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## Omnibus Judgeship Bill

United States Congress

US House of Representatives

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OMNIBUS JUDGESHIP BILL

JULY 28, 1953.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JONAS of Illinois, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 15]

The Committee on the Judiciary, to whom was referred the bill (S. 15) providing for the appointment of additional circuit and district judges, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The amendment is as follows:

Strike out all after the enacting clause, and insert in lieu thereof the following:

That the President shall appoint, by and with the advice and consent of the Senate, one additional circuit judge for the fifth circuit and two additional circuit judges for the ninth circuit. In order that the table contained in section 44 (a) of title 28 of the United States Code will reflect the changes made by this section in the number of circuit judges for said circuits, such table is amended to read as follows with respect to said circuits:

| "Circuits  | Number of judges |
|------------|------------------|
| * * * * *  | *                |
| Fifth..... | Seven            |
| * * * * *  | *                |
| Ninth..... | Nine             |
| * * * * *  | *"               |

SEC. 2. (a) (1) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the southern district of California, one additional district judge for the district of Colorado, one additional district judge for the district of Delaware, one additional district judge for the southern district of Florida, one additional district judge for the district of Idaho, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the western district of Kentucky, one additional district judge for the district of Massachusetts, one additional district judge for the western district of Michigan, one additional district judge for the district of New Jersey,

THE NORTHERN DISTRICT OF NORTH DAKOTA

The bill as amended provides for 1 temporary district judge for the northern district of North Dakota which at present has 1 district judge. The Judicial Conference of the United States recommended an additional permanent judge for this district, but after a study of the facts and circumstances of the district, the committee feels that a temporary judge will meet the needs of the situation.

This is particularly true so long as the incumbent judge remains on the bench.

In the fiscal year of 1952 the civil caseload per judge rose to 279 as compared to the national average of 236. Moreover recently the number of civil cases commenced has increased in this district. This is apparently due to the rise in the number of suits commenced by the Government particularly with regard to land condemnation cases.

Recent industrial developments in the district indicate a possible increase in litigation due to the discovery of oil.

However, all these facts seem to indicate a transitional period, and therefore your committee recommends that the additional judgeship be a temporary one at this time.

THE JUDICIAL BUSINESS OF THE DISTRICT OF NORTH DAKOTA

The Judicial Code of 1911 provided for one district judge for the district of North Dakota and in 1921 an additional judge was authorized on a temporary basis (42 Stat. 66). Since the expiration of this temporary judgeship, the district has had only one judge. At the present time court for the district is held at Bismarck, Fargo, Grand Forks, and Minot.

Except for the war and postwar years of 1944, 1945, and 1946 when an average of 217 OPA cases per year were filed, the number of civil cases commenced per judgeship has been below the national average. In the fiscal year 1952, however, the civil caseload per judge climbed to 279 as compared with a national average of 236 civil cases per judge and compared to 189 civil cases commenced in the district in the previous fiscal year. This increase is due almost entirely to the rise in the number of suits commenced by the Government on promissory notes (121 as compared to 54 in 1951), suits under the Defense Production Act (27 compared to 6), and forfeitures under the Food and Drug Act (12 compared to 1 in 1951). During the first half of the fiscal year 1953 the number of civil cases commenced was equal to the number filed during the corresponding period of last year, an indication that last year's increases are holding firm.

In recent years there has been a large increase in the number of land condemnation cases brought by the Government in North Dakota, principally for the Garrison Dam project. Statistical figures giving the number of land condemnation cases are not revealing because each case usually includes many tracts or parcels of land and, despite the fact that there is only 1 case, it may be necessary to make separate disposition of each tract in the case; for example, the 37 land condemnation cases remaining for disposition on December 31, 1952, included 676 tracts of land. The following table shows the sharp rise in the number of land condemnation suits in North Dakota in the last 7½ fiscal years:

*Land condemnation cases commenced, by fiscal year*

| Fiscal year— | Number commenced | Fiscal year—Continued   | Number commenced |
|--------------|------------------|-------------------------|------------------|
| 1946.....    | 5                | 1950.....               | 32               |
| 1947.....    | 9                | 1951.....               | 49               |
| 1948.....    | 11               | 1952.....               | 25               |
| 1949.....    | 22               | First half of 1953..... | 15               |

On April 5, 1951, the Amerada Petroleum Corp. brought in an oil well near the city of Williston, N. Dak. Since then many more producing wells have been drilled and the whole northwest section of the State in which part of the Williston Basin lies has become a boom region. There are indications that the area has tremendous oil reserves and a bright forecast has been made as to its industrial development. The following quotation from Business Week (June 14, 1952) gives further details of the oil development:

"This year more than 85 wildcat wells located in territory not definitely proved to have oil will be sunk. Oil companies already have invested \$100 to \$150 million in the area. The most striking success so far has been in the Beaver Lodge Field 30 miles northeast of Williston where Amerada has completed a dozen wells. But other successful wells located along the same formation in western North Dakota and along a similar formation in eastern Montana hold promise that more fields will be developed.

"The population of Williston has jumped a third in a year, to 10,000. In Bismarck, N. Dak., California Co. and Union Oil Co. have set up division offices. Housing contractors have moved in to mass-produce homes. Commercial office space just isn't."

In past years the number of private civil cases commenced has been below the national average per judge, but with the discovery of oil and the initiation of large drilling operations, private suits have been increasing. This trend is significant because according to studies made by the Administrative Office civil cases between private parties on the average consume two to threefold the amount of court time necessary for the disposition of cases in which the United States is a party.

The number of civil cases pending on December 31, 1952, was 200. Of this number 141 or 71 percent were pending less than 1 year, and 91 percent were pending less than 2 years. These pending cases include 60 private civil cases, 13 United States defendant cases, and 127 United States plaintiff cases. Of this last figure 50 cases were suits on promissory notes and 37 were land-condemnation cases. Since these land-condemnation cases include 676 tracts or parcels, many of which will require separate trials, the total amount of pending work is greater than the mere figures indicate. Dispatch of the civil business in this district is prompt as the following table and the attached table 3 indicate:

*Age of civil cases pending on Dec. 31, 1952*

|  |     |
|--|-----|
| Total number of civil cases pending----- | 200 |
| Less than 6 months-----                  | 79  |
| Pending 6 months to 1 year-----          | 62  |
| Pending 1 to 2 years-----                | 40  |
| Pending 2 to 3 years-----                | 9   |
| Pending over 3 years-----                | 10  |

The criminal caseload in this district is below the national average and has remained rather steady during the last 8 years. The fact that only 19 such cases remained for disposition at the end of the fiscal year 1952 shows that the dockets are current.

Statistical tables showing the judicial business for the last 12 years are attached. Respectfully submitted.

**WILL SHAFROTH,**  
*Chief, Division of Procedural Studies and Statistics,*  
*Administrative Office of the United States Courts.*

FEBRUARY 20, 1953.

DISTRICT OF NORTH DAKOTA

TABLE 1.—Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941

TOTAL CIVIL CASES

| Fiscal year | Com-menced | Termi-nated | Pending June 30 | Fiscal year          | Com-menced | Termi-nated | Pending June 30 |
|-------------|------------|-------------|-----------------|----------------------|------------|-------------|-----------------|
| 1941.....   | 70         | 67          | 51              | 1948.....            | 142        | 148         | 95              |
| 1942.....   | 83         | 82          | 57              | 1949.....            | 223        | 169         | 149             |
| 1943.....   | 107        | 95          | 69              | 1950.....            | 213        | 227         | 135             |
| 1944.....   | 202        | 198         | 73              | 1951.....            | 189        | 190         | 134             |
| 1945.....   | 395        | 234         | 234             | 1952.....            | 279        | 213         | 200             |
| 1946.....   | 402        | 448         | 188             | First half of 1953.. | 102        | 102         | 200             |
| 1947.....   | 207        | 294         | 101             |                      |            |             |                 |

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses <sup>1</sup>]

| Fiscal year | Com-menced | Termi-nated | Pending June 30 | Fiscal year          | Com-menced | Termi-nated | Pending June 30 |
|-------------|------------|-------------|-----------------|----------------------|------------|-------------|-----------------|
| 1941.....   | 44         | 40          | 30              | 1948.....            | 112 (1)    | 123         | 71              |
| 1942.....   | 61         | 55          | 36              | 1949.....            | 185 (7)    | 139         | 117             |
| 1943.....   | 91 (53)    | 71          | 56              | 1950.....            | 162 (5)    | 174         | 105             |
| 1944.....   | 191 (124)  | 189         | 58              | 1951.....            | 150 (6)    | 148         | 107             |
| 1945.....   | 385 (289)  | 224         | 219             | 1952.....            | 229 (27)   | 183         | 153             |
| 1946.....   | 388 (237)  | 433         | 174             | First half of 1953.. | 77 (7)     | 90          | 140             |
| 1947.....   | 181 (49)   | 273         | 82              |                      |            |             |                 |

PRIVATE CIVIL CASES

| Fiscal year | Com-menced | Termi-nated | Pending June 30 | Fiscal year          | Com-menced | Termi-nated | Pending June 30 |
|-------------|------------|-------------|-----------------|----------------------|------------|-------------|-----------------|
| 1941.....   | 26         | 27          | 21              | 1948.....            | 30         | 25          | 24              |
| 1942.....   | 27         | 27          | 21              | 1949.....            | 38         | 30          | 32              |
| 1943.....   | 16         | 24          | 13              | 1950.....            | 51         | 53          | 30              |
| 1944.....   | 11         | 9           | 15              | 1951.....            | 39         | 42          | 27              |
| 1945.....   | 10         | 10          | 15              | 1952.....            | 50         | 30          | 47              |
| 1946.....   | 14         | 15          | 14              | First half of 1953.. | 25         | 12          | 60              |
| 1947.....   | 26         | 21          | 19              |                      |            |             |                 |

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

| Fiscal year | Com-menced | Termi-nated | Pending June 30 | Fiscal year          | Com-menced | Termi-nated | Pending June 30 |
|-------------|------------|-------------|-----------------|----------------------|------------|-------------|-----------------|
| 1941.....   | 110        | 109         | 47              | 1948.....            | 86         | 78          | 12              |
| 1942.....   | 122        | 97          | 72              | 1949.....            | 82         | 85          | 11              |
| 1943.....   | 182        | 195         | 59              | 1950.....            | 72         | 74          | 11              |
| 1944.....   | 126        | 152         | 33              | 1951.....            | 76         | 79          | 10              |
| 1945.....   | 83         | 84          | 32              | 1952.....            | 82         | 68          | 19              |
| 1946.....   | 92         | 87          | 37              | First half of 1953.. | 67         | 54          | 31              |
| 1947.....   | 76         | 102         | 4               |                      |            |             |                 |

<sup>1</sup> OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—Cases commenced per judgeship

## TOTAL CIVIL CASES

| Fiscal year | North Dakota         |                               | National average: Cases commenced per judgeship <sup>1</sup> | Fiscal year | North Dakota         |                               | National average: Cases commenced per judgeship <sup>1</sup> |
|-------------|----------------------|-------------------------------|--|-------------|----------------------|-------------------------------|--|
|             | Number of judgeships | Cases commenced per judgeship |  |             | Number of judgeships | Cases commenced per judgeship |  |
| 1941-----   | 1                    | 70                            | 164  | 1947-----   | 1                    | 207                           | 271  |
| 1942-----   | 1                    | 88                            | 168  | 1948-----   | 1                    | 142                           | 205  |
| 1943-----   | 1                    | 107                           | 158  | 1949-----   | 1                    | 223                           | 238  |
| 1944-----   | 1                    | 202                           | 169  | 1950-----   | 1                    | 213                           | 222  |
| 1945-----   | 1                    | 395                           | 295  | 1951-----   | 1                    | 189                           | 204  |
| 1946-----   | 1                    | 402                           | 321  | 1952-----   | 1                    | 279                           | 236  |

## UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

| Fiscal year | North Dakota, cases commenced per judgeship | National average: Cases commenced per judgeship <sup>1</sup> | Fiscal year | North Dakota, cases commenced per judgeship | National average: Cases commenced per judgeship <sup>1</sup> |
|-------------|---|--|-------------|---|--|
| 1941-----   | 44  | 83   | 1947-----   | 181   | 162  |
| 1942-----   | 61  | 91   | 1948-----   | 112   | 87   |
| 1943-----   | 91  | 100  | 1949-----   | 185   | 118  |
| 1944-----   | 191   | 113  | 1950-----   | 162   | 109  |
| 1945-----   | 385   | 238  | 1951-----   | 150   | 93   |
| 1946-----   | 388   | 251  | 1952-----   | 229   | 110  |

## PRIVATE CIVIL CASES

| Fiscal year | North Dakota, cases commenced per judgeship | National average: Cases commenced per judgeship <sup>1</sup> | Fiscal year | North Dakota, cases commenced per judgeship | National average: Cases commenced per judgeship <sup>1</sup> |
|-------------|---|--|-------------|---|--|
| 1941-----   | 26  | 82   | 1947-----   | 26  | 109  |
| 1942-----   | 27  | 77   | 1948-----   | 30  | 117  |
| 1943-----   | 16  | 58   | 1949-----   | 38  | 121  |
| 1944-----   | 11  | 56   | 1950-----   | 51  | 113  |
| 1945-----   | 10  | 57   | 1951-----   | 39  | 111  |
| 1946-----   | 14  | 70   | 1952-----   | 50  | 126  |

## CRIMINAL CASES

| Fiscal year | North Dakota, cases commenced per judgeship | National average: Cases commenced per judgeship <sup>1</sup> | Fiscal year | North Dakota, cases commenced per judgeship | National average: Cases commenced per judgeship <sup>1</sup> |
|-------------|---|--|-------------|---|--|
| 1941-----   | 110   | 165  | 1947-----   | 76  | 173  |
| 1942-----   | 122   | 174  | 1948-----   | 86  | 167  |
| 1943-----   | 182   | 190  | 1949-----   | 82  | 177  |
| 1944-----   | 126   | 211  | 1950-----   | 72  | 169  |
| 1945-----   | 83  | 209  | 1951-----   | 76  | 180  |
| 1946-----   | 92  | 171  | 1952-----   | 82  | 177  |

<sup>1</sup> This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945

CURRENCY OF DOCKETS

| Fiscal year | Total cases terminated after trial |                       | Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition |                       | Percentage of terminated cases requiring less than 3 months for the interval from issue to trial |                       |
|-------------|------------------------------------|-----------------------|---|-----------------------|--|-----------------------|
|             | North Dakota                       | National <sup>1</sup> | North Dakota  | National <sup>1</sup> | North Dakota   | National <sup>1</sup> |
|             |                                    |                       | Percent   | Percent               | Percent  | Percent               |
| 1945.....   | 9                                  | 2,883                 | 11.1  | 29.6                  | 11.1   | 32.4                  |
| 1946.....   | 10                                 | 3,421                 | 20.0  | 29.3                  | 20.0   | 33.4                  |
| 1947.....   | 10                                 | 3,963                 | 50.0  | 31.9                  | 50.0   | 32.1                  |
| 1948.....   | 14                                 | 4,548                 | 78.6  | 26.7                  | 78.6   | 27.4                  |
| 1949.....   | 8                                  | 4,847                 | 75.0  | 28.5                  | 75.0   | 28.2                  |
| 1950.....   | 12                                 | 5,020                 | 8.3   | 22.3                  | 41.7   | 24.5                  |
| 1951.....   | 12                                 | 5,085                 | 25.0  | 20.8                  | 33.3   | 21.9                  |
| 1952.....   | 9                                  | 4,767                 | -----   | 21.1                  | 33.3   | 22.8                  |

<sup>1</sup> This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun. Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—Cases commenced per judgeship in the district of North Dakota and in 86 districts in the fiscal year 1952, by nature of suit

|                                      | Cases commenced per judgeship |              | National average: Cases terminated 1952, percentage reaching trial <sup>1</sup> |
|--------------------------------------|-------------------------------|--------------|---|
|                                      | North Dakota                  | 86 districts |   |
| Civil cases:                         |                               |              | Percent   |
| Total cases.....                     | 279                           | 236          | 12  |
| United States cases.....             | 229                           | 110          | 9   |
| Private cases.....                   | 50                            | 126          | 14  |
| United States plaintiff.....         | 222                           | 87           | 6   |
| Land condemnation.....               | 25                            | 5            |   |
| Defense Production Act.....          | 27                            | 27           | 9   |
| Fair Labor Standards Act.....        | 2                             | 3            | 6   |
| Other enforcement.....               |                               | 2            | 10  |
| Food and Drug Act.....               | 12                            | 9            | 1   |
| Liquor laws.....                     |                               | 3            | 28  |
| Other forfeitures and penalties..... | 4                             | 6            | 7   |
| Negotiable instruments.....          | 121                           | 18           | 2   |
| Other contracts.....                 | 13                            | 8            | 4   |
| Other United States plaintiff.....   | 18                            | 7            | 6   |
| United States defendant.....         | 7                             | 23           | 21  |
| Habeas corpus.....                   |                               | 4            | 16  |
| Tort Claims Act.....                 | 3                             | 4            | 27  |
| Tax suits.....                       | 2                             | 5            | 21  |
| Other United States defendant.....   | 2                             | 10           | 20  |
| Federal question.....                | 6                             | 38           | 13  |
| Copyright.....                       |                               | 1            | 9   |
| Employers' Liability Act.....        |                               | 6            | 21  |
| Fair Labor Standards Act.....        |                               | 1            | 12  |
| Habeas corpus.....                   |                               | 3            | 5   |
| Jones Act.....                       |                               | 11           | 7   |
| Miller Act.....                      | 1                             | 1            | 12  |
| Patent.....                          |                               | 3            | 17  |
| Other Federal question.....          | 5                             | 12           | 14  |
| Diversity of citizenship.....        | 44                            | 75           | 17  |
| Insurance.....                       | 2                             | 12           | 14  |
| Other contracts.....                 | 8                             | 12           | 18  |
| Real property.....                   | 9                             | 2            | 20  |
| Personal injury (auto).....          | 8                             | 28           | 17  |
| Personal injury (other).....         | 3                             | 14           | 17  |
| Other diversity.....                 | 14                            | 6            | 18  |
| Admiralty.....                       |                               | 14           | 7   |
| Criminal cases.....                  | 82                            | 177          | 8   |

<sup>1</sup> This column shows the percentage of all cases of each type terminated which reached trial in 86 districts having purely Federal jurisdiction. It gives some indication of the types of cases which take a relatively large and a relatively small amount of court time.