

against a sweeping condemnation. After remarks by Lindley, D.J. the matter was continued to the afternoon session for concise formulation of the motion and discussion thereon.

Kerner, C.J. was called upon to advise the Conference on proceedings at the 1948 Senior Circuit Judges Conference and stated that the statement of Mr. Shafroth covered his remarks. He advised the Conference he had voted the recommendations of the previous Annual Seventh Circuit Conference at the Senior Circuit Judges Conference.

Duffy, C.J. reported on the proceedings at the last (1949) Senior Judges Conference detailing progress of the Hobbs Bill, McCarran Administrative Court Bill, Picketing Bill, and Bill for authority to micro-film records of the District Courts.

Major, C.J. advised the Conference of the Statute apparently making mandatory the adoption of a Court of Appeals Rule permitting participation by members of the Seventh Circuit Bar in the Annual Conferences.

At this point Hon. Frank A. Picard, District Judge at Detroit entered and was welcomed. Judge Picard invited the Judges to join with the Judges of the Sixth Circuit at Mackinac Island next year. It was moved by Igoe, D.J. that Judge Picard's invitation be accepted and approved and that the Chief Judge appoint a Committee to work with a Committee from the Sixth Circuit on arrangements. Motion seconded by Campbell, D.J. Motion carried. Thereupon Major, C.J. appointed Igoe, D.J., Chairman, Campbell, D.J. and Duffy C.J. as a Committee on arrangements.

The Conference adjourned at 12:00 for lunch.

The Conference convened for the afternoon session at 2:00 P.M. Kerner, C.J. read a Memorial Resolution to the late Judge Evan A. Evans and moved that it be spread on the Record of the Conference. Motion seconded by Campbell, D.J. Motion carried. The Memorial Resolution is as follows:

RESOLUTION

MEMORIAL TO JUDGE EVAN A. EVANS

Many eloquent and beautiful tributes have been given to Judge Evans. As his colleagues, we are familiar with his life and its many achievements; with his strong mind and character; with his great learning; with his deep faith in God and man. It is as his close associates that we reverence his memory today, the memory of a distinguished jurist and a fine man.

It is significant in paying tribute to Judge Evans that we recall the thirty-two years embraced in his career on the Federal bench - years that saw the emergence of America as a world power; that saw the turbulent twenties and the depression and recovery of the thirties; that saw our victory in two great World Wars. During those thirty-two long years, the world changed; America changed; and, indeed, in some respects, our concept of the judicial function

changed.

In many ways the most versatile member of our Court, Judge Evans was a gifted raconteur. His narratives of the events of the late nineties and of the early years of this century, his recollections of the Great Commoner, Bryan, of Theodore Roosevelt, of the elder Follette, of Judge Kenesaw Landis, and of other notables of the times, were spellbinding to those who came on the scene later. Listening to him, one lived with him through that era in America's history.

His sympathy for all, his tolerance, and his great heart endeared him to us as his colleagues, as well as to those who came before him as attorneys and litigants. His integrity and moral principle was typified by one illustration; outraged at what he thought was a travesty on democracy and justice, he refused membership in the Chicago Bar Association while Negroes were denied membership.

One of his most outstanding characteristics was his real devotion to the Court - an almost paternalistic devotion. He loved his work with a real zeal, and had for his colleagues, for the Court staff, and for the counsellors an affectionate regard.

We miss seeing his long stride, hands clasped behind him; his often tousled hair; his leonine countenance; his hearty laughter; his piercing wit; and above all, his wise and just counsel. We have lost a friend, and he cannot be replaced.

Barnes, D.J. assumed the chair at the suggestion of Major, C.J. and presided at the afternoon session and called for discussion on Item 3 of the Agenda, "Consideration of Nature of Rule" to be adopted by the Court of Appeals pursuant to Section 333, Title 28, U.S. Code, requiring that, "The Court of Appeals for each circuit shall provide by its rules for representation and active participation at such Conference (Judicial Conference of the Circuit) by members of the bar of such circuit." Remarks were made by LaBuy, D.J., Major, C.J., Landley, D.J., Wham, D.J. and Barnes, D.J.

It was moved that this Conference go on record that participation by Members of the Bar is favored and that so far as this Conference is concerned the Rule should be to the effect that the Chief Judge shall appoint a Committee of three members whose duty it shall be to determine the extent of participation, the subject matters to be discussed and the personnel to be invited, and with full power to make arrangements. Motion carried.

The chair called for discussion on Item 4 of the Agenda, "Consideration of Need for additional district judges in Circuit." Remarks were made by Swygert, D.J., Major, C.J., and Sullivan, D.J. It was moved by Sullivan, D.J. that the Conference go on record as approving and recommending the appointment of two additional judgeships for the Northern District of Illinois and one additional judgeship for the Northern District of Indiana. Motion seconded by La Buy, D.J. Motion carried.

The Chair called for discussion on Item 5 of the Agenda, "Consideration of Proposed Legislation Affecting the Judiciary."

5 (a) Picketing of the Courts (H. R. 3438, H. R. 3766, S. 1681).

Remarks were made by Shaw, D.J., Duffy, C.J., Barnes, D.J., Briggie, D.J., La Buy, D.J. and Lindley, D.J.

Judge Shaw discussed House Bill 3438 and stated that in his opinion it was of doubtful value, that the courts have the inherent power to protect the orderly processes of justice without any statutory aid, that if the bill were enacted into law, it might be construed as a limitation on the inherent powers of the court. Judge Shaw gave as his opinion that the Nye case (313 U.S. 33) did not curtail the inherent powers of the court to protect against picketing of the courts. Judge Shaw stated, however, that if the bill should be enacted, there should be a saving clause to the effect that it does not limit the existing powers of the court to punish for contempt.

Duffy, C.J. moved that the Conference go on record as endorsing in principle S. 1681 and H. R. 3766 with the amendment that the endorsement should not be construed as impairment of the inherent powers of the Court. Motion seconded by Lindley, D.J. Motion carried

5 (b) An Administrative Court of the United States (S. 684).

Extended remarks were made by Lindley, D.J. It was moved by Briggie, D.J. that the Conference go on record as opposing establishment of an Administrative Court. Motion seconded by Campbell, D.J. Motion carried.

5 (c) Sound Recording of Court Proceedings (H.R. 3475).

Remarks were made by Duffy, C.J. It was moved by Lindley, D.J. that the Conference go on record as opposing legislation providing for sound recording of Court proceedings. Motion seconded by Igoe, D.J. Motion carried.

5 (d) Other Pending Legislation

There was no discussion under 5(d).

The Chair called for discussion on Item 6 of the Agenda, "Consideration of the majority and minority reports of the Judicial Conference Committee on Statutory Definition of Felony."

Extended remarks were made by Lindley, D.J. It was moved by Campbell, D.J. that the Conference go on record as approving the Bill as drafted by the Attorney General. Motion seconded by Igoe, D.J. Motion carried.

The Chair called for discussion on Item 7 of the Agenda, "Consideration of method of handling petitions for vacation or correction of sentences in criminal cases under provisions of Section 2255 of the New Judicial Code."

Remarks were made by Swygart, J. and Lindley, D.J.

Item 8 on the Agenda, providing for General Discussion was passed.

The Chair called for discussion on Item 9 of the Agenda, "Consideration of Question as to whether a Court to which a case is transferred pursuant to Section 1404 (a) Title 28, U. S. Code may review the action of the transferring Court and refuse to accept the case."

Remarks were made by Judge Campbell. It was moved by Judge Igoe that no action be taken and that the Conference pass to the next subject. Motion seconded by La Buy, D.J. Motion carried.

The Chair called for discussion on Item 10 of the Agenda, "Consideration of Action to be taken to procure adequate compensation for minute clerks and record writers."

Remarks were made by Barnes, D.J. and by Mr. Shafroth. It was moved by Campbell, D.J. that the Conference go on record as favoring higher compensation and higher classification for minute clerks and record writers adequate to the responsible duties they perform, in Districts having more than five District Judges. Motion seconded by Briggie, D.J. Motion carried.

Barnes, D.J. made a statement relative to the inadequacy, in comparison with the work performed of certain fees charged by Clerks of District Courts. Barnes, D.J. was authorized by the Conference to write each Judge and explain the nature of the proposed increase and after receiving such information the Judges were requested to write their views to Major, C.J.

It was moved by Campbell, D.J. that a vote of thanks be tendered the Circuit Judges for their hospitality to the visiting District Judges. Motion seconded by La Buy, D.J. Motion carried.

It was moved by Sullivan, D.J. that the Conference adjourn, Motion seconded by Campbell, D.J. Thereupon the meeting adjourned at 4:30 P.M.

Minutes of the Annual Seventh Circuit Conference held on Thursday, June 16, 1949.

The Annual Seventh Circuit Conference convened at 10:00 A.M. Thursday, June 16, 1949 in the United States Court of Appeals Building, 1212 Lake Shore Drive, Chicago, Illinois.

Present were:

Hon. J. Earl Major, Chief Judge
Hon. Otto Kerner, Circuit Judge
Hon. Sherman Minton, Circuit Judge
Hon. F. Ryan Duffy, Circuit Judge
Hon. Philip J. Finnegan, Circuit Judge
Hon. Walter C. Lindley, District Judge
Hon. Fred L. Wham, District Judge
Hon. John P. Barnes, District Judge
Hon. Charles G. Briggie, District Judge
Hon. Philip L. Sullivan, District Judge
Hon. J. Leroy Adair, District Judge
Hon. Michael L. Igoe, District Judge
Hon. William J. Campbell, District Judge
Hon. Luther M. Swygert, District Judge
Hon. Walter O. La Buy, District Judge
Hon. Elwyn R. Shaw, District Judge
Hon. Robert E. Tehan, District Judge
Hon. William H. Holly, District Judge
Mr. Will Shafroth, Adm. Office of the U.S. Courts

Hon. J. Earl Major, Chief Judge convened the Conference. It was moved by La Buy, D.J. that Kenneth J. Carrick, Clerk of the United States Court of Appeals for the Seventh Circuit be appointed permanent Secretary of the Conference. Motion seconded by Campbell, D.J. Motion carried. Thereupon said Kenneth J. Carrick assumed the duties of Secretary of the Conference.

Major, C.J. welcomed all to the Conference and read a letter written by Hon. William M. Sparks, Circuit Judge Retired, expressing regret at his feeling unable to attend and wishing success to the Conference.

Mr. Will Shafroth of the Administrative Office of the United States Courts made exceedingly detailed and informative remarks covering the status and progress of Appropriation Bills, Bill to fix salaries of Judges' Secretaries and Law Clerks, Bill to increase Judges' salaries, Bill for additional Judgeships, Youth Authority Bill, Bill relative to treatment of insane persons accused of crimes, Bill for review of decisions of the Interstate Commerce Commission, Picketing Bill, Bill for appointment of counsel in Criminal cases and Bill for amendments to the Bankruptcy Act. He then gave the Conference detailed statistics gathered on the subject of Case Loads of Judges.

It was moved by Barnes, D.J. that the Conference go on record as protesting against the recommendation of the Senior Circuit Judges Conference relative to salaries of District Judges Secretaries and Law Clerks as being a usurpation of power by the Senior Circuit Judges Conference over the District Judges. Duffy, C.J. advised