

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

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WASHINGTON, D.C. 20544

June 26, 1990

Honorable Joseph R. Biden, Jr.
Chairman, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D. C. 20510-6275

Dear Mr. Chairman:

It was reported to me that at the hearing this morning on S. 2648 you were deeply concerned by comments attributed to me in a Legal Times article which you believe reflected adversely on yourself and your colleagues. That was not my intent nor do I believe it was so construed by the judges who were present. These comments do not reflect the views of the Judicial Conference as Chief Justice Rehnquist advised you on June 12th. A copy of the Chief Justice's letter is enclosed.

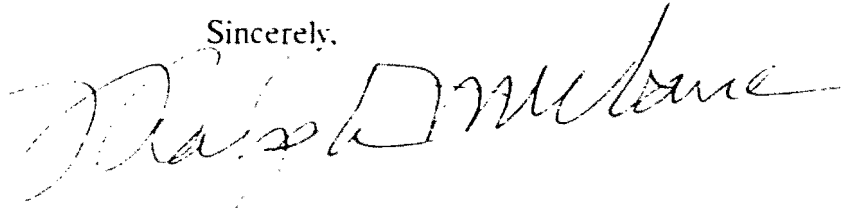
I apologize for my remarks which resulted in unfair characterizations of your motives. I had understood that my comments were off the record and were being made only to the federal judges of the D. C. Circuit, who had expressed a great interest in your bill, S. 2648. I regret that my -- and the Conference's -- words of praise for you have not received the same attention. Your leadership on the judgeship bill is sincerely appreciated and well recognized by the Judicial Branch and by me. In fact, at the same meeting, I praised your action in introducing a judgeship bill as a "major breakthrough", a statement which along with other positive comments I made about the progress made on Title I of your bill, did not appear in the report.

I hope that the friction of recent days can be put behind us and that we both can return to our shared goal of advancing the cause of justice through mutual cooperation and an understanding of the needs of our respective branches.

Honorable Joseph R. Biden, Jr.
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I will be pleased to come to your office this afternoon or at any other time to carry this same message and respond personally to your concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ralph Mecham". The signature is written in black ink and is positioned above the typed name.

Ralph Mecham
Director

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

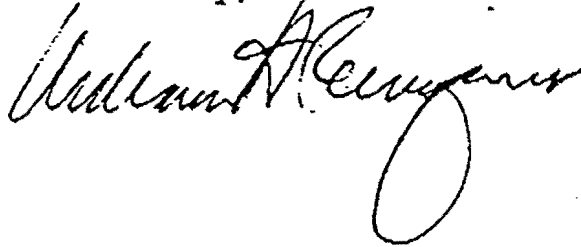
June 12, 1990

The Honorable Joseph R. Biden
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman,

I have received your letter of June 6th inquiring as to a newspaper column report of statements made by Ralph Mecham, Director of the Administrative Office, at the District of Columbia Circuit Conference in Hershey. Mr. Mecham was speaking "off the cuff" to an audience of lawyers and judges, and his jocular remarks about the civil justice and judgeship provisions of S. 2648 do not represent the position of the Judicial Conference. The Conference has long favored the creation of additional judgeships, and its position on the civil justice legislation is being worked out by the Committee of District Judges about which you and I spoke when we had lunch in April.

Sincerely,



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Federal Courts

SEN. BIDEN PLEDGES MORE FEDERAL JUDGES,
REJECTS JUDICIARY CRITICISM OF REFORM BILL

WASHINGTON (BNA) -- Stung by criticism that he and the Senate Judiciary panel he chairs are playing politics with additional federal judgeships, Sen. Joseph Biden (D-Del) June 26 denied any such game-playing, pledging "a significant number of new judges" as part of a bipartisan civil justice reform bill now headed for markup.

Despite efforts this year by Biden and committee ranking minority member Sen. Strom Thurmond (R-SC) to overcome the objections of the federal judiciary to a legislative effort to reform the civil justice system to reduce expense and delays, representatives of the judiciary testified that they oppose a bipartisan bill as an unnecessary intrusion by Congress.

Three federal judges testified against the Judicial Improvements Act of 1990 (S 2648)--introduced May 17 by Biden and Thurmond as a new and improved version of an earlier bill (98 DER A-11, 5/21/90)--but they endorsed its provisions calling for 77 additional judgeships to relieve the criminal caseload that impinges on the civil docket around the country.

Although Biden added the judgeships to his civil justice reform measure at the urging of some committee Republicans and in consultation with representatives of the judiciary, he said he was surprised June 22 to receive a recommendation for 96 new judgeships by the Judicial Conference, which is the governing body of the judicial branch. That recommendation was made to the committee in the prepared testimony of U.S. District Court Judge Walter T. McGovern, the chairman of the Judicial Conference Committee on Judicial Resources, and sent to the Hill June 22.

Biden said he was surprised to receive the recommendation, approved by the conference on June 6, just two working days before the hearing. A spokesman for the conference told BNA that the conference and Senate committee staffs had been discussing for weeks the probability of a conference endorsement of additional judgeships following a stepped-up review of court workloads, although the final recommendation of 96 was not made known until June 22.

The chairman said the question is not whether there will be additional judgeships to relieve the burgeoning federal caseload around the country, but how many. "There will be new judges," Biden predicted. "There will be a significant number of new judges."

Response To Charge Of Political Favoritism -

Biden also took pains to state his displeasure at remarks made in late May by L. Ralph Mecham, director of the Administrative Office of the U.S. Courts

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and published in a news account of the D.C. Circuit's 51st annual judicial conference. Mechem was attributed as saying Biden placed some of the proposed 77 new judgeships in districts that would win political favor rather than in areas identified by the Judicial Conference as having a need for additional judges.

Biden denied the charge, saying the assignment of judges in the legislation was made largely on the basis of criminal caseloads burdened by drug prosecutions. He repeatedly came back to the published account during the hearing, retorting that "When it comes to politics and doling out patronage, the Judicial Conference has no peer."

The chairman gave the witnesses the opportunity to comment on or condemn Mechem's remarks, but he found no takers. U.S. District Court Chief Judge Robert F. Peckham, a member of the conference and the chairman of the conference's subcommittee on the early version of the civil justice reform bill (S 2027), responded that he had not read the remarks, but had heard about them.

Biden called the failure of the conference to publicly disassociate itself from Mechem's allegation "a conspiracy of silence," and he warned that he "will not tolerate being on the other end of invectives from the court without responding."

A spokesman for the Judicial Conference said its members would leave it "to the two parties involved" to discuss the allegations, and he said Mechem would not comment on Biden's statements. Mechem "is certainly aware" of the flap, spokesman David Sellers told BNA. "He is interested in having a good working relationship with Sen. Biden and every member of Congress."

Biden complained that the committee could have passed the earlier version of his bill eight months ago, but opted instead to delay action for four months in order to give the judiciary time to study the proposals and offer input that might secure its support. During that time, the Judicial Conference endorsed its own voluntary 14-point plan for study of civil reforms in an effort to dilute the call for legislative changes to judicial administration.

Despite the continued objections of members of the federal bench, a committee aide said the bill as introduced May 17 would go to markup soon and its approval is expected.

Sen. Orrin Hatch (R-Utah), who appeared briefly at the hearing, said that while S 2040 is an improvement over its predecessor, "I continue to have strong reservations about the need to do anything more in this particular area than increase funding for automation and judicial training."

The bill would establish a four-year demonstration program in five district courts, requiring each district court to implement a "civil justice expense and delay reduction plan" originated in the district or adopted from a model plan developed by the Judicial Conference. The four-year pilot programs would use a tracking system to separate the simple cases that can be handled quickly from those that are more complex. The plans in each district court would be developed after considering recommendations of an expert advisory panel, with the requirement that certain provisions be included,

such as the establishment of early trial dates within 18 months of a complaint filing.