interiors). And for automatic driving at its finest, it offers "Fordomatic," the newest, most advanced of all automatic drives!

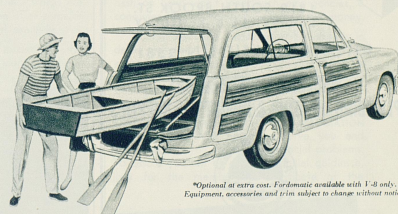
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*Optional at extra cost. Fordomatic available with V-8 only. Equipment, accessories and trim subject to change without notice.

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The LAIB Name has
been known in the plumb-
ing, heating and industrial
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Page Thirty-four

Known But To God

KENTUCKY has an unknown soldier's grave located on U. S. Highway 23 and State Route 460 in Pike County—several miles distant from Pikeville—and now owned and maintained by Dr. J. P. Deskins.

The grave is covered by a rosesbush which blooms every spring and summer, alongside of a sign headed "Known But to God" and giving briefly a description of how the grave happened to be there.

In May 1865—immediately following the close of the War Between the States—a Confederate soldier was found murdered alongside the road. There was no one to identify him. He bore no marks of identification. Only the Confederate uniform indicated he belonged to the southern side during the then recent hostilities.

Four men—Henry Potter, Zeke Counts, George Potter and Lazarus Hunt—constructed a coffin and buried the soldier alongside the roadway near where the body was discovered.

Later, a rose was planted to mark the resting place of the unidentified soldier and a marker erected near the rosesbush bearing the inscription:

"Known But to God."

The grave, located on the regularly traveled route, together with the unique inscription cause many a passing motorist to halt and read the inscription.



GOT HIM THE JOB

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offer friendly, confidential, financial service

"You can start work tomorrow—but you must post a \$100 cash bond!" These words are spoken every day—and they can offer a major problem. Let's look at a typical example.

Here was a man without a debt in the world. He was going along comfortably—raising a family—when suddenly a splendid opportunity opened before him—a better job with better pay. But the new job required an immediate cash outlay he couldn't make.

IT WAS GOOD BUSINESS TO BORROW

He brought his problems to a consumer finance company, operating under our State Small Loan Law. It loaned him the cash immediately—he got the job—and is repaying the loan in small monthly instalments from his increased income.

This is typical of thousands of loans made by consumer finance companies. New opportunities require a car for use on the job—tools—dif-

ferent clothes—moving to another town. When cash on hand won't meet such emergencies, a consumer finance company will lend the money.

Other loans are made to families already in debt, provided: First—that the loan will serve a constructive purpose. Second—that it can be repaid in monthly instalments from a reasonably small percentage of the borrower's income.

There is a member company of the KENTUCKY CONSUMER FINANCE ASSOCIATION in your community ready to serve you and eager to help you solve your financial problems. To assure yourself of expert financial guidance, look for the membership certificate of the

**KENTUCKY CONSUMER
FINANCE ASSOCIATION**
DISPLAYED IN THE OFFICE OF EVERY MEMBER COMPANY

Page Thirty-five



Compare
how much it
costs to Go...
with



HOW LITTLE IT COSTS TO PHONE!

Ever stopped to think how many *trips* your telephone saves you? Or what the transportation costs would amount to for the trips to town and across town that you avoid by telephoning?

Just think—the telephone stands ready to run errands in Southern homes 24 hours a day and the cost is small.

Whether you evaluate your telephone service in terms of transportation costs saved, time saved, “missions accomplished,” protection in case of emergency—or just in the friendship and good times that result from keeping in touch—you’ll find your telephone is still a big bargain!

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

Page Thirty-six



Mrs. John Cheshire, Frankfort, is shown inspecting Kentucky's "official" tobacco patch in front of the State Capitol Building.

Kentucky's Burley

THE Commonwealth of Kentucky has an official tobacco patch!

In front of the State Capitol Building at Frankfort are growing several plants of Kentucky burley tobacco, which will be cut and cured and made into twists of approximately four ounces each. The crop is expected to yield about ten pounds of tobacco.

It was planted by Noel Jones, custodian of the Capitol building and grounds, who has cared for it since, and plans to cut it this month. Jones says many tourists stop by and look over the crop of which Kentucky is most famous.

It was Jones' idea to plant the tobacco and he will cut it, cure it in a storage room in the Capitol, and make it into twists.

The twists will be given to Gov. Lawrence W. Wetherby for presentation to various visitors on special occasions. The Governor, who likes the idea of the "official" patch, urged tobacco growing communities to have a few stalks growing in a conspicuous place as a tourist attraction.

"I think it would be a fine idea if our tobacco producing counties would have a plot of ground in a convenient place where tourists can inspect the growing plant. After all, Kentucky is noted for her fine tobacco," the Governor said.



Past and Present Meet

Today's classically beautiful Madison County Court House, at Richmond, stands on the site where court was first held in 1798. On the lawn are the Pioneer Fountain, Wilderness Road Marker and Squire Boone Rock, dating back to 1770... Kentucky has a wealth of historical landmarks to interest the tourist.

Re-fuel and refresh
at the—

Sign of Extra Service

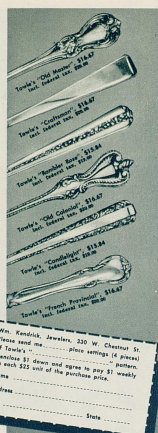
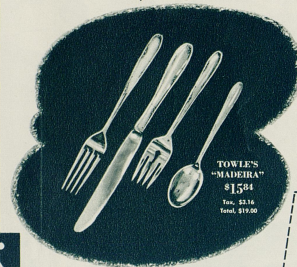
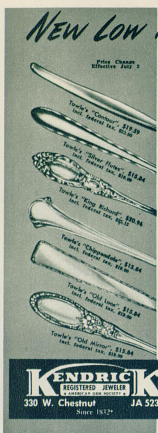


STANDARD OIL COMPANY
(KENTUCKY)

Page Thirty-seven

NEW LOW PRICES On Towle Sterling

The makers of famous Towle sterling silver have some good news for you . . . prices on all their artistically designed patterns have been lowered! We at Kendrick's have some good news for you, too . . . you can now purchase four-piece place settings in any pattern! Knife, fork, spoon, and salad fork—sufficient for your first-silverware-need—and so much easier on your budget! Keep both Towle's and Kendrick's "good news" in mind and you'll have more sterling in hand, more money in bank!



KENDRICK
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AND THEY'RE ALL AVAILABLE ON
KENDRICK'S SILVER CLUB PLAN!

Four-piece place settings include: luncheon knife, luncheon fork, salad fork, teaspoon.

Fort Campbell Is Expanding

[Continued from page 32]

Deputy Post Commander, \$3,026,000 will be spent within the next few months for additional runways, taxi strips and aprons for the airfield of Campbell Air Force Base, in addition to improved lighting facilities, barracks facilities, roads, utilities, parking facilities.

A \$250,000 road resurfacing project has been undertaken within the camp, together with a \$400,000 interior and exterior painting program.

Kentucky Farms Are Now 85 Per Cent Electrified

[Continued from page 22]

utility, ten per cent of the State's farmers living within a quarter of a mile of an electric line have electric facilities available but haven't yet availed themselves of its benefits.

Kentucky today is served by nine private utility firms, with an investment of more than \$207,000,000 in plant facilities, and twenty-six co-operatives with a plant investment of more than \$60,000,000.

Electricity is not confined solely to lights for the home and farm buildings. Many uses are found for electricity. A constant supply of drinking water can increase milk production as much as ten per cent. Electric brooding saves chick and pig losses, eliminates fire hazards.

Page Thirty-eight

Cooking, water heating, refrigeration and many other useful purposes are being done now by electricity—cheaply and efficiently—and with less labor for the farmer and housewife.

Verily, electricity is paying off in Kentucky!

Clubroom Helps Mentally Ill

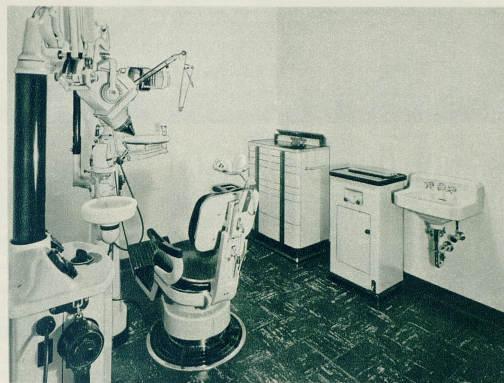
[Continued from page 19]

consensus of the staff of the Kentucky State Hospital that the clubhouse provides an environment which makes it easier for the acutely ill patient to grapple with his emotional problem.

A variety of stimuli in the nature of occupational and recreational facilities is provided. The aim of the personnel is to attempt to interest the patient in work or play of a specific nature which permits the patient to express his individual needs.

Charles have been used to unify the group and expedite socialization. This feeling of belonging to a group gives the patient a sense of individual worth and personal pride so necessary for adequate adjustment outside the hospital.

Dr. Ahrens pointed out that in addition to the value received by the patient from the clubhouse that the individual staff members have enjoyed a very close working relationship which this intensive therapy necessitates. The project is still in its infancy but the statistics for July show that there was an average daily attendance of 13 patients and the condition of seven of them warranted home-going.



The New Dental Department of the C. T. Dearing Printing Company.

ANOTHER First FOR DEARING

Four years ago Dearing equipped and staffed what is today considered one of the most modern industrial medical departments to be found in any manufacturing plant in the South. Here a full-time physician and a staff of seven nurses and technicians look after the health and welfare of Dearing employees—at no cost to the employees. And now, something new has been added—a modern Dental Department!

Each morning during the week, a competent dentist examines all new employees, and those already employed who wish to be examined. It will be recognized that full dental care is not possible for a plant of 1600 people, so Dearing's activities in this department are confined to thorough examinations and complete dental X-Rays. The employee is advised what work is needed and is referred to his own dentist. The X-Rays are then forwarded to the dentist the employee selects.

This is just another service rendered by Dearing to its employees to keep them healthy and happy in their work.



Dearing·Louisville
C. T. DEARING PRINTING CO., INC., LOUISVILLE, KY.
A DIVISION OF FAWCETT PUBLICATIONS, INC.

Page Thirty-nine



\$5,000,000 Worth Of Turkeys



Perry Browning (above) inspects some baby turkeys on their way to Brazil as airline officials stand by. Below is a view of the turkey range at the Browning Turkey Farm near Winchester in Clark County. At right are some five-week-old poults at the Browning farm. They are kept off the ground by wire flooring in the pens.



KENTUCKY produces a lot of turkeys—estimated at more than \$5,000,000 a year on the market—and more than twenty per cent of these are produced near Winchester, in Clark County, where is located the world's largest turkey breeding establishment.

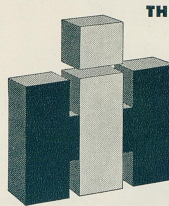
The Browning Turkey Farm, embracing 1,960 acres of land in five different units, is the scene of a unique operation which began fourteen years ago under sponsorship of Perry Browning, former coal, grain and poultry dealer, whose sole business now is turkeys.

The Browning strain of "Broad Breasted Bronze" turkeys made famous by the establishment is marketed in this country and abroad, while the firm has sought to sell the idea that turkeys are good meat for twelve months a year—not to be confined to Thanksgiving and Christmas holiday seasons.

The Browning establishment usually raises on its farms some 80,000 turkeys—approximately 45,000 of the number pedigreed.

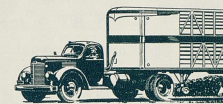
The plant includes mammoth, all-electric incubators

[Continued on page 50]



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International Trucks are a familiar sight on the streets and highways of Kentucky. These trucks are specified right, built right, sold right, serviced right. The popular International Model KB-7 is shown. It's the Standard of the Highway.

International Harvester's Louisville Works builds "the Louisville line" of Farmall Tractors—the small Farmall Cub, the Super-A, and the C. All have effortless, fingertip FARMALL TOUCH-CONTROL. The Farmall C, shown above, fits the general farm of up to 120 acres and the vegetable farm, and provides "second tractor" power for large farms. The Farmall System provides all-purpose tractor power, with matched equipment, for every size farm, every soil and crop condition.

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THE LOUISVILLE TIMES
KENTUCKY FLIERS HIT 2 JETS

The Courier-Journal

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SWEET

**ALL OVER KENTUCKY
HONEY-KRUST
IS THE MOST POPULAR BREAD**

In historic Harrodsburg across from the courthouse square on the site of the old stone tavern erected in 1792, is Avalon Inn, a large and commodious hostelry where agreeable accommodations may be secured by the traveling public.

Come and enjoy the bounteous meals of the "Old South" featuring country ham, fried chicken and steak served here every day in the year.

Special catering for formal dinners and parties.

In the hotel is the Vernetta B. Parrish Antique and Gift Shop. Featuring early American and very unusual pieces of interest.

Avalon Inn
INCORPORATED
Mrs. Josephine M. Mitchell, Manager
Harrodsburg, Kentucky

Phone 200

Students Learn All Phases Of Mining Industry At Mayo

INTRICACIES of coal mining—from coal digging to management—is being taught in a practical fashion to students of Mining Science at Mayo State Vocational School, Paintsville, the only place in Kentucky where students are given the practical side of the problem, according to James L. Patton, director of the School.

The practical, realistic approach to the problem consists of students being taken to mines where they witness underground operations as well as those on the surface at first hand.

Especially conducted tours by the students are arranged where every detail of mining is explained. Extension shops are maintained by the School at Prestonsburg and Belfry.

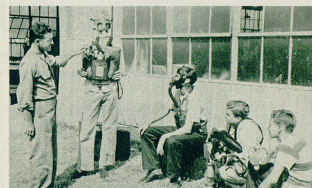
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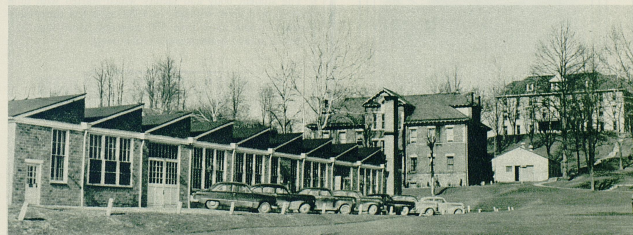
A representative of the Federal Bureau of Mines explains the theory of bolted roof support to a group of students.



This student practices horizontal gas welding as a part of the related shop training in mining science class.



A demonstration of mine rescue equipment is made at Mayo State Vocational School at Paintsville.



View of the campus at Mayo State Vocational School at Paintsville includes shop building, administration building and dormitory.

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meet the most exacting specifications because they are refined from selected crudes by a precision controlled process. These Lion asphalts have proved for 20 years that "inch for inch in thickness and dollar for dollar in cost, asphalt pavements are the best investment."

1. Negative Oliensis Spot Test
2. High Specific Gravity
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LION OIL COMPANY



**EL DORADO
ARKANSAS**



**AGRICULTURAL
LIMESTONE**

CENTRAL ROCK CO.
INCORPORATED
LEXINGTON, KY.

Students Learn All Phases Of Mining Industry At Mayo

[Continued from page 43]

In addition to mining, the Vocational School conducts trade courses in automobile mechanics, automobile body mechanics, cabinetmaking, carpentry, cosmetology, drafting, electricity, machine shop, merchandising, radio and television, and welding as well as office practice to train persons in those lines.

The student body and faculty which started with nine teachers and sixty students in 1938, now has thirty-nine instructors and more than 500 students. More than 175 of the vocational students study coal mining.

Whitley House Is Attractive Shrine

[Continued from page 11]

Route 150 has been surfaced. Three hundred young trees have been planted.

Colonel Whitley, famous Kentucky pioneer, was a noted Indian fighter, frontier leader and soldier. He was killed in the Battle of the Thames in 1813 and is credited with slaying the Indian chieftain, Tecumseh.

The home is open seven days a week from 9 a.m. to 5 p.m., and a hostess is on duty to show the public through the historic shrine.

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**Best In All
Types of Road
Construction**



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Incorporated

Delaware Avenue Extended

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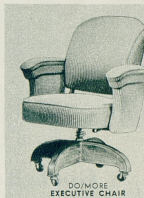
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Our complete line of office furnishings includes the outstanding "Name Brands" in the industry—all types . . . that fully meet the exacting requirements of the most discriminating.



Whether a Paper Clip or a complete office installation—see us FIRST for quality and value.

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LEXINGTON OWENSBORO PADUCAH

Plantmix Asphalt

Best—Cheapest—Easiest Riding

High Type Surface

**Construct and Resurface
with**

Plantmix

for

Economy and Safe Driving

**Plantmix Asphalt
Industry of Kentucky**

Incorporated

Office—Capital Hotel Bldg.

FRANKFORT, KENTUCKY

Hunters Should Have No Trouble Finding Game In State This Fall

[Continued from page 12]

The squirrel season opened on August 20 and will continue through November 5 with a daily bag limit of six, and a possession limit of 12 after two or more days of hunting.

The rabbit season as well as the quail season will open on November 20 and continue through January 10. Quail bag limit is 10 with a possession limit of 20. The rabbit limit is 8 per day with a possession limit of 16.

Wildlife men attribute the increased rabbit population to several factors. Better law enforcement in the past few years has reduced the number of violators; the ban on the sale of rabbits has eliminated the commercial hunter who took literally thousands of bunnies each season; tularemia, which thinned out the population a few years ago, is about a thing of the past; and food and cover plantings by the Division of Game and Fish have presented for the rabbits a better home.

Last fall the quail crop was believed to be the greatest for Kentucky in the past 10 years. Hunters will not believe this because the unfavorable hunting weather of last season prevented them from flushing the birds as they would have done under more favorable circumstances. However, the hunter who tried the fields day in and day out reported he found a bountiful supply of quail. The severe cold was believed to have taken a heavy toll of the birds, but early in the spring Conservation Officers and others reported a fine crop of breeders. With a favorable nesting season, production this year was believed good and that is one of the reasons hunters are optimistic over this year's outlook. Also, within the past six years hundreds of thousands of birds have been furnished in the fields from the Game Farm hatchery. This undoubtedly has done much to keep up the breeding stock.

Birds and animals are unpredictable and may prove the experts wrong again this season, but early indications are that the hunter this year will have plenty of game to shoot at.

Much Moved Journalism Gets New \$400,000 Home At U.K.

[Continued from page 27]

Herald and a member of the U.K. faculty since 1930, was named director of the school. He had headed the Department of Journalism since Professor Grehn's death in 1937.

The new structure also houses the University printing plant, offices of all U.K. publications, and the central office of the Kentucky Press Association.

Located on the first floor are the composing and press rooms, business offices, and ample space for storage and future plant expansion. On the second floor are the director's office, faculty offices, the Kentucky Kernel newsroom, an editing laboratory, the K.P.A. headquarters, a typing room, and a radio-journalism laboratory.

On the third floor are classrooms, photo-engraving laboratories, photographic darkrooms, offices of the student yearbook, advertising and typography laboratories, and additional office space.

Page Forty-eight

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Kentucky Honors The Chief Justice



The Chief Justice was honored by home folks.

LOUISA honored its foremost native during his lifetime when a monolith was unveiled recently on the site where Fred M. Vinson, Chief Justice of the United States, was born sixty-one years ago.

The monolith was erected by the Louisa Business Men's Association and other civic-minded groups in the community.

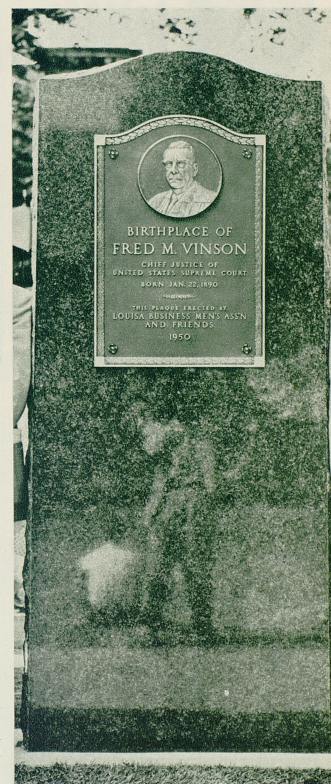
The ceremonies were replete with praise of Vinson from community leaders, former associates of Vinson and a fellow Kentuckian, Stanley F. Reed, Associate Justice of the Supreme Court.

It was evident that the Chief Justice was deeply moved by the day long ceremony in his home town.

The monolith marks the spot where Vinson was born—site of the old jailer's residence—his father being jailer at the time of his birth.

The Chief Justice, a legal resident of nearby Ashland now, still claims Louisa, his birthplace, as home. A variety of public positions have been held by Vinson. Among them:

City Attorney of Louisa; director of banks and business concerns; private in World War I; member of Congress fourteen years; Justice of the United States Court of Appeals for the District of Columbia; Chief Judge of the Emergency Court of Appeals; Director of Economic Stabilization; Federal Loan Administrator; War Mobilization and Reconversion Director; Secretary of the Treasury, and Chief Justice of the United States.



Page Forty-nine



**Who...
me?**

**I Go Greyhound because it's
The Friendly Way to Travel**

The people you meet aboard a Greyhound somehow seem more neighborly, more relaxed, easier to talk to.



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It's a scenic adventure to go Greyhound... close to colorful countryside, historic places and natural wonders!



Who...me?

I go Greyhound because I like to relax in an easy-riding **SUPERCOACH!**

There's no driving strain... you just take it easy in deep-cushioned comfort!



Who...me?

I go Greyhound because I like the extremely low **FARES!**

It costs about one-third as much as driving your own car... and there's extra-big savings on round-trip tickets!

**A lot More Travel for
A lot Less Money**



GREYHOUND

Page Fifty

\$5,000,000 Worth Of Turkeys

[Continued from page 40]

having a total 538,000-egg capacity. Latest methods and techniques are followed, with Browning drawing heavily upon a group of college-trained, experienced turkey specialists for assistance in his operations.

The University of Kentucky's College of Agriculture, through its Poultry Department Extension Service, has aided materially in assisting in breeder selection during the early growth of the industry as well as supervising testing operations that tend to produce healthy poults.

Browning himself established the world's largest advanced turkey breeding farm in the belief that there was a future in the business.

These facts stand out in connection with the turkey business:

More than 350,000 turkeys in Kentucky are marketed annually, from 75,000 to 80,000 from one farm alone.

Kentucky is highly suitable for raising baby turkey poults—and the poultry husbandry of the University of Kentucky has been instrumental in developing the program that has resulted in the increase.

ANSWERS TO KENTUCKY PICTURE QUIZ

1.—(b) Stedford Field; 2.—(a) Pennyville State Park; 3.—(c) Marshall County; 4.—(d) Capitol Annex; 5.—(e) Laurel County; 6.—(b) Cumberland Falls; 7.—(b) Madisonville; 8.—(a) Ashland; 9.—(b) Danville; 10.—(a) Jefferson County; 11.—(c) Ohio River; 12.—(d) Maysville; 13.—(a) Kentucky Lake State Park; 14.—(b) Camp Breckinridge; 15.—(d) Babe Parrell; 16.—(b) Garrett L. Withers.

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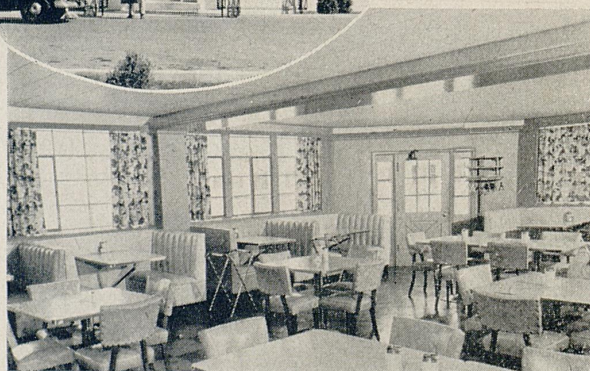
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One mile south of

LEXINGTON, KENTUCKY

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK
JUDGE KNOX'S CHAMBERS
UNITED STATES COURTHOUSE
FOLEY SQUARE
NEW YORK 7

RECEIVED
DEC 20 1 19 PM '50

CHAMBERS OF THE
CHIEF JUSTICE

Dear Mr. Chief Justice:

Your letters of December 12, 1950, in which you were good enough to appoint me to membership on three important Judicial Conference Committees, came duly to hand, and I want you to know that I sincerely appreciate this evidence of your confidence in my competence to function upon each of them.

Under ordinary circumstances, I should take pleasure and pride in working on the problems that are to be considered by the Committees. Nevertheless, I feel compelled to ask to be relieved of the assignments you have given me.

The reasons are these: Some eighteen months ago, I suffered an impairment of the balancing apparatus of my inner ears and, in an effort to remedy this condition, I spent six weeks in a local hospital. The treatment given me fell short of entirely relieving the infirmity. While I am considerably improved, I continue to be somewhat unstable on my feet and am unable, without assistance, to deal with traffic conditions on city streets. It would be dangerous to life and limb to do otherwise.

Furthermore, Mrs. Knox, from a practical standpoint, is a semi-invalid. She has been such for three years, and recently, her health has undergone deterioration. Someone must be in constant attention upon her. For this reason, she cannot be left alone over night. I must be on hand in order to summon help if it be needed.

You will see, therefore, that I am so situated as to be unable to be in attendance at meetings that are held outside of New York. It would thus appear to be desirable that someone else should take my place on each of the Committees.

Upon the assumption that you will grant my request to be relieved, I make bold to offer two suggestions: the

first is that Judge Watkins be made Chairman of the Committee on Jury Selection. He has been active in its affairs since the formation of the body in 1940 or 1941. He is keenly interested in its work, and, by reason of familiarity with what the Committee has done, and yet hopes to do, is well equipped to act as its Chairman.

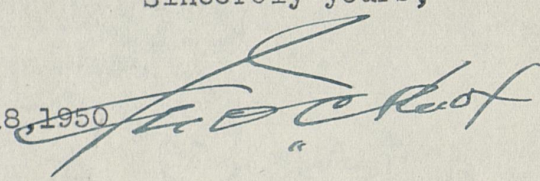
Secondly, I should be happy if Judge Vincent L. Leibell were to take my place on the Pre-Trial Committee. He has pre-tried hundreds upon hundreds of cases, and has done so with marked success. I know of no person more competent to serve in my stead. In addition, I have reason to believe that Judge Murrah would welcome his appointment.

This letter, as I am sure you will understand, is written with regret and reluctance, but with the conviction that it should be written.

With kindest regards, together with my gratitude for the consideration you have shown me, I am

Sincerely yours,

December 18, 1950


Honorable Fred M. Vinson,
Chief Justice of the Supreme Court
of the United States,
Washington 13 D. C.

January 29, 1951

Honorable John C. Knox,
United States District Judge,
United States District Court,
Foley Square,
New York 7, New York.

Dear Judge Knox:

I am in receipt of your recent letter asking that you be relieved from serving on three Judicial Conference Committees, to which you were appointed on December 12th.

Much as I regret losing your services on these Committees, I can well understand and appreciate the reasons which prompted you to ask to be relieved, and accede to your request.

In accordance with your suggestions, I am naming Judge Watkins Chairman of the Committee on Jury Selection, and Judge Vincent L. Leibell to take your place on the Pre-Trial Committee.

With kindest regards,

Sincerely,

(Signed) Fred M. Vinson

FMV:McH

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK
JUDGE KNOX'S CHAMBERS
UNITED STATES COURTHOUSE
FOLEY SQUARE
NEW YORK 7

Feb 1
Correspondence
with Judge

My dear Mr. Chief Justice:

Your letter of January 29th, in which you accede to my request to be relieved of the assignments to several Committees of the Judicial Conference, is at hand this morning and I thank you for it.

I am indeed sorry to give up my Committee work. It has been most enjoyable and I should like very much to continue in these activities. However, the situation is such that I am convinced that I should retire. ?

With my very kind regards and high respect, I am

Cordially yours,

January 30, 1951.

Leach

Honorable Fred M. Vinson,
The Chief Justice of the
United States Supreme Court,
Washington 13, D. C.

RECEIVED

OCT 27 9 13 AM

CHAMBERS OF THE
CHIEF JUSTICE

United States District Court
for the District of Columbia

BOLITHA J. LAWS
CHIEF JUDGE

Oct. 26, 1950.

Dear Chief Justice:

I am grateful to you
for what you accomplished for our
Court in bringing about Waeten's appoint-
ment. This is another fine service you
have done for us and I want you to
know of the appreciation many of us
feel. I prophesied the appointment
would meet with acclaim, and, with
no advance knowledge, or intimation,
I told Waeten I'd bet favorable
editorials would be forthcoming. I am
sure you have seen the splendid ones
in both the Post and the Star.

You are a great "C.H.S.F."

Faithfully, Bo.

Laws, Co

United States District Court
for the District of Columbia

BOLITHA J. LAWS
CHIEF JUDGE

File

RECEIVED

Nov 14 9 15 AM '50

November 13, 1950 CHAMBERS OF THE
CHIEF JUSTICE

Honorable Fred M. Vinson,
Chief Justice of the United States,
Supreme Court,
Washington 13, D. C.

Dear Mr. Chief Justice:

Our friend, Richard Hartshorne, has sent me the enclosed clipping and asked me to once more contact you in his behalf.

I am writing him that lately, when talking to you about another matter, I gathered the impression that you did not think you should interest yourself in the appointment of Federal judges unless the President asks for your advice and for that reason I felt I could only pass on to you the news about Judge Fake's possible retirement.

With warm regards, as ever

Faithfully yours,

Bo.

BJL/gpc

NOTED
NOV 22 1950
C.M.V.

File

United States District Court
for the District of Columbia

Laws Bolitha

BOLITHA J. LAWS
CHIEF JUDGE

May 24, 1951

Honorable Fred M. Vinson,
Chief Justice of the United States,
Supreme Court Building,
Washington 13, D. C.

Dear Chief Justice Vinson:

By reason of your interest in the state of the progress of the docket of our Court, I am sending you herewith a copy of a letter I am writing Chief Judge Stephens, with enclosure. I am sure you will be interested in noticing that the disposition of contested non-jury cases for the first ten months of this fiscal year over the same period last year was 118 and the increase of jury cases 138, a total of 256 additional contested civil cases. Also in the same period disposition of non-jury actions have been accelerated four months and those in jury actions have been accelerated one month. Because of the long cases and some unfortunate instances of hung juries, we have not made as good progress as I had hoped, nevertheless I believe we are on the move.

Very sincerely,

Bo

BJL/gpc
Enc.

RECEIVED
MAY 26 10 22 AM '51
CHAMBERS OF THE
CHIEF JUSTICE

May 23, 1951

Honorable Harold M. Stephens,
United States Court of Appeals,
Washington 1, D. C.

Dear Chief Judge Stephens:

Following my talk with Chief Justice Vinson and you on Wednesday of last week concerning the progress of the business of our courts, I conferred with the Assignment Commissioner of our Court with regard to the matter and particularly with regard to Will Shafroth's letter to you of May 4th. I enclose herewith his report as of April 30, 1951.

I carefully discussed with the Assignment Commissioner the manner of his determining whether acceleration of the trial calendar has been accomplished or not and am convinced his method is reliable. You will note that as of April 30, 1951, jury actions in civil cases had been accelerated one month and non-jury actions had been accelerated four months. In view of the number of lengthy cases with which we have had to deal, this showing is gratifying.

I agree with Will that it will be helpful to keep separate statistics as to divorce cases in view of the action of the Judicial Conference in attempting to set up a separate domestic relations court. However, I believe Will's statement that the progress of the court is due largely to the disposition of uncontested divorce cases is not correct. It is true we disposed of 618 more uncontested divorce cases as of April 30 than we did the same period the previous year, but we also disposed of 118 more contested non-jury cases. While, of course, some of these cases consisted of contested divorce cases, nevertheless such cases often require a considerable amount of time. For example, in one involving a minister and his wife, a motion alone took over a week and it is estimated the actual trial which will start shortly will require at least another week and possibly longer. Perhaps I should say the large disposition this year of uncontested divorce cases has been due to the fact that on occasions by reason of pleas of guilty in criminal cases and unanticipated settlements of civil cases, we have been able to get judges who would not otherwise have assignments to take these cases

Honorable Harold M. Stephens

- 2 -

May 23, 1951

on short notice. Thus they occupied hours where they otherwise would be forced to be idle.

You will note from the enclosed statement that during the ten months' period between July 1, 1950 and April 30, 1951, there has been an increase of 138 cases in the disposition of jury cases over the same period the previous year. This added to the increase of 118 contested non-jury cases is a disposition of a total of 256 more contested civil cases.

For sometime I have been concerned about the setting up of the statistics of the various agencies of our court and I think now that our court has grown to such tremendous proportions, the time may have arrived that we shall be required to set up a central statistical bureau. I am having a discussion of this matter in the near future and may wish to take it up with you at a later time.

Because of his interest, I am taking the liberty of sending the Chief Justice a copy of this letter, with enclosure.

Sincerely,

BJL/gpc
Enc.

OFFICE OF THE ASSIGNMENT COMMISSIONER

STATUS OF CRIMINAL CALENDAR APRIL 30, 1951

CASES ON CALENDAR JULY 1, 1950 171
NEW INDICTMENTS JULY 1 THRU APRIL 30, 1951 1512
CASES ADDED BY ORDER FOR NEW TRIAL BY COURT OF
APPEALS, THIS COURT, AND FUGITIVES "CEPI" 172
TOTAL NUMBER OF CASES ON CALENDAR APRIL 30, 1951 1855

CASES DISPOSED OF JULY 1 THROUGH APRIL 30, 1951

BY JURY TRIAL 388
BY PLEA 783
BY DISMISSAL 270
TOTAL NUMBER OF CASES DISPOSED OF 1441
TOTAL NUMBER OF CASES ON CRIMINAL CALENDAR MAY 1, 1951 414

NOT AVAILABLE FOR TRIAL

AWAITING DISMISSAL BY U. S. ATTORNEY 11
AWAITING ARRAIGNMENT 52
AWAITING CONVALESCENT DEFENDANTS 0
CASES REASSIGNED PENDING OUTCOME OF MOTIONS 3
CASES ACTUALLY ON TRIAL 4
CASES REMOVED FROM "OPEN" CALENDAR BY REASON OF IN-
SANITY OR FUGITIVITY FROM JULY 1 THRU APRIL 30, 1951 .. 130
TOTAL NUMBER OF CASES NOT AVAILABLE FOR TRIAL 200
TOTAL NUMBER OF CASES AVAILABLE FOR TRIAL MAY 1, 1951 212

NUMBER OF CASES 1 YEAR OLD OR OLDER 6*

NUMBER OF CASES 6 TO 12 MONTHS OLD 3**

TOTAL NUMBER OF CASES OVER 6 MONTHS OLD.... 9

* IN TWO CASES NEW TRIALS WERE RECENTLY GRANTED. ONE CASE HAS MOTIONS PENDING. ONE CASE HAS AN ILL DEFENDANT. TWO CASES WERE FUGITIVES JUST RECENTLY RETURNED. ONE CASE IS ACTUALLY ON TRIAL, BUT WAS A FUGITIVE JUST RECENTLY APPREHENDED.

** ONE CASE HAS AN ILL DEFENDANT. ONE CASE HAS AN ILL WITNESS. IN ONE CASE A NEW TRIAL WAS RECENTLY GRANTED.

NOTE: 162 DEFENDANTS IN A TOTAL OF 163 CASES WERE IN JAIL APRIL 30, 1951, AWAITING TRIAL.

145 OF THESE DEFENDANTS WERE INDICTED DURING APRIL, 1951

AS OF MAY 1, 1951, THERE WERE 87 CASES PENDING SENTENCE IN WHICH DEFENDANTS HAVE ENTERED PLEAS OF GUILTY OR WERE FOUND GUILTY BY TRIAL.

TOTAL NUMBER OF CASES PENDING ON "INSANE" AND "FUGITIVE" CALENDAR AS OF MAY 1, 1951 432.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CIVIL DIVISION

OCTOBER TERM, 1950 CALENDAR

All Civil Cases at issue prior to and including April 30, 1951, are listed chronologically and given respective calendar numbers.

CIVIL CALENDAR

Jury Actions

Tort and Ex-Contractu Cases	2810
Veteran's Bureau Cases	<u>27</u>
Total Jury Actions	2837

Non-Jury Actions

Patent Cases	158
Veteran's Bureau Cases	31
Tort and Ex-Contractu Cases	709
Injunction, Accounting	683
Contested Divorce Cases	2074
Uncontested Divorce Cases	<u>1037</u>
Total Non-Jury Actions	<u>4692</u>

TOTAL CIVIL CASES 7529

NOTE:- These 7529 Civil Cases represent the balance of undisposed of cases from the preceding fiscal year, 1950, and all Civil Cases calendared during the fiscal year 1951 including April 30, 1951. See Form #3 for the number of dispositions.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Report as of April 30, 1951, of progress of disposition of Civil Cases from the calendar, October Term, 1950.

This report covers cases disposed of from July 1, 1950, to April 30, 1951, a period of ten months and includes cases calendared through April 30, 1951.

1950 - 1951 Including Supplements	Number of Cases on Civil Calendar	Awaiting Trial	Disposed of by Trial Praecept	TOTAL
JURY ACTIONS	2837	1939	214 684	898
NON-JURY ACTIONS	4692	1852	1764 1076	2840
TOTALS	7529	3791	1978 1760	3738

COMPARISON OF CASES DISPOSED OF
BETWEEN 1950 CALENDAR AND 1949
CALENDAR, DURING THE SAME TEN
MONTH PERIOD

	1950 Calendar	1949 Calendar	Summary Gain 1950	Summary Loss 1950
Contested Jury Cases Disposed of	898	760	138	
Contested Non-Jury Cases Disposed of	787	669	118	
Total Contested Cases Jury and Non-Jury Disposed of	1685	1429	256	
*Uncontested Divorce (Non-Jury Cases) Dis- posed of	2053	1435	618	
Total Civil Cases Dis- posed of, Jury and Non- Jury, whether contested or uncontested.	3738	2864	874	

*Uncontested divorce cases are tried in Non-Jury Courts, and usually require only a short time for trial.

ACCELERATION OF CALENDAR

As of March 31, 1951, twenty months would elapse between the time a Jury Case was placed on the trial calendar and the date it would be reached for final trial. As of April 30, 1951, nineteen months would elapse. Thus, Jury Actions have been accelerated one month.

As of March 31, 1951, fourteen months would elapse between the time a Non-Jury Case was placed on the trial calendar and the date it would be reached for final trial. As of April 30, 1951, ten months would elapse. Thus, Non-Jury Actions have been accelerated four months.

<u>Jury and Non-Jury</u>	<u>10-1-48</u>	<u>10-1-49</u>	<u>5-1-51</u>
Cases One Year Old or Older	972	1444	1125
Cases Six to Twelve Months	1122	1119	1064
Cases Over Six Months Old	2094	2563	2189

*Of these 2189 cases as of ^{MAY} April 1, 1951, 350 are divorces.

United States District Court
Western District of Washington

CHAMBERS OF
Charles H. Leavy
United States District Judge
Tacoma, Washington

August 1, 1947

Personal

Honorable Fred M. Vinson
Chief Justice
United States Supreme Court
Washington 13, D. C.

Dear Fred:

As a member of the Legislative Committee for this Circuit, I was delegated to communicate with you, and, if possible, secure your approval of a Resolution passed at our Conference, a copy of which I am enclosing.

Our Conference of both Circuit and District Judges for the Ninth Circuit has been working on this matter during the last five years in the hope that we may accomplish the results sought in the Resolution. Research concerning legislation enacted for many years last past which affects the judiciary, indicates that better than ninety percent of such legislation is of concern primarily and directly to the District Courts, and only incidentally affects the Appellate Courts. Direct representation by the District Courts in the Conference would result in first-hand knowledge of the legislative matters under consideration by those immediately affected, and the findings made would therefore come directly from those having a full understanding of the problems involved. Some opposition has appeared in parts of the country to the effect that such a Conference would become too large and unwieldy. The Conference would consist of twenty-two persons. This would be less in number than most of the legislative committees.

Different members of our committee are to take this matter up with Senator Pat McCarran and other members of the Senate Judiciary Committee that now has H. R. 3214, the Judicial Code bill, under consideration.

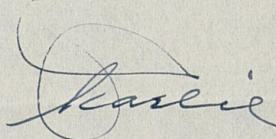
Judge Douglas is very familiar with the attitude of this Circuit, and our Senior Circuit Judge Garrecht will present the proposal to the Conference at its September meeting. I know, however, that, if we can secure the "nod" from you as Chief Justice, our problem in this respect will

2

be solved.

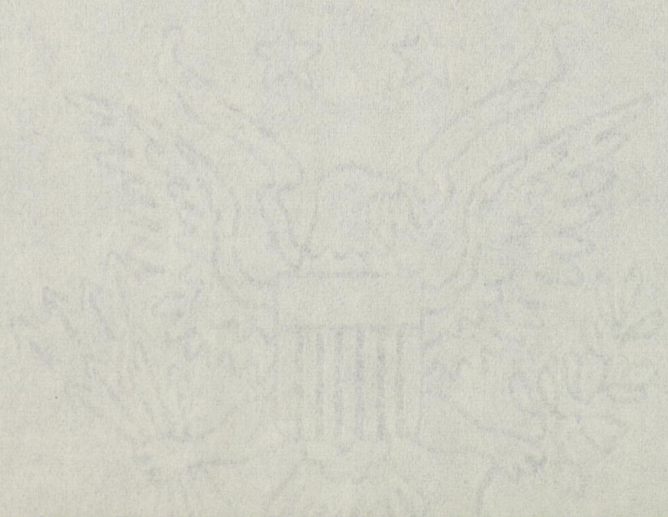
With every good wish and high esteem, I remain

Sincerely yours

A handwritten signature in cursive script, appearing to read "Charles H. Leavy".

Charles H. Leavy
United States District Judge

Enclosure



RESOLUTION OF THE JUDICIAL
CONFERENCE OF THE
NINTH CIRCUIT

BE IT UNANIMOUSLY RESOLVED by the District and Circuit judges of the Ninth Circuit in conference assembled that Section 331 of the proposed Federal Judicial Code should be amended as follows:

(a) After the word "circuits" line 2 paragraph 1, insert the words "and the District Judge senior in commission in each Circuit and in the District of Columbia."

(b) After the word "circuit" line 6 paragraph 2, insert the words "or any district Judge summoned."

BE IT FURTHER RESOLVED that the legislative committee of the Judicial Conference of the Ninth Circuit be and it is hereby authorized and empowered to take all necessary steps to secure the amendment of the Judicial Code by the Congress, as above set out.

Leavy
New business

J-3

August 21st, 1947.

Dear Charlie:

I have your letter of August 1st enclosing copy of resolution recently passed by the Judicial Conference of the Ninth Circuit in respect of the enlargement of the Conference of Senior Circuit Judges to include, as I understand the resolution, the Senior District Judge in each circuit and the District of Columbia.

This is a matter that has been under consideration for some time and I do not think that I should indicate to you approval of the resolution - it is, as you know, a matter for consideration and determination by the Legislative Branch. There is objection to the amendment and I do not believe that I should express any opinion or make any statement of views. I can say however that in the two conferences of Senior Circuit Judges which has been held since I became Chief Justice I have been mindful -- I could say ever mindful -- of the attitude of the District Judges in respect to matters affecting them. I have been very careful to ascertain the attitude of the District Judges as expressed by them on legislative matters under consideration, or other matters in which they were interested enough to have expressed their views.

I can very well understand the attitude of the District Judges in matters of this kind, but I am certain that they would be surprised if they knew the zeal with which the Senior Circuit Judge presents the viewpoint of the District Judges, or each one of the District Judges in his circuit on any matter in which they have expressed an interest.

I note that Judge Garrecht will present the proposal to the Conference at its September meeting and I assure you that it will be considered by the Conference. This is the best that I can do for you at this time.

With the kindest of regards, I am

Sincerely,

Hon. Charles H Leavy
United States District Judge
Tacoma, Washington.

August 21st, 1947.

Dear Charlie:

I have your letter of August 1st enclosing copy of resolution recently passed by the Judicial Conference of the Ninth Circuit in respect of the enlargement of the Conference of Senior Circuit Judges to include, as I understand the resolution, the Senior District Judge in each circuit and the District of Columbia.

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I note that Judge Garrecht will present the proposal to the Conference at its September meeting and I assure you that it will be considered by the Conference. This is the best that I can do for you at this time.

With the kindest of regards, I am

Sincerely,

Hon. Charles H Leavy
United States District Judge
Tacoma, Washington.

Leavy, Charles H.

August 29, 1952

Dear Judge:

I have just been advised that you are retiring on August 31st.

I sincerely hope that with the total judicial responsibilities off your shoulders that you will recover your health and have many happy days ahead of you.

With kindest personal regards and every good wish,

Sincerely,

(Signed) Fred W. Vinson

Honorable Charles H. Leavy,
Judge,
United States District Court,
Tacoma 1, Washington.

FMV:McH

United States District Court
Western District of Washington

CHAMBERS OF

Charles H. Leavy
United States District Judge
Tacoma, Washington

Personal

September 3, 1952

Dear Judge:

It was so nice of you to take note of my retirement.

I hope that now I have removed the responsibilities of a judge, except when I want to assume them, I will regain my health to a degree.

I wish for you and yours every good thing and hope that you may serve as Chief Justice for a long time.

Sincerely

Charles H. Leavy

File

Honorable Fred M. Vinson
Chief Justice
United States Supreme Court
Washington 13, D. C.