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IMPROVING JUDICIAL ADMINISTRATION IN THE STATE COURTS

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Experience is the great teacher in matters of judicial administration as well as in the practical affairs of life. When a successful method for dealing with the business of the courts has been developed in one state, it soon becomes known and used elsewhere. That progress of this kind is slow is due partly to a traditional reluctance to change practices which have been in effect for long years, and partly to a lack of knowledge on the part of bodies which can make or initiate such changes concerning the benefits to be derived from them. The present period has been one of change in the realm of federal jurisprudence and many states have already looked to the federal system for help and guidance. A statement of what has been done in federal judicial administration and procedure may, therefore, be appropriate.

Judicial Conference of Senior Circuit Judges

Three outstanding changes in the federal judicial system have taken place in the last twenty years. The first of these was the Act creating the Conference of Senior Circuit Judges,[1] a body which was given the responsibilities of a federal judicial council without, however, provision for a secretariat to function continuously throughout the year and to make the studies and provide the background material upon which recommendations for improvement of the federal system could be made. Chief Justice Taft was responsible for this enactment and had this to say about its purposes:

> "In the bill is another important feature that in a sense contains the kernel of the whole program intended by the bill. It provides for annual meetings of the Chief Justice and the senior circuit

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1. Act of September 14, 1922. U. S. Code, tit. 28, § 218.

judges from the nine circuits, and the Attorney General, to consider required reports from district judges and clerks as to the business in their respective districts, with a view to making a yearly plan for the massing of the new and old judicial forces of the United States in these districts all over the country where the arrears are threatening to interfere with the usefulness of the courts. It is the introduction into our courts of an executive principle to secure effective teamwork. Heretofore each judge has paddled his own canoe and has done the best he could with his district. He has been subject to little supervision, if any. Judges are men, and are not so keenly charged with the duty of constant labor that the stimulus of an annual inquiry into what they are doing may not be helpful. With such mild visitation he is likely to cooperate much more readily in an organized effort to get rid of business and do justice than under the go-as-you please system of our present Federal judges, which has left unemployed in easy districts a good deal of the judicial energy that may now be usefully applied elsewhere.

"This executive principle of using all the judicial force economically and at the points where most needed should be adopted in every State, and when adopted will offer a remedy to a great deal of the injustice by delay that now exists. State judges, as well as Federal judges, should be interested in the adoption of this Federal measure as a model for the States."[2]

The Rule Making Power

The second of the changes and the most far reaching was the act which gave the Supreme Court the power to draft rules of civil procedure for the federal courts.[3] This act in itself would not have been of such major importance had it not been that the committee appointed by the court had the genius to adapt to the federal system the outstanding advances which had been made and proved successful in the practice of the more progressive states and of England[4] as well. The result has been a carefully worked out set of rules which had greatly simplified the techniques of pleading and trial and subordinated procedure to serve, rather than impede, the orderly processes and rules of substantive law. The new rules have already resulted in simplifying the work of the federal judges through pretrial procedure,

2. Address before the Judicial Section of the American Bar Association in 1921 (Jour. A. J. S. 5:37-39, Aug. 1921).
3. Act of June 19, 1934, U. S. Code, tit. 28, §§ 723b, 723c.
4. Compare Rule 16 providing for pretrial procedure with the English "summons for directions."

provisions for discovery, summary judgments, more efficient methods for taking appeals, clarification of the pleadings, and in many other ways.

The proof of the pudding is in the eating and the universal approval which these rules have met furnishes conclusive evidence of their quality. Moreover, their adoption for the federal courts has resulted in a greater surge of procedural reform in the state courts than has occurred since the adoption of the Field Code in New York a century ago. Six states have already adopted new rules using the federal rules as a model, and nine others, including Missouri, have rules in the drafting stage or in the process of adoption, while a number of others have the subject under consideration.[5] Fortunately, there is no disposition to consider the federal rules as perfect and early next year the Advisory Committee, appointed by the Supreme Court, will meet again to consider suggestions for amendments and improvements. No system for improving procedure is nearly as efficient as it can be made unless there is a permanent provision for continuous revision. This does not mean "tinkering", but a periodic survey of the experience which has been accumulated in the working of any set of rules is necessary to iron out defects and keep pace with new developments. A new code of rules of federal criminal procedure is now being drafted by a committee appointed by the Supreme Court, under Congressional authority,[6] and gives promise of marked improvement in that field.

The Administrative Office of the United States Courts

The third development in the federal system was the establishment of the Administrative Office of the United States Courts, a separate administrative and statistical department for the judicial branch of the government which could also implement the work of the Judicial Conference of Senior Circuit Judges. The Administrative Office, created by the Act of August 7, 1939,[7] has now been functioning for three years. It is a logical development in judicial administration since it places in the hands of an agency under judicial control such functions as budget making, auditing, and statistical reporting, all of which should be free of executive control.

5. Arizona, Colorado, Florida, New Mexico, South Dakota, and Texas have adopted new rules; Delaware, Idaho, Iowa, Maryland (where some rules have already been adopted), Maine, Missouri, Nebraska, North Dakota, and Rhode Island are working on revisions.
6. Act of June 29, 1940, U. S. Code, tit. 18, § 687.
7. U. S. Code, tit. 28, §§ 444-450.

The principal duties of the Administrative Office of the United States Courts apply to all federal courts, except the Supreme Court, and are defined by statute as follows:

1. Supervision of the clerical and administrative personnel of the federal courts, including fixing of salaries and establishment of grades, but not including the appointment of personnel which remains in the control of the judges themselves and of the clerks of court.
2. The collection and reporting of judicial statistics concerning civil, criminal, and bankruptcy cases in the federal courts.
3. Presentation of the budget of the judicial department to Congress.
4. The disbursement of monies for the operation of the courts.
5. The furnishing of equipment and supplies for the courts including law books for the judges, and the providing of accomodations for the use of the courts and court personnel.
6. Auditing of accounts of clerks of court, referees in bankruptcy, United States commissioners, and other court officials.
7. The making of recommendations concerning the judicial business to the Judicial Conference.

Soon after the establishment of the Administrative Office, it was determined by the Judicial Conference that probation was within the scope of the duties which the Director had assumed and a Division of Probation was created with control over the salaries of probation officers and their statistical reports. The actual appointment and supervision of the probation officers, however, remains in the district judges. Later the Conference authorized the creation of a Bankruptcy Division with the purpose of checking more closely upon the work of Referees in Bankruptcy and bringing about a greater degree of uniformity in their procedures.

Under the Administrative Office Act, determinations of policy are made by the Judicial Conference of Senior Circuit Judges, a committee composed of the Senior Judge of the Circuit Court of Appeals of each of the ten circuits, of the Chief Justice of the United States Court of Appeals for the District of Columbia, and of the Chief Justice of the United States who is *ex officio* the chairman of the Conference. This body is required by law to meet once a year and occasionally holds interim sessions. The Director of the Administrative Office who is appointed by the Supreme Court makes an annual report to the Conference, presents to it for approval the annual budget of the entire judicial department of the Government, except the

Supreme Court, and brings to its consideration such problems concerning the federal courts as require a determination of policy.

Although the Administrative Office is a new organization, a number of the functions given above were previously performed by the Department of Justice through the Administrative Assistant to the Attorney General. This included supervision of the personnel of the courts, collecting judicial statistics and reporting them annually, presentation of the budget of the courts to Congress, disbursements of monies and distribution of supplies, audit of accounts, and providing for accomodations of the courts and other officials.

What then, it may be asked, is the Administrative Office doing which was not previously done? The answer is found in the statement made in the report of the Judiciary Committee of the House in recommending the bill that "The design of the legislation is to furnish the federal courts the administrative machinery for self-improvement through which those courts will be able to scrutinize their own work and develop efficiency and promptness in their administration of justice." A further answer is that the necessary service functions which must be performed in greater or less degree for every court are now being carried out by an agency of the judicial branch of the government rather than of the executive branch, and that this agency performs its functions under the direct supervision and in close contact with the Judicial Conference. The needs of the judges for books, quarters, and personnel are entrusted to a separate Division of Business Administration in the office. Through a Division of Procedural Studies and Statistics, quarterly reports of the current business of the courts are made and the work of committees of the Judicial Conference is supplemented by studies which are made under the direction of these committees.

Circuit Councils

Some further explanation of the provisions of the Administrative Office Act is necessary to bring out more clearly the changes which it has brought about. A most important part of the act provides for an integration of judicial administration in the federal system by giving to the several circuit courts of appeals, including the United States Court of Appeals for the District of Columbia which is in effect an eleventh circuit, a direct responsibility in regard to the prompt, efficient, and economical dispatch of business in the district courts of the circuit. This is done by constituting each circuit court of appeals a judicial council for the circuit which is required to meet

at least twice a year, to consider the quarterly reports presented by the Director of the Administrative Office, and to take such action on them as shall be deemed necessary. "It shall be the duty of the district judges", the act says, "promptly to carry out the directions of the council as to the administration of the business of their respective courts." Obviously, the circuit council has no power or authority to interfere or influence the decision of a district judge in a particular case. This independence of decision which has always been a fundamental principle in the federal system is preserved inviolate. The exact scope of the clause which has been quoted has not been determined. The power has been used in some instances to direct the assignment of a district judge with a view to securing the decision of cases which have been held too long under advisement.

This responsibility placed on the circuit council has resulted in a correlative responsibility on the part of the Administrative Office to furnish information to the Senior Circuit Judge as to the condition of the business in his circuit. In addition to statistics on the flow of cases, quarterly reports regularly contain a statement of all cases held under advisement by each district judge in the circuit for a period of more than 30 days prior to the time the report is called for. The annual report of the office contains a comprehensive breakdown showing the nature of the cases filed, the time required for disposition, the reasons for the nondisposition of the older cases, and other pertinent data.

Since the concern of each circuit council is with the district courts in that circuit, the senior judge on whom the administrative responsibility falls sometimes has to ask for additional temporary judicial help for a particular court. The Administrative Office has become a clearing house for such requests, as its statistical information, supplemented by personal visits of attorneys from that office, shows not only where the courts are falling behind but, also, in what districts the business is light enough to permit a temporary transfer. The usual practice upon the receipt of a call for assistance is for the office, where possible, to find a judge who can be spared for temporary transfer and who is willing to undertake judicial duties outside of his circuit. The permission of the senior judge of such circuit is always secured in advance and the actual transfer is put through under a designation by the Chief Justice of the Supreme Court. A considerably increased flexibility in the federal judicial system has resulted from this procedure.

It should be emphasized that the Administrative Office has two main duties—a service function and a reporting function, both of which are exer-

cised under supervision of the judiciary. It has no power over any individual judge or court. The wise draftsmen of the Administrative Office Act conferred power over the administration of the judicial business not on an administrator or bureau in Washington but on the circuit judges in each circuit who are acquainted with local conditions and with the business in their own circuits.

Circuit Conferences

Another section of the Administrative Office Act provides for the holding in each federal circuit of an annual circuit conference and it is made by law a duty of each federal judge to attend that conference. Judge Kimbrough Stone has been having these conferences in the Eighth Circuit for a period of more than ten years. In the Fourth Circuit, such conferences have been held annually by Judge John J. Parker since 1931. In most of the other circuits, it was only with the passage of the act that this practice was inaugurated. The usual procedure is to have one session for the judges alone, in which a report is made by each district judge concerning the state of the business in his district, and then such public sessions as may be decided on where lawyers, law teachers, and, in the Eighth Circuit, some state court judges are included. Carefully planned programs, discussing problems affecting the administration of justice, participated in by both the bench and the bar, make these conferences a valuable adjunct in the development of improvements in the federal system. Matters considered by the conference may be brought up by the Senior Circuit Judge at the Judicial Conference of Senior Circuit Judges, and thus the work of the individual conference keys in to the national structure. An important feature of the conference is the opportunity which it gives bar associations and members of the bar to be heard in reference to anything having to do with the United States courts.

Applicability of Federal Improvements to the States

To what extent are these improvements in the federal system applicable to the judicial department of a state? We have already found that the example of the federal courts has been most salutary in serving as a model for procedural reform in the states. To what extent does this also apply to a council of judges, to an administrative office, and to a conference of judges? These subjects may well be considered together as they form a part of a single system.

The council of judges now exists in thirty states in the form of a judicial council, but only seven of these councils have a permanent staff which

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is responsible for the collection of statistics, the making of recommendations for the improvement of procedure, or the implementation of the work of the council. These functions constitute a very important part of the duties of the Administrative Office.

An annual conference of judges is now held in a few states, including Missouri.[8] The value of such a meeting can be greatly enhanced by a permanent staff which can prepare and circulate in advance not only agenda to be considered, but also the background material on the basis of which decisions can be made, and recommendations formulated. With such advance provision, the conference becomes a forum for careful consideration of proposals which have been advanced, rather than a meeting where views are expressed, sometimes as opinions of first impression and without adequate consideration. The annual conference of judges as well as the judicial council can and should be provided for in every state, irrespective of the establishment of an administrative office. The conference should be authorized by law and provisions made for the courts to be represented. Attendance should be mandatory and travel and subsistence of the judges attending should be paid.

Connecticut's Solution

What functions of the administrative office are applicable to a system of state courts? In Connecticut, an officer has been constituted with the title of "Executive Secretary of the Judicial Department"[9] who, in addition to his duties with that court, serves as an auditor of the expenses of the judicial department subject to the ultimate responsibility of the judges in

8. Full information is not available on this subject but the following is a partial list of conferences of state judges:
Colorado has a voluntary conference of district judges. Connecticut (§ 5357, General Statutes of Connecticut, Revision of 1930, as amended by § 1630c of Cumulative Supp. for 1931-5); Georgia (Code of 1933, ch. 24, § 2627 as amended by Act No. 439 of the General Assembly of 1937—Georgia Laws, 1937, p. 464); Michigan, (C. L. '29, § 13,762-4; C. L. 15, § 14546-8); and Wisconsin, (Compiled Statutes of Wisconsin 1941, § 252.08), provide by law for such a meeting; Iowa has a District Judges' Association; Utah has a District Court Judges Conference which meets twice a year; Washington State has a Superior Court Judges Association; and in some other states there is a judicial section of the state bar association which meets at the time of the annual convention.

9. Sec. 1377e. "Executive secretary of judicial department. The judges of the superior court may, at any annual or special meeting, appoint an executive secretary of the judicial department for such term of office as they may determine, any vacancy to be filled by the chief justice of the supreme court of errors until a successor shall be appointed, and may fix his salary and allowances for the expenses of himself and his office. He shall be a member of the bar of this state and shall act as auditor of the bills of costs and expenses to be submitted to any

matters of policy. Chief Justice W. M. Maltbie of Connecticut said of that office:

> "The underlying purpose we sought to accomplish was twofold. First, it is undoubtedly true that very few judges are temperamentally adapted to handle administrative details, and for them to attempt to do so not only imposes a burden upon them which is apt to be quite distasteful but it seriously intrudes upon the time which they should devote to the function they are appointed to perform—the determination of the controversies which come before them as judges . Placing the responsibility of dealing with administrative matters upon an administrative officer, aside from the general oversight which must and should be exercised by the judges themselves, serves to a very considerable extent to further the efficiency of the courts.
>
> "The second underlying purpose grew out of the fact that the judges are in most instances peculiarly unsuited to determine questions involving the proper expenditure of public money for the maintenance of the courts, and are, I think I may say truthfully, with few exceptions, entirely too prone to accept as correct almost any expenditures which are placed before them by the officers of the courts.
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> "We found that a great deal of money was being spent inadvisedly and in some instances beyond the scope of the limitations established by the statute and the appropriation bills enacted by the legislature, and that it was a rather vain hope to rely upon the judges to curb such expenditures."[10]

Functions of the Judicial Council in New York and California

In New York, the act[11] creating the judicial council provides that the council shall appoint "such employees including persons qualified for legal research, investigating and statistical work as may be deemed necessary." Leonard S. Saxe, Executive Secretary of the Council, collects and publishes

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judge of a state court for taxation, shall keep on file information as to the expenses of conducting the judicial department and shall perform such duties with reference to said matters as the judges of the superior court or any judge of any other state court may direct. He shall perform such other duties of a nonjudicial character with reference to the administration of the judicial department, including municipal courts and trial justices, as the judges of the superior court may direct. He shall file with said chief justice an annual report as of July first concerning matters which have been intrusted to him." 1939 Supplement to the General Statutes of Connecticut (passed in 1937) as amended by § 788f of the 1941 Supp.

10. Hearings before a Subcommittee of the Senate Judiciary Committee, 76th Cong., 1st Session, on S. 188, April 4 and 5, 1939, pages 19 and 20.

11. Laws of 1934, ch. 128, as amended by Laws of 1936, ch. 231, and by Laws of 1939, ch. 7.

comprehensive statistics concerning the work of the courts of that State and is also continuously engaged in research as to matters of procedural improvement. The duties of the Council as defined by statute[12] are to a large degree a combination of the duties of the Judicial Conference of Senior Circuit Judges and the Administrative Office.

In California, the constitutional amendment[13] creating the judicial council provides that the Chief Justice of the Supreme Court in his capacity as Chairman of the Council "shall seek to expedite judicial business and to equalize the work of the judges, and shall provide for the assignment of any judge to another court of a like or higher jurisdiction to assist a court or judge whose calendar is congested, to act for a judge who is disqualified or unable to act, or to sit and hold court where a vacancy in the office of judge has occurred."

This provision proved of much assistance in relieving congestion of the superior court dockets in Los Angeles County and in the Fourth Report of the Council for the years 1930-1932. It was referred to in the following language:

> "That portion of the amendment, it will be recalled, was characterized by Mr. Chief Justice Taft, in his opinion, as the most valuable provision in the California plan. It was framed on

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12. § 45, Powers and duties. The council shall have the powers and shall be charged with following duties:

(a) To make a continuous survey and study of the organization, jurisdiction, procedure, practice, rules and methods of administration and operation of each and all the courts of the state, including both courts of record and courts not of record, the volume and condition of business in said courts, the work accomplished and the results obtained.

(b) To collect, compile, analyze and publish the judicial statistics of the state in compliance with article six, section twenty-two of the constitution.

(c) To receive, consider and in its discretion investigate criticisms and suggestions from any source pertaining to the administration of justice and to make recommendations in reference thereto.

(d) To keep advised concerning the decisions of the courts relating to the procedure and practice therein and concerning pending legislation affecting the organization, jurisdiction, operation, procedure and practice of the courts.

(e) To recommend from time to time to the legislature any changes in the organization, jurisdiction, operation, procedure and methods of conducting the business in the courts which can be put into effect only by legislative action and to recommend to any court or to any body vested with the rule making power for any court any changes in the rules and practice of said courts or the methods of administering judicial business therein which, in the judgment of the council would simplify and expedite or otherwise improve the administration of justice therein.

(f) To adopt and from time to time to amend and promulgate with the force and effect of law rules and regulations not inconsistent with any statute with respect to the manner of keeping records of the business in any court.

13. Art. 6, Constitution of California, adopted November 2, 1926.

the theory that, since the State pays the larger part of the salaries of superior court judges, it should have the right to require that the judges of those courts having little business shall help clear the congested calendars in other courts of both trial and appellate jurisdiction. In actual practice, the plan of making such assignments has embraced the judges of the municipal courts, where established, and, in cases of emergency, justices of the peace. As evidence of the unification of the judicial system of the State, and as demonstrating the flexibility of the system, it is interesting to note that, in the six years since the first transfer was made, the Chairman of the Council has made 3983 assignments of judges to courts other than their own."

A main purpose of the statistics gathered in reference to the business of the federal courts is to assist in bringing about the prompt dispatch of business. Where the dockets are shown to be congested, it becomes the business of the Senior Circuit Judge to see that judicial assistance is given to the end that litigants may have their cases promptly disposed of.

One of the first steps taken by the Administrative Office was to call on each judge for a quarterly report on cases under advisement. Whether due to the necessity of making these reports, or to other causes, a considerable decrease has been registered during the two and a half years the system has been in operation in the number of cases held under advisement by federal district judges. The first report made in February, 1940, showed about 300 cases and motions under advisement more than 60 days of which 29 had been held under advisement more than a year. As of August 1, 1942, this number had been reduced to 149 matters reported as under submission more than 60 days, of which but 3 were a year old.

Supervision by Supreme Court in Pennsylvania

That such a system is applicable to state courts is shown by the experience of Pennsylvania. An act[14] of the Pennsylvania legislature giving the Supreme Court of Pennsylvania rule-making power also authorizes it to make inquiries of the judges and clerks of the courts of record in that commonwealth as to the state of their business. Under the authority of this act, the court made a survey to determine the amount of unfinished business remaining in the hands of the judges. Following these surveys and upon the authority of the act, the court promulgated a rule requiring the clerks

14. Pennsylvania Statutes, tit. 17, § 65 (1937, P. L. 1982).

of the various courts to make a monthly report of all cases and matters submitted to any judge or judges of the court for decision which on the first of the month had remained undisposed of for thirty days or more after such submission. The judge having the matter in hand or the senior judge of the court *en banc* to which the matter was submitted was required to report in writing the cause of the delay to the chief justice of the supreme court. The first report of the chief justice showed 14 counties in which there were 143 cases which had remained undisposed of from 6 months to 6½ years. In the next report made by the chief justice, three months later, he reported that in every county of the commonwealth, with the exception of one, the judges had brought their work up to a point where they had under consideration only current cases. A further report of the chief justice was made about two years after the second report above-mentioned in which he said—"I am pleased to again report that the work of these lower court judges is practically up to date, a record which I am quite sure is hardly equaled elsewhere in the nation considering the volume of work handled by our Pennsylvania courts. In the several Courts of Common Pleas throughout the Commonwealth, consisting of one hundred and fifty-one (151) judges, there are but two counties where cases are found awaiting decision for periods in excess of three months, as of November 30, 1939. In conclusion, it is most gratifying to report the commendation of members of the bar on the happy condition of the affairs of our country courts. Justice to be effective must be dispatched with reasonable speed and while the bench and bar of Pennsylvania may be justly proud of the record established in this connection, it must also be reassuring to our people generally that if they must seek the aid of our courts, cases will be promptly disposed of when finally submitted for decision to our judges."

What is adapted to the federal system may or may not be useful in any given state. The question is one for consideration by the state in connection with its particular situation. The same holds true as to the form to be used to secure the advantages of the office for a state. Such an office could be established under the supreme court of a state, and made responsible to it, under a judicial council for which it could serve as a secretariat or under a state-wide conference of judges as in Connecticut. It is the substance and not the form which is important. Control by the judiciary itself rather than by the executive or legislative branches of the government is a cardinal prinicple. The officer should be given no control over judges, but should be given power by law to require reports from clerks of court. The power

to take steps to remedy any unsatisfactory conditions shown by reports and statistics must rest in the judiciary itself.

Progress in Three States

Some examples have been given to illustrate how certain functions now performed by the Administrative Office of the United States Courts have already been adopted in certain states. A discussion of the practicability of setting up an administrative office for the judicial department of a state would not be complete without mention of plans which are now under way in Iowa, Minnesota, and New Jersey.

In Iowa, the Judicial Advisory Commission, created by order of the supreme court of the state, has made a report to that court recommending the appointment of an administrative officer to function under the supervision of the supreme court, to assist the court in fulfilling the obligation placed on it by the State Constitution to "exercise a supervisory control over all inferior judicial tribunals throughout the state."[15] The Judicial Advisory Commission, which is the Iowa version of a judicial council, does not recommend the passage of any statute or constitutional amendment but takes the ground that the supreme court has the inherent power to appoint such an official and that the only part which the legislature need be called upon to play is to provide for his salary and the expenses of the office. The Judicial Advisory Commission has been joined by the State Bar Association in making this proposal and both bodies have been represented in a hearing on the subject before the court.[16]

In Minnesota, a committee of the Judicial Council on the subject of unification of the courts, headed by Justice Charles Loring of the Supreme Court of Minnesota, has drafted a proposal for a revision of the judiciary article of the Constitution which includes the establishment for the state of a single unified court with suitable divisions, the conferring of rulemaking power on the court, and the creation of a judicial administrative office. The article provides for the creation of an administrative council of nine judges, presided over by the chief justice of the supreme court or some member of the court designated by him, upon which is conferred the supervision of the administrative organization and operation of the courts and the power

15. Iowa Constitution, art. 5, § 4.

16. This information has been received from Mr. Harley H. Stipp of Des Moines, chairman of the Judicial Advisory Commission, who has been active in the advocacy of this proposal.

to prescribe the duties of the administrative and clerical personnel. This Council is authorized to appoint an administrative director who "shall have direction of all administrative matters pertaining to the general court including its various divisions. He shall be subject to the authority of the administrative council, which shall more particularly define his duties." This proposed amendment has been reported to the Judicial Council and will be submitted to the State Bar Association for criticism and discussion. When in final form, it may be assumed that the Judicial Council will report it to the Governor with a view to having him present it to the Legislature. If approved by the Legislature, the amendment will then be submitted to the vote of the people.

In New Jersey, a commission on revision of the New Jersey Constitution was appointed pursuant to a joint resolution of the New Jersey Legislature of November 18, 1941. A report was submitted to the legislature in May 1942 containing proposed revisions of the Constitution. Under the Judicial article, one section of the report is devoted to administration. It provides that the chief justice of the supreme court shall be the administrative head of all the courts and shall supervise their working and that he shall appoint an executive director of the courts to serve at his pleasure. The duties of the executive director are set forth in the following language:

"(1) Assist the Chief Justice in all matters related to the administration, finance and personnel of the courts;
(2) Publish annually a statistical record of the judicial services of all the courts, justices and judges in the state, and of the costs thereof;
(3) Prescribe records, reports and audits for the inferior courts;
(4) Have such other duties as may be delegated by the Chief Justice."

Paragraph three of the section provides for the annual assignment by the chief justice of justices of the superior court and gives him the power to transfer justices from one assignment to another as need appears. The state legislature has deferred action on this report which gives the opportunity for another year's educational campaign.[17]

17. Two interesting and unique provisions of the Section on Judicial Administration designed to speed up the decision of cases are as follows:
"Whenever the Supreme Court fails to hear any case within two months after an appeal therein is perfected or fails to decide any case within two months after it has been argued or submitted, the Chief Justice shall certify that fact to the Governor. The Governor may thereupon appoint a special term of the Supreme Court, from among the justices of the Superior Court, to

In other states, judicial councils and bar association committees have under consideration the subject of an administrative officer for their state judiciary. Chief Justice Robert G. Simmons of the Supreme Court of Nebraska is the chairman of a committee of the Section of Judicial Administration of the American Bar Association which has been appointed to make a study of this question. These current developments indicate that the application to the state judiciary of this development in the federal courts is receiving thoughtful attention, particularly from the members of the bench.

Conclusion

The supreme court may now have the power in some jurisdictions to establish such an office without legislative authorization, as in Iowa; in others, a statute or a constitutional amendment may be necessary, as in Minnesota and New Jersey. If the judges in a state are themselves sufficiently convinced of the desirability of such an office, as was the Judicial Conference of Senior Circuit Judges, they can make a strong case before the legislature.

Now, more than ever, the need for efficiency in judicial administration is in keeping with the times. Proposals which have the possibility of bringing this about are deserving of the closest scrutiny and study in every state. We shall all do well to remember these stirring words of Chief Justice Charles Evans Hughes before the American Law Institute in 1941:

> "The lamps of justice are dimmed or have gone wholly out in many parts of the earth, but these lights are still shining brightly here. We are engaged in harnessing our national power for the defense of our way of life. But that way is worthwhile only because it is the pathway of the just. It is our high privilege, although our task may seem prosaic, to strengthen the defenses of democracy by commending to public confidence and esteem the working of the institutions of justice in both state and nation."

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exercise concurrently the jurisdiction of the court until the delay is cured.

"Special judges may, upon request of the Chief Justice, be nominated and appointed by the Governor, by and with the advice and consent of the Senate, for temporary service not exceeding one year whenever and so long as any court fails to try or hear any case within two months after notice of trial has been filed or an appeal therein perfected, or fails to decide any case within two months after it has been argued or submitted. Such special judges may exercise all the powers and shall have all of the duties of a justice or judge of the court to which they are appointed."

A. A Bibliography of the Administrative Office of the United States Courts, and Circuit Judicial Conferences.

1. The Administrative Office Act—
   a. Act August 7, 1939, ch. 501, § 1, 53 Stat. 1223, U. S. Code, Title 28, §§ 444-450.
2. Legislative History of the Act—
   a. S. 3212 referred to the Senate Committee on the Judiciary. Cong. Record 75th Cong. 3rd Ses. Vol. 83, p. 304. Copy of bill, 681, 682.
   b. Hearings on S. 3212, January 24, 25, and February 2, 1938 (Senate).
   c. H.R. 2973 Referred to the House Committee on the Judiciary. 76th Cong. 1st Ses. Vol. 84, *ibid* 595.
   d. H.R. 5999, Mr. Sumners of Texas: Committee on the Judiciary, 84 *ibid* 4783. Reported with amendments (H. Rept. 702) 6467—Laid on the table (S. 188 passed *in lieu*), 9334.
   e. Hearings on H.R. 2973 and H.R. 5999, March 2 and April 15, 1939 (House).
   f. Committee Report, H.R. 5999, May 31, 1939 (H. Rept. 702).
   g. S. 188—Mr. Ashurst: Committee on the Judiciary, 83 *ibid*, 67—Reported with amendments (S. Rept. 426), 5483. Debated, 5791. Amended and passed Senate, 5793. Referred to House Committee on the Judiciary, 6036. Passed House; amended under suspension of rules (H.R. 5999), 9308-9310. Senate concurs in House amendment, 9396, 9397. Motion entered to reconsider vote by which the House amendment was agreed to, 9468. Senate disagrees to the House amendment; requests conference with House, 9559. Conferees appointed, 9559, 9697. House insists upon its amendment and agrees to conference, 9695, 9697. Conference report submitted in House (H. Rept. 1373), 10252, 10386. Agreed to, 10386. Conference report submitted in Senate and agreed to, 10316. Examined and signed, 10612, 10486. Presented to the President, 10879. Approved [Public, No. 299], 11170.
   h. Hearings on S. 188, April 4-5, 1939 (Senate).
   i. Committee Report, S. 188, May 12, 1939 (Senate) (S. Rept. 426).
   j. Conference Report, S. 188, July 27, 1939 (House) (H. Rept. 1373).

B. Reports of the Judicial Conference of Senior Circuit Judges—Annual Reports of the Director of the Administrative Office of the United States Courts.

a. 1940 (Printed by United States Government Printing Office).

b. 1941 (Printed by United States Government Printing Office).

c. 1942 (Mimeographed).

Note: The 1940 and '41 Annual Reports of the Director of the Administrative Office also contain the reports of the Judicial Conference. The 1942 report does not. The report of the 1940 meeting of the Judicial Conference is found in 26 A.B.A.J. 884, N. '40; of the special session in January 1941 in 27 A.B.A.J. 183, M. '41; of the 1941 September Conference in 27 A.B.A.J. 728, N. '41; and of the 1942 September Conference in 28 A.B.A.J. 817, D. '42.

C. Published speeches and articles by Mr. Henry P. Chandler, Director of the Administrative Office of the United States Courts, concerning the work of that office.

a. The Administration of the United States Courts—Speech delivered at the Judicial Conference of the Fourth Circuit in Asheville, N. C., June 21, 1940—26 A.B.A.J. 723, S. '40.

b. Address to Association of Referees in Bankruptcy—15 J. of National Association of Referees in Bankruptcy 49, Oct. '40.

c. Speech at the First Circuit Judicial Conference in Boston, November 27, 1940—21 Boston U. L. Rev. 1, Ja. '41.

d. Speech at the Tenth Circuit Judicial Conference in Santa Fe, New Mexico, June 1941, 7 John Marshall Law Quarterly 173, D. '41.

e. The Place of the Administrative Office in the Federal Court System—27 Cornell Law Quarterly 364, April 1942.

f. An Administrative Office for State Courts—26 Am. Jud. Soc. J. 7, Jun. '42.

g. The Impact of the War upon the United States Courts—28 A.B.A.J. 460, Jul. '42.

h. Speech before the Judicial Conference of the District of Columbia in February 1942—9 J. Bar Assn. of D. C. 455, O. '42.

i. The Administrative Office and the Referees—17 J. National Association of Referees in Bankruptcy 5, Oct. '42.

D. Other articles in legal periodicals concerning the Administrative Office.

a. Address to American Law Institute, May 1940—Chief Justice Charles Evans Hughes—26 A.B.A.J. 472—June 1940.

b. Address to American Law Institute, May 1941—Chief Justice Charles Evans Hughes—27 A.B.A.J. 333—June 1941.

c. Address to Fourth Circuit Judicial Conference, June 1942—Chief Justice Harlan F. Stone—"Functions of the Circuit Conferences" —28 A.B.A.J. 519—Aug. '42.

d. Administration of the Federal Judiciary, by Alexander Holtzoff—3 Fed. Bar Assn. J. 373, Nov. '39.

e. Administration of the United States Courts, by R. T. Murphy—28 Geo. L. J. 383, Dec. '39.

f. Administrative Office created for U. S. Courts—45 Case & Comment 5, Jan. '40.

g. Administrative Office of the U. S. Courts—25 Mass. L. Q. 9, Apr.-June '40.

h. The Administrative Office of the United States Courts—its first report—27 A.B.A.J. 3, Ja. '41.

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j. Administrative Plan for Federal Judiciary—21 J. Am. Jud. Soc. 142, F. '38.

k. Ashurst Bill can Conserve Judicial Independence—22 J. Am. Jud. Soc. 187, F. '39.

l. The Bill for a Business Manager of the Federal Courts—(Letter from F. W. Grinnell)—23 Mass. L. Q. 36-7, Jan.-Apr. '38.

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n. Brisk Action by Senior Circuit Judges—23 J. Am. Jud. Soc. 171, F. '40.

o. Court Integration Through Voluntary Leadership, by Judge John J. Parker—25 J. Am. Jud. Soc. 38, Aug. '41.

p. Federal Judicial System hears end of Reform Program—24 J. Am. Jud. Soc. 106, Dec. '40.

q. For Business Management of Federal Courts—21 J. Am. Jud. Soc. 195, Apr. '38.

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s. Improving the Administration of Justice—Honorable Merrill E. Otis—28 A.B.A.J. 367, May '42.

t. Integration of Federal Judiciary Now Probable—22 J. Am. Jud. Soc. 189, F. '39.

u. Judge Maris on Popular Dislike of Courts—24 J. Am. Jud. Soc. 162, F. '41.

v. Justice is Dependent Upon Administrative Methods—26 J. Am. Jud. Soc. 128, Dec. '42.

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b. First Annual Conference of the First Circuit, a symposium. Foreword, C. Magruder; Business of the United States Courts, Henry P. Chandler—and other speeches—21 B. U. L. Rev. 1,—Ja. '41.

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