Judge Mazzone Says New Crime Legislation Will Require Judicial Education Programs

This month The Third Branch interviews Judge A. David Mazzone of the District of Massachusetts. Last December, the Chief Justice, as Chairman of the Board of the Center, asked Judge Mazzone, as a member of the Board, to chair a committee to advise the Center on educational programs related to the October 1984 crime legislation.

The Chief Justice has noted, "The 23-chapter Comprehensive Crime Control Act and the Criminal Fine Enforcement Act, both signed into law last October, created an immediate need for familiarizing judges and supporting personnel with the changes in the law that they introduce. When the sentencing guidelines mandated by the Congress are announced, the need for this will become even greater. For that reason, I asked Judge Mazzone to chair a small Center committee to consider how these educational needs can best be met. The committee's recommendations will be of considerable assistance to the Center and to the federal judicial system."

Serving with Judge Mazzone on the new committee are Judge Edward Becker (3rd Cir.), Senior Judge John Butzner (4th Cir.).

See MAZZONE, page 4

Sentencing Commission Members Nominated By President Reagan

President Reagan has nominated the members of the United States Sentencing Commission, which was created by the Comprehensive Crime Control Act of 1984. The nominations must be approved by the Senate.

Judge William W. Wilkins, Jr., of the U.S. District Court for the District of South Carolina was designated Chairman. The other two judicial nominations were Judge Stephen G. Breyer of the First Circuit, who has served since 1980, and Senior Judge George E. MacKinnon of the District of Columbia Circuit, who was named to the bench in 1969. Judges appointed to the panel do not have to resign their judgeship appointments.

The President's other nominees were Ilene H. Nagel, a sociologist who also teaches at Indiana University of Bloomington School of Law; Professor Paul H. Robinson of Rutgers University School of Law; Michael K. Block, a professor of management and economics at the University of Arizona School of Business and Public Administration; and Helen G. Corrothers, a member of the U.S. Parole Commission.

In addition to the seven voting members who were named by the President, the Attorney General or his designee is a nonvoting member of the Commission, as is the Chairman of the Parole Commission, until the Parole Commission is abolished.

The principal responsibility of the Commission is to draft and promulgate sentencing guidelines to be used by federal district court judges. Initial guidelines are to be completed by the commissioners by April 12, 1986, and they then must lie on the table in Congress six months before they become effective.

Chief Justice Urges Greater Use of Arbitration To Relieve Courts of Litigation Burdens

The long-range solution to mushrooming caseloads in the federal courts is "not to create more and more judgeships, even though that is needed now," Chief Justice Burger declared recently. The solution is to encourage would-be litigants to use other methods of dispute resolution and exercise judicial power to impose sanctions on litigants and lawyers found to have abused the judicial process.

"Arbitration is vastly better than conventional litigation for many kinds of cases," the Chief Justice told a joint meeting of the American Arbitration Association and the Minnesota State Bar Association in St. Paul in late August. For example, he said, a personal injury case "diverts people and entire families from their normal pursuits and sometimes makes them neurotics."

"Large commercial litigation takes businessmen and their staffs off the creative paths of production and

See CHIEF JUSTICE, page 7

Mark W. Cannon has been named Staff Director of the Commission on the Bicentennial of the U.S. Constitution. See story p. 2.
Retroactive Pay Raise For Federal Judges Approved by Congress

Article III judges' pay rose 3.5 percent last month, after President Reagan signed legislation extending the cost-of-living increase other federal employees received in January to the judiciary.

The increase is retroactive to Jan. 1, and the checks covering the January through July pay periods were sent out last month, L. Ralph Mecham, Director of the Administrative Office, said.

Separate legislative action on a raise for judges was necessary because of the Comptroller General's opinion that existing legislation requires specific congressional approval of cost-of-living adjustments for federal judges.

Chief Justice Warren E. Burger, notifying the judiciary of the President's approval of the legislation on Aug. 15, pointed out that Judge Frank Coffin of the First Circuit, Chairman of the Judicial Conference's Committee on the Judicial Branch, has submitted a renewed request to the Comptroller to reconsider his opinion, so that cost-of-living increases in the future would apply to the judiciary without need for further congressional action.

The 3.5 percent raise brings the salary of the Chief Justice to $108,400, that of associate justices to $104,100, that of circuit judges to $83,200, and that of district court and Court of International Trade judges to $78,700.

Mark W. Cannon Is Selected as Staff Director of Bicentennial of Constitution Commission

Mark W. Cannon, Administrative Assistant to Chief Justice Burger, has been named Staff Director of the Commission on the Bicentennial of the United States Constitution. The Commission is in charge of organizing the commemoration of the 200th anniversary of the U.S. Constitution, which was written in 1787.

Chief Justice Burger, Chairman of the Commission, named a search panel last June to find a director, and it selected Dr. Cannon from more than 150 applicants.

"Mark was the Commission's unanimous choice," the Chief Justice said. "I acceded to the Commission's request to release him as my Administrative Assistant with reluctance and misgiving. On the other hand, I'm delighted to have a man of Mark's proved abilities and stature helping our Commission give leadership to this important celebration."

Betty Southard Murphy, the Commission member who headed the search committee, noted, "We were able to persuade the Chief Justice to release Dr. Cannon because of the Commission's need to get off to a fast start."

The Commission is authorized to hire 6 staff members to be paid with appropriated funds, to borrow 20 staff members from other agencies, and to hire 40 staff members to be paid with private funds. It will soon receive more than $300,000 in appropriated funds, and will launch a national fund-raising effort.

The Bicentennial for 1976 had a staff of about 250, and Congress appropriated more than $100 million for it; the program had other income in excess of $22 million.

Dr. Cannon has been the Chief Justice's Administrative Assistant since the position was created in 1972. He previously taught at Brigham Young University, served as Administrative Assistant to a U.S. representative and Staff Assistant to a U.S. senator, and was an executive with the Institute of Public Administration in New York. He holds a doctorate in economics and government from Harvard.

In addition to the Chief Justice, two other members of the judiciary serve on the 23-member Commission. They are Judges Cornelia G. Kennedy of the Sixth Circuit and Charles W. Wiggins of the Ninth Circuit.

Probation Officer and Training Coordinator John Travis (D.D.C.), above, discusses ways to reduce training expenses at a three-day session reviewing such programs and planning future ones. Among the probation and pretrial chiefs, deputies, and training coordinators who met with FJC staff members during the session in August were, l. to r., William Broome, Chief U.S. Probation Officer (D.N.J.); James McHenry, Chief U.S. Pretrial Services Officer (E.D. Mich.); Michael Kendrick, Deputy Chief U.S. Probation Officer (N.D. Ga.); Douglas Leroy, U.S. Probation Officer and Training Coordinator (W.D. Wash.); and Bernard Magner, Supervising U.S. Probation Officer (D. Md.).
D.C. Circuit Court Holds Judge’s Challenge To 1980 Judicial Ethics Act Untimely

A challenge to the constitutionality of judicial ethics legislation has been rejected as not yet ripe by the U.S. Court of Appeals for the District of Columbia Circuit. The ruling overturns a district court ruling that upheld the facial validity of the legislation.

The August ruling came in Hastings v. Judicial Conference (No. 84-5576), a case brought by District Judge Alcee Hastings (S.D. Fla.) after an investigation of his judicial conduct was begun by the Eleventh Circuit Judicial Council. The Council was proceeding under provisions of the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, 28 U.S.C. § 372(c).

Judge Hastings had argued that the legislation was facially unconstitutional. See ETHICS, page 9

Visiting Judges in Florida’s Southern District Asked to Try One Complex Criminal Case Each

The Southern District of Florida has developed a new method for using visiting judges, assigning them to complex criminal cases under a “one-month, one-trial” program.

According to the district’s Chief Judge, James Lawrence King, the program was inspired by Chief Judge John C. Godbold of the Eleventh Circuit. Chief Judge Godbold, aware of the district’s staggering load of complex criminal cases, assigned at least one judge from each of the Eleventh Circuit’s eight other district courts to Southern Florida for a month.

Chief Judge King, working with Judge Peter T. Fay (11th Cir.), Chief Judge William Terrell Hodges (M.D. Fla.), Chief Judge William H. Stafford, Jr. (N.D. Fla.), and Judge Sidney M. Aronovitz (S.D. Fla.), decided that it would be far more efficient to have each of the visiting judges hear one complex criminal trial than to schedule each of them for 25 to 30 short criminal cases, as had been done in the past.

“It’s so difficult to arrange a calendar of 30 short cases, so we did something that, as far as I know, has never been done,” Judge King said, scheduling 14 lengthy cases to be heard by the visiting judges, starting last July and extending until February.

The impetus for the program, Judge King explained, was the Speedy Trial Act’s mandate of quick trials—or dismissals—for criminal defendants. The idea that a defendant will go free, untried, because a court has failed to hear the case on time, puts “staggering pressure” on the judges to keep their criminal cases moving, Judge King noted. Nevertheless, most judges have done so without exceeding Administrative Office guidelines on time limits for handling civil matters.

Getting help with the complex criminal trials was “our greatest need,” Judge King said. In May, there were more than 50 pending criminal trials, whose length was estimated at three to four weeks each. “If every one of our judges worked on nothing but those cases 40 hours a week, we would finish that backlog in 14 months and 1 week,’’ Judge King said.

Judge King praised Chief Judge Godbold and Chief Justice Burger for their help in providing assistance to his court, whose criminal caseload is exacerbated by the large number of prosecutions involving drug traffickers bringing narcotics from South America to the United States.

The complex cases—many of them multiple-defendant drug conspiracy cases—are seldom disposed of without trial, Judge King explained, because the defendants “face such severe sentences”—often of 20 to 30 years—that there is usually no incentive to plead.

Conference Hears of Steps To Reduce Court Delays

The National Conference on Court Delay Reduction held in Denver last month heard reports on efforts by courts of all sizes to reduce delays in litigation.

The Conference, organized by the National Center for State Courts and cosponsored by more than 40 other organizations including the Federal Judicial Center, began with a keynote address by American Bar Association President William Falsgraf.

Subjects discussed at the Conference included:

• Recent efforts to reduce litigation delays, including an examination of successful programs in courts of differing sizes.
• The roles of members of the bar and the judiciary in case management.
• The key elements of delay-reduction plans in courts of different sizes and functions.
• Additional resources that a delay-reduction plan might require.
• Arbitration, settlement conferences, and other alternatives to litigation.

Judge William Orrick (N.D. Cal.), and Judge Gerald Tjoflat (11th Cir.).

Judge Mazzone graduated from Harvard College and De Paul University College of Law. He served as Assistant District Attorney for Middlesex County and Assistant U.S. Attorney for the District of Massachusetts. He was an associate justice of the Massachusetts Superior Court for two years prior to his appointment to the federal bench in 1978. He is a member of the Judicial Conference Subcommittee on Federal Jurisdiction.

Can you tell us something about the purpose of this new committee, as you see it?

Well, as the charge came from the Chief Justice, our specific role is to advise the Center on the educational programs needed by those members of the federal judicial system affected by the Comprehensive Crime Control Act of 1984 and the Criminal Fine Enforcement Act, also passed last October. Of course, an important part of the Crime Control Act is guideline sentencing, which has yet to take effect, and that will probably be where most of our effort is devoted.

Of the committee's members, I should point out that Judge Tjoflat is the Chairman of, and Judge Becker is a member of the Judicial Conference Committee on the Administration of the Probation System. Both have been district judges, both have had wide experience and background with the federal criminal justice system. Judge Tjoflat in particular has dealt with this legislation for years and has testified before congressional committees when called upon to do so. Judge Butzner is the Chairman and Judge Orrick is a member of the Conference's Committee on the Administration of the Criminal Law. Judge Butzner was a district judge. They all bring to this planning committee widely varied experience and background. They have the type of talent that is needed for the purpose for which we were established.

Could you give us an idea, from where you sit, of the impact of this legislation on the judiciary, as far as educational needs are concerned?

Obviously, this legislation is having a major impact on how we handle our criminal cases. In important ways, it is a rewrite of federal criminal law and procedure. The courts have had to adapt to new provisions on bail, fines, the new special assessments, forfeitures, how we handle juvenile defendants—and that's not to mention the changes in the substantive law, in the insanity defense, and so on. I think all elements of the third branch have some educational needs as far as this legislation is concerned—circuit court judges, district court judges, and magistrates, including part-time magistrates, some of whom are located in outlying places and typically don't get to
to address separately. The changes I alluded to a moment ago have been in effect since October of last year— for slightly less time than the new fine act—and the courts, on their own and with the assistance of the Center's educational programs, have been digesting the changes and applying them. As a matter of fact, even granting that there have been some rough spots, I think the judiciary has absorbed these changes in remarkably good fashion.

What do you mean by postguideline needs?

I mean the educational programs that will be needed after the sentencing guidelines have been promulgated by the Sentencing Commission, the need to familiarize the courts with the guidelines and with

"[The Crime Control Act] is having a major impact on how we handle our criminal cases."

seminars. Of course, appellate staff attorneys need to know about the changes. Federal defenders are obviously affected. It's very important to recognize that probation and pretrial services play a major role in this effort; we have to be very aware of their specific needs. In this regard, among others, Judges Tjoflat and Becker, as members of the Conference Committee on Probation, will be extremely helpful.

The judges and other personnel know their specific needs better than I, but I have, for example, talked to members of every element of the system affected by the acts in my own district to get ideas of what those within the judicial system will need by way of education. We're prepared to address the needs of all of those areas, separately and, if we can, together.

The committee has found it helpful to see the educational efforts in terms of preguideline educational needs and postguideline educational needs. In other words, we think that those are two discrete needs that we will have sentencing procedures under these guidelines. As I mentioned, I believe this is the area where our committee will see the greater share of its activity.

Let's talk about what you call preguideline educational needs. What has the Center done as regards those aspects of the statutes that are in effect now?

Well, soon after the Crime Control Act was signed, the Board of the Federal Judicial Center had a meeting and determined quickly that some kind of program to highlight the legislation's provisions should be prepared to reach as many as possible of the federal court personnel affected by them. A four-hour video seminar was developed and broadcast to various locations throughout the country, and videotapes of the program were also sent to all the courts. The video seminar took place in January 1985. On that program, as a matter of fact, were two members of our committee, Judges Butzner and Tjoflat, as well as others. So that was one of the first things that was done. At the same
time, Tony Partridge of the Center prepared a written synopsis of the legislation, which was first distributed at the video seminar locations. By now close to 9,000 copies of this synopsis have been distributed, and, I believe, to great acclaim. It covers the entire act in a brief, but comprehensive, fashion.

And then the Center has added something about the legislation to almost every one of its programs since last October—sentencing institutes, district and circuit judges’ orientation seminars and workshops, magistrate seminars, probation and pretrial service officers’ programs—in other words, almost every program. There was also a recent Bench Comment dealing with appellate interpretations of the “bail on appeal” provision. We also think it’s important to keep the courts abreast of special procedures that particular courts have developed to accommodate the legislation. Obviously, the needs that I mentioned are varied and a video seminar can’t meet and could not meet everybody’s specific needs.

I might say that as far as what I call preguideline education is concerned, there have been other efforts independent of the Center’s work.

Can you describe some of those?

Most important, let’s not forget that judges, with the help of lawyers, routinely educate themselves as to developments in the law. By the way of more formal efforts, the Second Circuit’s annual judicial conference this year was devoted to the legislation, and the Tenth Circuit conference dealt with parts of it. There have been local court educational programs—the Eastern District of New York had one last December. I’m somewhat reluctant to give these examples for fear of skipping over what other courts have done, but it does give an idea of what’s going on. And, as would be expected, private educational groups have sponsored programs, mainly aimed at the bar.

What would you say is the single most important aspect of the crime legislation affecting the courts right now?

Immediately, I think the bail provisions are the most important, because they affect not only the judges and magistrates themselves but pretrial services and probation officers. That is the area where we recognize the most immediate needs.

In terms of the committee’s role, do you think it will be prescribing specific topics that should be included in the Center’s various educational programs?

We will certainly suggest things, but let me say here that we’re going to depend on the personnel within the system. We always get some assessment from those judges and personnel who attend our various programs, and the Center usually doesn’t dictate topics for seminars, on the theory that the participants know what they want and know what they need. But you can’t always wait for those expressions, especially when the need is obvious. Last fall and winter, right after the statutes were passed, the Center added orientation sessions on the acts to its various judges’ workshops, even though the participants had been surveyed and the agendas had already been set. And that was, I think, welcomed by all.

Let’s turn to the sentencing guidelines. When will they be in effect?

Well, let’s go back to the statute. The statute was passed on October 12, 1984. It called for the establishment of a Sentencing Commission and promulgation of guidelines by that Commission by April 12, 1986.

To whom will they promulgate these guidelines?

To the Congress, and the Congress then has about six months from that time, to November 1986, to consider them. So the statute says they will be in effect, following that timetable, by November 1986. Now, to be realistic, I don’t know if that schedule’s going to be kept or not. The commission obviously has a huge task, once it gets in place.

But it’s conceivable, anyway, that the guidelines could be before the Congress in about six months and before the courts in about a year?

That’s still the statutory schedule, but April gets closer every day. We are going to monitor the developments to know as best we can when the guidelines will be promulgated, and we’re going to try to anticipate what we will be called upon to furnish when the Sentencing Commission is set in place.

Once the guidelines are promulgated by the Commission, what can third branch personnel look forward to as far as learning about these guidelines?

I see and I think we see—the committee sees—an enormous demand for educational programs after the guidelines are promulgated. Also, the law governing guideline sentencing will have to develop slowly and continuously.

Who will provide that education?

Let me just paraphrase what the statute says about the Sentencing Commission’s role. It says the Sentencing Commission—and here I’m quoting—is to “devise and conduct periodic training programs of

See MAZZONE, page 6
New Videotapes Available From Media Library

The Center's Media Library has acquired several new videotapes of interest to the judiciary:

Macros and Other Advanced Features of Lotus 1-2-3 (VC-053), a follow-up to Introduction to Lotus 1-2-3, features advanced applications of this software. The package includes a diskette and workbook as well as a videotape and will be useful only to those with access to the Lotus software and an IBM-compatible microcomputer other than the IBM PC Jr.

*A Passion for Excellence* (VC-052) presents Tom Peters, coauthor of the book *In Search of Excellence*, in a discussion of how successful organizations provide services.

Building One-Minute Manager Skills (VC-056) and Leadership and the One-Minute Manager (VC-054) feature Ken Blanchard, coauthor of the book *The One-Minute Manager*, who explains how to build management leadership skills and use them toward subordinates' development.

Persuasive Negotiating (VC-050) and Everybody's A Negotiator (VC-051) present Herb Cohen, author of the book *You Can Negotiate Anything*, in an explanation of the basic principles of negotiation.

Those interested in viewing a tape should ask one of the training coordinators in their court to request it from Information Services. Because of limited copies, requests will be filled in the order they are received.

FJC Publications on Automation, Caseloads Available

The Center recently published *Preparing a United States Court for Automation*, by Gordon Bermant of the Center's Innovations and Systems Development Division.

Earlier this year, the Judicial Conference Committee on Court Administration approved a five-year court automation plan developed by the Administrative Office of the U.S. Courts and the Federal Judicial Center. The heart of the plan involves decentralizing automation by placing computer hardware in the courts. The report outlines the various problems that must be addressed before and during the installation of an individual court's computer system.

Each step in orienting a court to automation is examined. The report describes the key role played by the clerk of court in a new system's implementation; the importance of the system manager position; the logistical and personnel demands involved in the installation of computer hardware; and ways to use the system efficiently once it has been installed.


Based on published court statistics, the paper examines the appropriate-ness of using 400 weighted filings per judge as a guide in developing recommendations for the creation of new district judgeships. The authors compare the 400 level with six other cutoff points to determine which of these best predicts when problems with the pending caseload will arise. None of the other levels was better than 400, a finding that lends empirical support to the current policy of using that number as a guide for determining when more judges are needed.

The paper also concludes, however, that the single factor of per-judge filings in a particular year is only one among many variables affecting a court's ability to control its caseload. Some courts are able to keep control despite large caseloads; further study of factors such as case mix and approaches to case management is needed to gain a better understanding of court capacity.

The paper includes tables comparing the predictive value of the various cutoff levels and graphs showing the caseload experiences of selected district courts over this 12-year period.

Copies of either publication can be obtained by writing to Information Services, 1520 H St., N.W., Washington, DC 20005. Enclose a self-addressed, stamped mailing label, preferably franked (but do not send an envelope).

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often produces more wear and tear on them than the most difficult business problems."

"A large proportion of civil disputes in the courts," the Chief Justice said, "could be disposed of more satisfactorily in some other way." The most obvious other way, he indicated, is arbitration. Its advantages include selection of the trier by the parties, possibly on the basis of expertise in a given area; closed, confidential proceedings; and rapid decisions.

The success of arbitration as an alternative to litigation has been proven by experiments in the federal courts in Philadelphia and San Francisco, the Chief Justice told his audience. In the Eastern District of Pennsylvania, only 1.5 percent of cases subject to court-annexed arbitration over a six-year period subsequently went to trial, while 8 percent of other cases proceeded to trial. Comparable figures were produced in a similar program in the Northern District of California.

The Chief Justice asserted that "every private contract of real consequence to the parties ought to be treated as a 'candidate' for binding arbitration."

He told his audience that he intended "no disparagement of the skills and broad experiences of judges. I emphasize [arbitration] because to find precisely the judge whose talents and experience fit a particular case of great complexity is a fortuitous circumstance."
Justice Department Mediation Service Expanding

The Community Relations Service (CRS) of the Department of Justice is expanding its mediation services to all federal district courts. The CRS, established as part of the 1964 Civil Rights Act to conciliate and mediate charges of discrimination on the basis of race, color, or national origin, has conducted a pilot mediation-referral program in the district courts of the Seventh Circuit since 1979. Because of the success of that pilot program, the CRS plans to expand its mediation services to all district courts.

According to its congressional mandate, the CRS can offer services to resolve any disputes involving allegations or perceptions of racially related discrimination. Litigation involving such issues as land-use disputes, allocations of local government resources, and environmental disputes, as well as suits brought under the civil rights laws, may fall under the CRS mandate as long as some aspect of the case deals with race, color, or national origin.

CRS conciliators and mediators are also available, on a more restricted basis, as fact finders, but cannot operate as special masters or arbitrators.

According to CRS Director Gilbert G. Pompa, courts' use of CRS mediation has advantages for both the parties and the courts. Mediation is often less time-consuming and resource-consuming than litigation. Moreover, a dispute resolved through mediation frequently allows opposing parties to maintain an ongoing relationship of benefit to a community. Finally, a mediated agreement involving several factions of a community can set a pattern for future friendly negotiations, eliminating the need for continual resort to court battles.

Information on how this type of mediation can be arranged is available from Gail B. Padgett, Special Assistant for Legal Affairs at the Justice Department, at (301) or (FTS) 492-5929.

BOARD, think that will have on other regular educational programs of the Center?

Well, I speak as only one member of the Board, and it's hard to say right now, anyway, until we know more about the Commission's intentions and what their needs are and what we will be called upon to do. There are also the budgetary implications of such a massive effort, and that will be affected also by any relationship we may have with the Commission. Sufficient to say, however, that when it comes time to familiarize the courts with this new sentencing system, it's hard to see anything else of greater importance. So it may be that some of the other, regular programs will have to be canceled or curtailed or modified. Everybody in the system—judges, probation officers, magistrates—is very busy, and we can't ask them to spend all their time going to seminars and attending programs. So we'll have to focus on those areas which are in need immediately and where we can really help and, as I said, work intensely on those programs.

The federal public defenders and, to a degree, community defenders come within the Center's training ambit, but the sentencing guidelines will affect all members of the criminal bar, defense and prosecution. Has the committee given any thought to that need?

Yes. First, we know that the Department of Justice will be training the U.S. attorneys' offices throughout the country. And there will no doubt be private educational programs sponsored for the defense bar. But Judge Becker in particular, at our committee meeting, was concerned about the need for each district court to bring the entire criminal bar into an educational program, and we all support that idea. It conforms to the tradition of local continuing legal education.

So you see a role for each district perhaps taking on an educational responsibility once these guidelines come into effect?

See MAZZONE, page 9
Devitt Award Nominees Sought

Nominations for the fourth annual Edward J. Devitt award to be conferred on a federal judge are now open. This award carries with it an honorarium of $10,000 and is named after the former chief judge of the U.S. District Court for the District of Minnesota. The selection committee includes, in addition to Judge Devitt, Justice Lewis F. Powell, Jr., of the Supreme Court of the United States and Chief Judge James R. Browning of the U.S. Court of Appeals for the Ninth Circuit.

The award was established "to recognize the dedicated public service of members of the federal judiciary." All Article III federal judges are eligible recipients.

Previous recipients of this award are Senior Judge Albert B. Maris (3rd Cir.), Senior Judge Walter E. Hoffmann (E.D. Va.), and Judge Frank M. Johnson, Jr. (11th Cir.). A special award was made to Chief Justice Burger in 1984.

Nominations for this award should be submitted in writing by November 30, 1985, to Devitt Distinguished Service to Justice Award, P.O. Box 43810, St. Paul, MN 55164.

Third Edition of Bench Book Started

The second edition of the Bench Book for United States District Court Judges has been completed.

The Bench Book Committee met in August and made plans for a third edition, which will contain several changes made necessary by new legislation, including the Comprehensive Crime Control Act of 1984, and other updated information.

The Bench Book Committee is chaired by Chief Judge William S. Sessions (W.D. Tex.) and includes Chief Judge William Terrell Hedges (M.D. Fla.), Judge A. David Mazzone (D. Mass.), Chief Judge Aubrey E. Robinson, Jr. (D.D.C.), and Judge Donald S. Voorhees (W.D. Wash.).

MAZZONE, from page 8

Yes, I do. I think that was the thrust of Judge Becker's suggestion, and as I say, it was adopted by the committee. We would consider recommending that each district put on a seminar for the bench and the bar together, and we'll do whatever we can to put together some packages. We have not yet developed a basic package, but we're going to try to develop something that could be sent to each district court for its use and its adaptation as it sees fit.

New Rules Now in Effect

Amendments to the federal rules of civil procedure, criminal procedure, and bankruptcy procedure were approved by the Judicial Conference at its September 1984 meeting and sent to Congress by the Supreme Court April 29. The new rules became effective August 1, after expiration of the statutory period during which Congress could have modified them.

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Under a 1982 defendants and unconstitutional as applied to him, that its application amounted to a conspiracy, and that it violated his privacy rights. The district court, acting on cross-motions for summary judgment, upheld the statute's facial constitutionality and dismissed the other claims as unreviewable or as failing to state a claim.

The court of appeals noted that the Council's investigation is not yet complete, and thus no decision on possible action against Judge Hastings has been reached. The opinion, written by Judge Carl McGowan, stated it was "an established and salutory principle... that constitutional issues affecting legislation will not be determined 'in advance of the necessity of deciding them' or 'in broader terms than are required by the precise facts to which the ruling is to be applied.'"

"We must permit the proceedings against appellant to unfold as they will. In the course of time we may have a more concrete application of the Act as a whole. Then, and only then, will we be justified in deciding the facial constitutionality of the Act."

The appellate court thus overturned the district court's determination that the legislation was facially constitutional, leaving adjudication of that issue for a later time. On the same ripeness grounds, it rejected the district court's finding that the constitutionality of the legislation as applied to Judge Hastings was beyond review. It agreed with the district court that the conspiracy charge should be dismissed, but for different reasons. The lower court had called the claim unreviewable under the legislation; the appeals court rejected that reasoning on ripeness grounds, holding alternatively that the conspiracy claim had been fully and fairly litigated in earlier proceedings and could not be raised again. The appeals court also upheld the district court's dismissal of the privacy claim.

Judge Harry T. Edwards, concurring, agreed with the ripeness ruling, but voiced serious concern about the legislation, which, he said, "may, in part, be significantly at odds with our basic constitutional structure and previously inviolate principles of separation of powers."

"My concern," Judge Edwards said, "has less to do with issues of individual misconduct than with a potentially unconstitutional legislative incursion into the judicial province. . . . Our self-righteous finger pointing at Judge Hastings may blind us to the reality that his case has more to do with the potential diminution of the independence of the judiciary than with the alleged misconduct of an individual judge."

Judge Hastings was acquitted of bribery and obstruction of justice charges in 1983. The subsequent Eleventh Circuit investigation was based in part on those charges and in part on evidence of conduct presented during the trial.
PERSONNEL

Nominations
David A. Nelson, U.S. Circuit Judge, 6th Cir., Sept. 9
James L. Ryan, U.S. Circuit Judge, 6th Cir., Sept. 9
Alan H. Nevas, U.S. District Judge, D. Conn., Sept. 9
David Sam, U.S. District Judge, D. Utah, Sept. 9
Stephen V. Wilson, U.S. District Judge, C.D. Cal., Sept. 9

Confirmations
Joseph J. Farnan, Jr., U.S. District Judge, D. Del., July 16
Stanley Marcus, U.S. District Judge, S.D. Fla., July 16
James M. Rosenbaum, U.S. District Judge, D. Minn., July 16
Thomas E. Scott, U.S. District Judge, S.D. Fla., July 16
Louis L. Stanton, U.S. District Judge, S.D.N.Y., July 16

Appointments
Roger J. Miner, U.S. Circuit Judge, 2nd Cir., Aug. 2

Roger L. Wollman, U.S. Circuit Judge, 8th Cir., Sept. 6
Donald E. Walter, U.S. District Judge, W.D. La., July 15
James M. Rosenbaum, U.S. District Judge, D. Minn., July 19
James D. Todd, U.S. District Judge, W.D. Tenn., July 19
Joseph J. Farnan, Jr., U.S. District Judge, D. Del., July 26
Claude M. Hilton, U.S. District Judge, E.D. Va., Aug. 1
Stanley Marcus, U.S. District Judge, S.D. Fla., Aug. 16
Wayne E. Alley, U.S. District Judge, W.D. Okla., Aug. 20
Roger G. Strand, U.S. District Judge, D. Ariz., Aug. 20
Richard H. Mills, U.S. District Judge, C.D. Ill., Aug. 27
John M. Walker, Jr., U.S. District Judge, S.D.N.Y., Sept. 9

Senior Status
Ellsworth A. VanGraafeiland, U.S. Circuit Judge, 2nd Cir., May 11

Judicial Conference Reports Now Available On-Line

The Administrative Office of the United States Courts has, with the West Publishing Company, created an on-line, full-text data base of the Reports of the Proceedings of the Judicial Conference of the United States. This data base now covers December 1922 through March 1984, and subsequent Judicial Conference proceedings will be added shortly.

The data base can be accessed by calling the operator for computer-assisted legal research at each circuit library.

Miles Lord, U.S. District Judge, D. Minn., July 1

Resignation
Miles Lord, U.S. District Judge, D. Minn., Sept. 11

Deaths
Joseph C. Zavatt, U.S. District Judge, E.D.N.Y., Aug. 31
Edward A. Tamm, U.S. Circuit Judge, D.C. Cir., Sept. 22

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