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March 6, 1990

Hon. Robert H. Hall
75 Spring Street
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Hon. Frank A. Kaufman
101 W. Lombard Street
Baltimore, MD 210201

Hon. Owen M. Panner
602 U.S. Courthouse
620 S.W. Main Street
Portland, Oregon 97205

Dear Friends:

As some of you know, I will be on vacation for two weeks this month. One of my concerns is that a second hearing on the Biden bill may be scheduled for this period. Owen has indicated his willingness to testify on our behalf, and this is much appreciated. If an Association statement needs to be drafted while I am gone, I would like the three of you to take charge of that. I have asked Bob to organize the process.

The basis of our position is outlined in the letter which I sent to Jeff Peck at the request of the Executive Committee. A statement should elaborate on or explain the concerns contained within that letter. We should also try to make some specific points and suggest helpful alternatives where we feel they are necessary.

One of the most troublesome features of the bill is the mandatory requirement that district judges preside at all required pretrial conferences. The policy behind the proposed legislation favors early conferences and control over newly filed civil cases, but when a district judge is tied up for months in a criminal case or cases, the judge may

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be unable to perform this function. In such situations, the policy would be best achieved by permitting magistrates to hold the conferences. Furthermore, many magistrates are uniquely well qualified to preside at these conferences, and in some districts they may do them better than the judges.

One suggestion we might make is that pilot programs be instituted in several districts. One might be in a district about which there may have been complaints or in which there is a heavy civil backlog. Another pilot might be in a district with a weighty criminal caseload. A third pilot district might be one that already uses most of the practices set out in the legislation. From our point of view, pilot programs would be preferable to mandating universal procedures at this time.

These are only suggestions to flesh out our position. You may disagree with them, and you may have much better ones. To be most effective we need to have some specific suggestions.

Thank you for your help.

Sincerely,



Diana E. Murphy

cc: Executive Committee
Thomas Railsback
L. Ralph Meham

Reminder to Owen: Tom Railsback advises that contact be made with Senator Thurmond by a judge or judges close to him communicating that the bill presents some serious issues and there needs to be time to respond. Perhaps you should have Sol Blatt talk directly with Tom Railsback.