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Department of Justice

STATEMENT

BY

THE HONCRABLE WILLIAM P. ROGERS
ATTORNEY GENERAL OF THE UNITED STATES

ON THE

PROPOSED LEGISLATION TO CREATE ADDITIONAL
FEDERAL JUDGESHIPS

Before Subcommittee No. 5

of the

House Judiciary Committee

July 9, 1958

I should like to thank the Subcommittee for this opportunity to appear in behalf of the Department of Justice and to add our whole-hearted support for the legislation creating the additional judgeships. May I also express thanks to the Chairman and members of this Subcommittee for their deep interest in this bill and for holding these hearings. I believe the members of this Committee are familiar with my views in connection with this legislation; consequently, there is no need for me to emphasize how strongly I feel concerning the very great need for these additional judges.

In May of 1956 the Attorney General called a Conference on Court Congestion and Delay with a view to determining what steps might be taken in order to solve this very serious problem. In June of this year I reconvened the Conference to determine whether the suggestions made at the first Conference had been fundamentally helpful or whether they were only a temporary solution.

Those in attendance unanimously agreed that the solution to this problem does not lie merely in improved administrative procedures and more efficient methods of handling cases because these alone cannot eliminate the ever increasing backlog which exists in some districts. The solution lies in this judgeship bill. This is abundantly clear from the facts which have been compiled by the Administrative Office of the Courts which began keeping statistics in 1941. In 1941 there were 38,000 cases filed and the judges were able to dispose of a like number.

The time interval from issue to trial was an average of 5 months. Today, some 62,000 cases are filed annually in our Courts and the backlog is now over 67,000 as compared to 29,000 in 1941. The Judicial Conference has established 6 months as the time it should take between the filing and date of trial in the ordinary case. Today, in over 38% of all cases, there is a delay from 1 to 4 years between the date of issue and the time of trial. In all but a few of the districts where additional judges are created by this bill the delay from filing to trial exceeds 1 year. In those few districts where the delay is under one year special conditions exist.

Practically all the annual civil filings have increased by more than 50% since 1941, and in many, they have more than doubled. In only 7 out of the 94 districts were the judges able to meet the 6 months standard. And the problem appears to be getting more and more serious in that from July, 1957, to March 31, 1958, the civil backlog increased by more than 5,000 cases and there is every indication that it will continue its unprecedented climb. Since 1950 the number of civil cases filed each year has increased 10,000 while the number of judges to decide those cases has increased from 221 to 248. Briefly the facts are these:

In 1941 there were 197 district judges and in 1957 there were 248 to handle an annual increase in cases filed. The increase has been 62% but only 26% more judges have been provided. There were commenced

in 1957 236 civil cases per judge as compared to 171 cases in 1941.

Despite this increased workload, the backlog per judge spiraled from 137 cases in 1941 to 232 cases in 1957.

I shall leave to others to explain the thorough and painstaking manner which was used in order to determine how many judges were needed in the various districts. I have studied these procedures and am convinced that the only criticism which can be leveled at those who made the determination is that their estimates are too conservative.

Recently the Chief Justice of the United States reported that "the delay and the choking congestion in the Federal courts today have created a crucial problem for constitutional government in the United States. It is so chronically prevalent that it is compromising the quantity and quality of justice available to the individual citizen and, in so doing, it is leaving vulnerable throughout the world the reputation of the United States for protecting and securing these rights and remedies."

In the opinion of the Judicial Conference of the United States, the Administrative Office of the United States Courts, the Attorney General's Conference on Court Congestion and Delay and Litigation, the American Bar Association, and other organizations and groups concerned with the administration of justice, this shortcoming in our judicial system can be corrected by the creation of additional Federal judgeships. I fully concur in this conclusion and urge the Congress to create the 45 judgeships which have been recommended by the Judicial Conference and endorsed by the above-mentioned groups.

History shows that those who have been deeply interested in the administration of justice through the ages have considered prolonged delay the most serious problem of all. When a person must resort to the courts, it is almost always one of the most important events in his life. Yet, too often the delay of many months before the case comes to trial proves to be too great a burden upon the individual. As a result, cases are sometimes settled for a fraction of their worth because the injured or aggrieved cannot afford to wait until his case comes to trial in normal order.

Certainly cost is not a factor which should give us any reason for pause. The fact is that the cost of delay merely in terms of interest which the Department of Justice must pay on some judgments far exceeds each year the cost of providing these additional judgeships. Those interest payments, as you know, run into millions of dollars annually.

In this great Nation of ours it seems almost unbelievable that the rights of our people are prejudiced simply because months pass before the doors of a courthouse are open to them. We fail in our obligation to them if we withhold from the Judicial Branch of Government sufficient judgeships to provide meaningful justice, not only under fair procedures, but in time to remedy the wrong.

In his budget message last year the President urged the Congress to carry out the proposals of the Judicial Conference for additional judgeships. Again, in behalf of the Department of Justice, I wish to express my sincere appreciation for the opportunity to appear today and to add my strongest support for this legislation which so directly affects the rights and liberties of our people.