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## United States Senate

COMMITTEE ON THE JUDICIARY  
WASHINGTON, DC 20510-6275

June 28, 1990

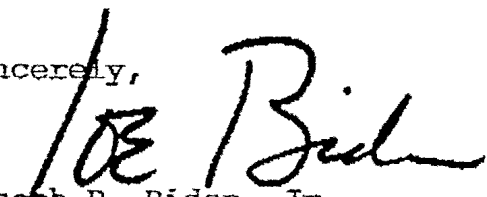
The Honorable Walter T. McGovern  
United States District Court for the  
Western District of Washington  
U.S. Courthouse  
1010 Fifth Avenue  
Seattle, Washington 98104

Dear Judge McGovern:

Thank you for your testimony at the June 26 hearing on S.2648, the Judicial Improvements Act of 1990. Your comments were enlightening and I will take them into consideration as the committee continues to review the bill.

I have enclosed additional questions, which, due to time constraints on Tuesday, we were unable to ask at the hearing. I would appreciate your answering these questions by Friday, July 6, 1990.

Sincerely,

  
Joseph R. Biden, Jr.  
ChairmanEnclosure  
cc: Bob Fiedler

Senator Thurmond

## QUESTIONS FOR JUDGE MCGOVERN

1. Judge McGovern, in your prepared remarks you state that numerous pieces of legislation in recent years have had a strong impact on the Federal courts. With the implementation of sentencing guidelines and increased drug prosecutions in the Federal courts, what standards should we use to ensure that the level of manpower within the Federal judiciary is properly maintained?

2. Judge McGovern, Title II of S.2548 contains a provision to create additional Federal judgeships. This provision was based upon the official recommendation of the Judicial Conference at the time the bill was introduced, along with a consideration of districts particularly impacted by drug cases. Today, on behalf of the Judicial Conference, you present the latest 1990 "Official Recommendation" calling for the creation of 96 additional judgeships. In your opinion, can the greater efficiencies in the civil litigation process we are seeking in Title I of this bill be achieved with a lesser number of judgeships than currently recommended by the Judicial Conference? Why or why not?

3. Judge McGovern, as Chairman of the Committee on Judicial Resources for the Judicial Conference, could you describe for this Committee the process by which your committee determines judgeship needs as reflected in the official Judicial Conference recommendation?

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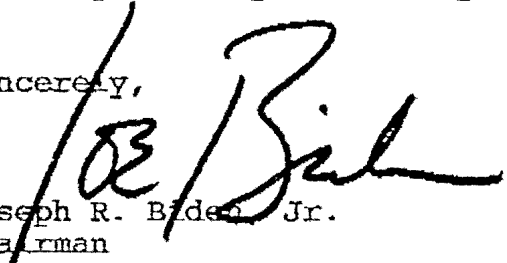
The Honorable Robert F. Peckham  
 Chief Judge  
 U.S. District Court for the  
 Northern District of California  
 Room 19052  
 450 Golden Gate Avenue  
 P.O. Box 36060  
 San Francisco, California 94102

Dear Judge Peckham:

Thank you for your testimony at the June 26 hearing on S.2648, the Judicial Improvements Act of 1990. Your comments were enlightening and I will take them into consideration as the committee continues to review the bill.

I have enclosed additional questions, which, due to time constraints on Tuesday, we were unable to ask at the hearing. I would appreciate your answering these questions by Friday, July 6, 1990.

Sincerely,

  
 Joseph R. Biden, Jr.  
 Chairman

Enclosure  
 cc: Bob Fiedler

QUESTIONS FROM SENATOR BIDEN FOR JUDGE PECKHAM

1. Is it fair to say that the Judicial Conference's March 13 policy statement on case management was issued in response to S.2027, the original civil justice legislation? Is it also fair to say that the Judicial Conference's "14 Point Program" would not have been developed, at least at this time, in the absence of the civil justice reform legislation?

2. If S.2648 in its present form were presented to the President for signature and he asked the Judicial Conference specifically whether he should sign or veto the legislation, what would the Judicial Conference's answer be? Please state clearly and specifically in your answer whether the Conference's recommendation would be to sign or veto the bill.

Senator Thurmond

QUESTIONS FOR JUDGE PECKHAM

1. Judge Peckham, provisions contained in S.2648 contemplate a Federal judge taking a more "hands on" approach to case management with the courts than is currently practiced. In your opinion, should Federal judges be actively involved in managing the disposition of cases before them? If so, how so, and to what extent? If not, why not?

2. Judge Peckham, some judges believe that procedures instituted as part of developing a civil justice expense and delay reduction plan are complex and time consuming without any evidence that they will create any greater efficiency in the civil litigation process. However, the 14 point plan suggested by the Executive Committee of the Judicial Conference is strikingly similar to many of the provisions contained in S.2648. Could you cite the significant differences between the approach taken in S.2648 from that taken in the plan suggested by the Judicial Conference?

4. Judge Peckham, subparagraph (D) of Section 473(a)(2) would require the setting of target dates to decide motions. Some have pointed out the vast differences between the various kinds of motions, some of which require much more careful consideration than others. Given this disparity, what approach would you suggest as a means for setting target dates on motions which could provide the necessary flexibility to handle the differing complexity of the various motions encountered?

5. Judge Peckham, in your prepared remarks you state that the five district courts named in Title I of the bill which are slated for participation in demonstration programs would be more properly selected by the Judicial Conference. However, it is my understanding that all 5 districts volunteered to be demonstration districts. Is it not better to have districts involved in this demonstration project that voluntarily assume any of the extra burdens associated with such a program than for individual districts to have such a program forced upon them by the Judicial Conference? Why or why not?

6. Judge Peckham, notwithstanding the views of the Subcommittee on the Civil Justice Reform Act of 1990, in your capacity as a district court judge, what is your own opinion as to the merits of Title I and Title II of S.2648?