A Conference Anniversary — Fifty Years in Retrospect

By

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Founding of the Conference

On July 9th and 10th, 1926, a group of eighty-three referees in bankruptcy met at the Book-Cadillac Hotel in Detroit at the invitation of Honorable Paul H. King of that city, for the express purpose of creating their own national organization.[1]

The more than five hundred bankruptcy referees then serving throughout the country in the eighty-four established judicial districts for all practical purposes were isolated within their respective districts. The founders of the new organization foresaw its role as that of a clearing house for the exchange of knowledge and experience, a means of facilitating professional fellowship and friendships, for promoting greater uniformity in bankruptcy administration, and for the development of collegial enthusiasm in the promotion of a code of ethical conduct.

The organization was formally launched with the adoption of a constitution, the election and installation of officers and directors, and the establishment of the Journal of the National Association of Referees in Bankruptcy, forerunner of the American Bankruptcy Law Journal.

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[1]There had been an earlier attempt to organize a National Association of Referees in Bankruptcy, in 1903. Approximately fifteen to twenty referees in bankruptcy met at Niagara Falls, New York and elected officers. But the organization soon became inactive. In 1927, Edward A. King of Troy, New York, Secretary-Treasurer of the defunct organization, turned over to the new organization funds amounting to $118.04.

Referee Paul H. King of Detroit was elected the first President and Referee Watson B. Adair of Pittsburgh was elected Vice President. Referee Herbert M. Bierce of Winona, Minnesota was elected Secretary-Treasurer and became the first Editor of the Journal.[2] He served in all three capacities for twenty-three consecutive years. A Board of Directors was elected, one member from each of the nine circuits then in existence.

Second Annual Meeting

While the first organizational meeting in Detroit was important, the second annual meeting, held in Buffalo, New York on August 29th and 30th, 1927, was equally noteworthy.[3] The Association adopted a Code of Ethics for Referees, at the Buffalo meeting. The Code was concise, but comprehensive. It mandated performance of the duties of the office of referee in bankruptcy with courtesy, efficiency, impartiality and dignity, and the avoidance of conduct harmful to the image and purposes of the bankruptcy courts.

The Second Annual Meeting program at Buffalo was memorable both for its quality and diversity.[4]

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[2]During the first year of its existence the National Association of Referees in Bankruptcy published two issues of its new Journal. It was not until after the fourth annual meeting, held in Memphis, Tennessee, that the Journal became a quarterly publication.

[3]Among those in attendance, which included fifty-eight Conference members, were John Biggs, Jr. of Wilmington, Delaware, later Chief Judge of the Court of Appeals for the Third Circuit; Harold Remington of New York, a former referee in bankruptcy and author of Remington on Bankruptcy; W. Randolph Montgomery of New York, counsel to the National Association of Credit Men, later Chairman of the National Bankruptcy Conference; James Angell McLaughlin, Professor of Law, Harvard University, a distinguished scholar and author and principal draftsman of Section 60 of the Bankruptcy Act; John Marshall, Assistant Attorney General of the United States; as well as a number of United States district judges. In addition there were representatives from such organizations as the American Bar Association, the National Association of Credit Men and the Commercial Law League of America.

Among those upon whom the Association conferred honorary membership was Sidney Corning Eastman of Chicago, "as an expression of appreciation of his many years (1898-1926) service as a referee in bankruptcy and as the author of the first work on bankruptcy — 'Eastman on Bankruptcy'." Similar honor was accorded Harold Remington. Robert A. B. Cook of Boston was accorded honorary membership "in recognition of his services as Chairman of the Bankruptcy Committee of the Commercial Law League of America, and of the Special Committee of the American Bar Association for his efforts in securing the enactment of the law containing the 1926 amendments to the Bankruptcy Act."

[4]Referee Thomas W. Shelton of Norfolk, Virginia rendered a beautifully researched dissertation on the origins of English bankruptcy law. Referee Morgan F. Jones of Jacksonville, Florida presented a brief resume of the history of bankruptcy in this country, and

By the end of 1927, Secretary Bierce was able to report that 203 referees had become members of the new Association.

From the beginning, the Association maintained close contact with other organizations interested in bankruptcy law and administration, among them the American Bar Association, which had recently created a special committee on bankruptcy practice, with Henry Deutch of Minneapolis as its first chairman, followed by Samuel Fleishman of Buffalo. The Commercial Law League of America, founded in 1895, was another organization with a standing committee on bankruptcy. Its committee was chaired by a notable Boston lawyer, Robert A. B. Cook, who played an important part in the formation of a study group which later evolved into what is now the National Bankruptcy Conference.

The exchange promoted understanding among these organizations[5] and led to far more effective cooperation than could have been achieved had each continued to act independently.

Early Legislative Contribution

Congress had just enacted the 1926 amendments to the Act when the Association was organized. A number of referees later identified with the Association had rendered assistance to the congressional committees responsible for that legislation. But at the outset many of the members, mindful of their roles as judicial officers, were reluctant to take any position on legislation affecting bankruptcy. They saw it their duty simply to interpret and apply the law as they found it, a sentiment sufficiently shared to prompt an Association policy proclaiming that the "Association and its members take no part or active interest in initiating or opposing amendments to the Bankruptcy Act." The Association would simply offer its services, expertise and experience to other responsible organizations. Time, however, adapted that early policy, as we shall observe later.

Paul H. King related his experiences on a European trip, where he had observed the French, Italian and English bankruptcy courts in operation. These presentations were instructive and gave early promise that the caliber of the educational programming would be rewarding. Time has borne out that prospect.

[5]Another organization, the National Association of Credit Men, founded in 1896, also maintained a keen interest in bankruptcy administration and practice. The American Bankers Association and the U.S. Chamber of Commerce, though less directly concerned with bankruptcy matters, were also among those with whom the Association maintained contact.

The Association also determined to develop close and cordial relations with leading academicians in the field of bankruptcy law.[6]

Third Annual Meeting

In 1928 the Association held its annual meeting at the Edgewater Beach Hotel in Chicago. Farm bankruptcies received prominent program consideration. Silas H. Strawn, President of the American Bar Association, spoke of the work of the Association. Professor William O. Douglas reported on a factual study of the bankruptcy system being conducted at Yale by him and his colleagues, with the aid and advice of his former colleague Professor Carl Llewellyn of Columbia Law School. Referee Carl D. Friebolin of Cleveland spoke humorously of the need for a new title for referees.

Irving Trust Scandal

The gathering in Chicago took special note of the investigation of alleged bankruptcy scandals in New York City that year which had been brought to light by the default of one David Steinhardt of that city, who had been a receiver in numerous cases and had absconded. A grand jury investigation was initiated by United States Attorney Charles H. Tuttle, and a separate investigation was commenced by United States District Judge Thomas D. Thacher with the aid and assistance of the New York Bar Association. The immediate consequence of the Thacher investigation was the promulgation of a local rule by Senior Judge John C. Knox, with the approval of his associates on the district bench, designating the Irving Trust Company of New York City as receiver in all bankruptcy cases pending the selection of a trustee by creditors. The New York scandal continues to influence the fiduciary appointment process in bankruptcy courts to this day.

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[6]Among the notable academicians of that earlier era were Professor Evans Holbrook of the University of Michigan Law School, who was on the program at the Association's organizational meeting; Professor Charles Angell McLaughlin of Harvard Law School; Professor William O. Douglas of Yale Law School, later Chairman of the Securities and Exchange Commission and an Associate Justice of the United States Supreme Court; Professor Garrard Glen of the University of Virginia Law School; Professor John Gerdes of New York University Law School; Professor Charles E. Nadler of Mercer University; and Professor Charles Seligson, then associate professor of law at the University of Newark (merged in 1946 with Rutgers Univ.), later professor of law at New York University Law School and Chairman of the National Bankruptcy Conference.

Revisionary Stirrings in Memphis

The following year, when the Association met in Memphis, Tennessee, Charles H. Tuttle had just delivered a speech before the National Association of Credit Men, in Minneapolis, claiming, among other things, that there were three major defects in the Bankruptcy Act: (1) the imposition of the administration of bankrupt estates upon courts;[7] (2) the reliance upon active participation by creditors in bankruptcy proceedings;[8] (3) separate administrative overhead expenses for each estate were seen as wasteful and unnecessary. He concluded that it was the breakdown in these three fundamental principles which persuaded the U.S. District Court for the Southern District of New York to concentrate all receiverships in the hands of the Irving Trust. Tuttle suggested that substantial economies could be effected by pooling management of cases. The call to bankruptcy reform had been sounded.

The National Association of Referees in Bankruptcy viewed the charges as an opportunity to move the bench, the bar and the commercial interests of the country to correct certain lax practices in bankruptcy administration which had escaped public scrutiny.

In earlier years, the National Association of Credit Men and the Commercial Law League of America had been most active in legislative affairs affecting bankruptcy. Secretary Bierce now advocated that the Association sponsor a Joint Committee, comprised of representatives from all three organizations, as well as the Bankruptcy Committee of the American Bar Association, to consider anticipated reform legislation.

The Donovan Report

The Donovan Report was one of the principal topics of discussion when the Association held its fifth annual meeting in Chicago. The membership rolls had then risen to 250, with sixty members in attendance, including two of the three women holding office at that time.

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[7]The task, Tuttle claimed, is essentially non-judicial and belongs rather in the executive department of Government. The proper function of courts is the determination of controversies and whenever they step or are forced out of that function they lose their prestige, effectiveness and public confidence.

[8]Tuttle said that such reliance has proven unjustified in practice and that control drifts into the hands of attorneys expert in bankruptcy who gather claims and direct the trustees.

The investigation undertaken on behalf of the court in the Southern District of New York was headed by Colonel William J. Donovan, of World War I and II fame, under the auspices of the New York Bar Association. It soon broadened from an inquiry into the administration of individual bankrupt estates to one of unlimited scope, whereupon general reform became the goal.

United States Attorney Charles H. Tuttle also advocated reform. Tuttle outlined a plan whereby bankrupt estates would be administered by an official liquidator under the supervision of the U.S. Department of Commerce, which would have divorced bankruptcy entirely from the federal courts.

The Donovan Report was filed with Judge Thacher on March 22, 1930. Among its conclusions was the finding that the "fundamental defects in administration are not restricted to New York," but exist generally throughout the country. Shortly thereafter, Judge Thacher was appointed Solicitor General. All of this closely followed upon the deaths, on March 9, 1930, (within 5 hours of each other) of Chief Justice William Howard Taft and Associate Justice Edward Terry Sanford. Charles Evans Hughes was appointed Chief Justice the same day.

The appointment of Judge Thacher as Solicitor General was soon followed by a decision on the part of the Department of Justice (with the approval of President Hoover) to undertake a broad investigation of bankruptcy. Lloyd K. Garrison, a former member of Colonel Donovan's staff, was named Special Assistant to the Attorney General to direct the investigation.

Garrison appeared on the program presented by the Association at its fifth annual meeting in Chicago. He disclosed that the Justice Department survey would be nationwide and that a principal source of information would be the referees themselves. Garrison conferred at length with the Conference Committee of the Association, which had been authorized to confer with other organizations in connection with improvements in bankruptcy practice. The cooperation of the Association was pledged.

The annual report of bankruptcy statistics issued by the Attorney General for the fiscal year ending June 30, 1930 reflected that more than 60,000 cases were filed that year, with scheduled obligations amounting to more than 948 million dollars, staggering statistics for the times. The widespread unemployment and financial distress attendant upon the Great Depression were in full swing. The stage in

which all major revisions of the Bankruptcy Act have invariably occurred was now set.

The 1931 Association meeting was held in Atlantic City, where Referee Carl D. Friebolin of Cleveland was elected President. Again, Lloyd K. Garrison was an invited guest. He outlined some of the tentative proposals of the Department of Justice for changes in the Bankruptcy Act. As it turned out, these later became firm recommendations.[9]

Seventh Annual Meeting

By 1932, when the Association held its seventh meeting in Washington, D.C., Franklin D. Roosevelt had been elected President. Upon taking office in March 1932, President Roosevelt closed the banks and permitted the reopening of only those whose solvency had been confirmed after audit. There was a larger attendance at the Washington meeting than at any previous meeting since the founding. Sixty-seven referees attended. There were bills pending in the Congress which would produce radical changes in the Act. Proposals for debtor rehabilitation were cropping up everywhere. Professor William O. Douglas again addressed the Association. He deplored the intransigence of vested interests and expressed deep concern over the approach which was being taken by most who sought reform of the bankruptcy system. He argued for the empirical approach being taken at Yale, asserting that one may quarrel with the representativeness of facts as they are presented, or with the deductions that are made from them, or with the manner of their use, but that statistics go some distance along the way toward taking a problem out of the realm of guesswork. The chief quarrel, he said, was with the concept of bankruptcy as an autonomous unit for controlling the phenomenon of financial failure. We should examine bankruptcy in its fundamental aspects. There is need to understand the functions of bankruptcy and its place in our

[9]Among the proposals were the following: (1) add a new chapter to the Act, Chapter VIII, entitled "Forms and Proceedings for Adjustment of Debts Without Adjudication in Bankruptcy — Proceedings for Relief under the Bankruptcy Act, — Compositions and Extensions"; (2) provide for assignments for the benefit of creditors; (3) provide for wage earner debt amortization proceedings; (4) provide for corporate reorganizations; (5) create the office of examiner, to conduct inquiries at first meetings and at discharge hearings; (6) provide for oversight by the Attorney General; (7) to provide for a panel of qualified trustees to serve in each judicial district; (8) increase the terms of referees from two to six years.

economic order. We must ask, "Does the system articulate with the social order?"

The credit structure of the nation was seriously strained. Bankruptcy had indeed come to the forefront. It could not resume the relatively minor societal role it had occupied prior to the 1920's. The Association was in a concerned mood and was prepared to consider the many important suggestions for making the bankruptcy system more useful and effective.

The Hastings Bill

Bankruptcy legislation, the work product of the Department of Justice, Thacher and Garrison, was introduced in the Senate as the so-called Hastings Bill. The Justice Department had discussed the Donovan Report and the proposed legislation with the Special Conference Committee of the National Association of Referees in Bankruptcy, before sending it to the President.

Senator Hastings proceeded with hearings on the bill almost immediately. But the bill remained in Committee for months. Testimony before the Committee was sharply divided. Meanwhile, earnest demands for "immediate" relief of some kind were building on all sides. Congress should declare a moratorium on mortgage foreclosure! The secured creditor must be stayed, regardless of contract! The courts should be given power to enforce composition settlements, with or without creditor acceptance! The stigma of bankruptcy must be removed! Corporations in general and railroads in particular must be permitted to use the bankruptcy law for reorganization purposes! Municipalities must be allowed to avail themselves of bankruptcy in the extension of their bonded indebtedness! Farmers must have a special proceeding for the settlement of their debts. Such were the cries.

On the program of the Association meeting in Washington, several speakers, including Jacob I. Weinstein, an able Philadelphia lawyer with expertise in bankruptcy law, explained the Hastings Bill in detail.

The American Bar Association opposed the Hastings Bill, but tendered its services to the Senate subcommittee for the preparation of an acceptable alternative. Robert A. B. Cook of Boston, Massachusetts, speaking on behalf of the Commercial Law League of America, also appeared before the subcommittee and made what many regarded as a most impressive argument in opposition.

Eventually, Senator Hastings suggested that if the pending bill was not acceptable a substitute proposal should be presented. Acting on that suggestion, a group consisting of Jacob M. Lashley of St. Louis, representing the American Bar Association; Robert A. B. Cook of Boston, of the Commercial Law League of America; Honorable Paul H. King, Referee in Bankruptcy from Detroit and Chairman of the Association's Committee on Uniformity of Practice; Professor James A. McLaughlin of Harvard Law School; Reuben G. Hunt from Los Angeles; and Referee Carl D. Friebolin of Cleveland, President of the Association, met for a week in June at the home of Mr. Cook in Boston and again in September in St. Louis, during the course of which carefully conceived amendments were drafted. The urgent need for congressional action was again made apparent in the course of the short session of Congress held during December of 1932. Congressman McKeown of Oklahoma proposed a bill providing for compositions and extensions by individuals; Congressman LaGuardia of New York proposed that railroad reorganizations be dealt with under the Bankruptcy Act; and Senator Hastings offered legislation permitting corporate reorganizations.

It was politically determined that an amalgam of the three bills might pass. The three measures were thereupon consolidated by the House Judiciary Committee, into what became known as the Sumner Bill. The House quickly passed the bill under suspension of its rules. The poorly drafted measure was sent to the Senate, where Senator Hastings and his Committee worked intensively on the bill.

In late January, 1933, another conference was arranged among representatives of the various interested groups, at the Willard Hotel in Washington, D.C. There were twenty-five in attendance. They conferred for two days and finally agreed to recommend substitute measures; Section 74 on Compositions and Extensions for individuals, and altered versions of Sections 75 and 76. With the help of these refinements the measure was finally reported out by the Senate Committee and passed on March 3, 1933, effective immediately.

The corporate reorganization section had been omitted, however, and the provisions for agricultural compositions and extensions (Section 75) were inserted instead. Finally, the country had a new Section VIII with relief provisions, the first major emergency legislation affecting bankruptcy passed during the Great Depression.

Immediately following passage of the relief amendments on March 3, 1933, the group which had met at Boston and St. Louis

called another conference for April, 1933, in Washington, D.C. All major draft amendments which had thus far been proposed by the various organizations were referred to a study committee, chaired by Referee Paul H. King. The reports of the study committee were referred to the drafting committee on which Jacob I. Weinstein served with distinction. Up to that time, there had never been a more thorough, cooperative or sustained effort to improve the Act.*

In July, 1933, the Association held its annual meeting at the Grand Hotel on Mackinac Island, Michigan. Secretary Bierce reported a membership of 241 members from among the 506 active referees in bankruptcy. Lloyd K. Garrison, who by then had become Dean of the University of Wisconsin Law School, was made an honorary member. Similar honor was accorded W. Randolph Montgomery of New York City, counsel to the National Association of Credit Men, and Jacob M. Lashley of St. Louis, Chairman of the Committee on Commercial Law and Bankruptcy of the American Bar Association. A fine address was given by Reuben G. Hunt of Los Angeles, tracing the legislative history of bankruptcy from the Act of 1800 to date. The remainder of the program was largely devoted to discussion of the 1933 Amendments to the Act.

After meeting in Cincinnati in 1934 at the Netherland Plaza Hotel, the Association returned, in 1935, to Washington, D.C., where it held its Tenth Annual Meeting at the famous Wardman Park Hotel.*

In March of 1935, the group chaired by Referee Paul H. King, including James A. McLaughlin, Jacob I. Weinstein, Referee Peter B. Olney, Jr., Referee Watson B. Adair and Reuben H. Hunt, met in Washington, D.C. to perfect their sixth and final draft of amendments to the Act. Following legislative amendment, this draft was to become the Chandler Act.

In 1936, the Association again met in Detroit. Corporate reorganization was the principal topic of discussion. Samuel C. Duberstein of Brooklyn, New York discussed the role of the Special Master. Carlos L. Israels of New York City spoke of the Mortgage Trustee in corporate reorganizations. Edward B. Levy of New York spoke on

*We have dwelt on this revisionary episode because the early 1930's represented a watershed in bankruptcy legislation; a period in which it is historically important to identify the leading figures who participated in it. Many of those figures were members of the National Association of Referees in Bankruptcy. In naming them, however, we are mindful of the risk of omitting others who may also have played a part.

*Evidence that the Great Depression held full sway is illustrated by the fact that hotel rates were $3.00 for single rooms and $5.00 for double rooms.

fees and allowances. Harold Remington of New York discussed defects in the Act. John Gerdes of New York City discussed Section 77B. Other speakers included Assistant Attorney General Robert H. Jackson and Congressman Emanuel Celler, later Chairman of the House Judiciary Committee.

Referee Paul H. King spoke of the unselfish efforts of the group of conferees who had drafted the Chandler Bill, the fine reception it received before the House Committee, and his confident belief in its early passage by the House. He was not so confident of its reception in the Senate. He recommended the formation of a permanent organization, a group to which Congress could look with confidence for counsel and advice in bankruptcy matters; that suggestion eventually resulted in the creation of the National Bankruptcy Conference.

Among those present in Detroit were Referee Edwin L. Covey of Peoria, Illinois and Referee Archie H. Cohen of Chicago, both of whom were to be heard from later in other capacities.

In September, 1937, the Association met in Kansas City, Missouri at the Hotel Kansas Citian. It was noted that Congressman Walter Chandler, Chairman of the House Judiciary Subcommittee, had reintroduced the Chandler Bill. Early passage was anticipated.

By the time the Association met for the thirteenth anniversary in 1938, in New York City, the Chandler Act had become law, having been signed by the President on June 22, 1938. It was a matter of considerable pride to the Association that several of its members had played such a prominent part in the development of the Chandler Act.

By late 1938, legislative concerns had receded. The task before the Association was to inform and instruct its members to accommodate the new Act. In his report to the Association, Secretary Bierce was moved to say that "for the first time in the history of the country it was possible to bring to the consideration of an extended revision of the Bankruptcy Act the experience and counsel of referees in bankruptcy who have supervised the administration of many thousands of bankruptcy cases during the past forty years."

The program in New York City was devoted largely to a consideration of the Chandler Act. Three United States district judges from the District of New Jersey attended, as well as numerous attorneys from Boston to Baltimore.

Shortly after passage of the Chandler Act the group largely responsible for its content met in Cleveland, Ohio; that meeting launched the National Bankruptcy Conference. Referee Paul H. King be-

came its first chairman, followed some years later by Referee Peter B. Olney, Jr., then by Jacob I. Weinstein and Samuel C. Duberstein.

In 1939, the annual meeting was held in Los Angeles, at the Ambassador Hotel. Twelve Association members gave presentations on various aspects of the Chandler Act. The late Bankruptcy Judge Estes Snedecor of Portland, Oregon was among those on the program.

In remarks to the Association, Mortimer J. Davis, Manager of the New York Adjustment Bureau of the Credit Mens' Association stated that "slowly but surely . . . it is being advocated throughout the country that special bankruptcy courts should be instituted." Meanwhile, the Journal noted the widespread interest created by the Chandler Act Amendments at meetings, conferences, lectures and symposiums throughout the country.

The membership of the Association was reported to be 291, nearly 60% of the active referees in bankruptcy. In 1936, the figure had approximated 40%.

Fifteenth Annual Meeting

The Drake Hotel in Chicago was the site of the Association's 15th Annual Meeting in 1940. Secretary Bierce informed the members of the Association — "We are definitely established as an organization and have a recognized influence in the field of bankruptcy." Membership had climbed to 297, of a total of 453 active referees. Since the Los Angeles meeting, the Administrative Office of United States Courts had come into existence. Henry P. Chandler was selected by the Supreme Court as the first Director. A resolution was unanimously adopted by the Association in Chicago pledging its full cooperation with the Administrative Office. It was announced also that the Justice Department's inquiry into bankruptcy administration was continuing and that Charles A. Horsky, Esquire* of Washington, D.C. would serve as Director of the Attorney General's Bankruptcy Committee. The Committee was expected to present its report before the Conference of Senior Circuit Judges* at a special session in January, 1941. At the time, there were fifteen bankruptcy bills pending in the House and seven in the Senate.

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*Charles A. Horsky is the present chairman of the National Bankruptcy Conference, having succeeded the late Charles Seligson.

*The Conference of Senior Circuit Judges later gave way to the Judicial Conference of the United States.

Before the next annual meeting in August, 1941, at Boston's Statler Hotel, the Attorney General's Bankruptcy Committee had rendered its report. The Report was divided into two parts. The first part had to do with the lack of and the necessity for creating effective and responsible coordination and supervision of bankruptcy administration as a whole. The second part dealt with the need to improve the referee system by limiting the number of referees, putting them on a full-time basis and changing the method of compensation, and meeting the expenses of their offices.

The Report recommended that there be set up in the Administrative Office of the United States Courts a division of bankruptcy, with a staff supervised by a chief of division responsible to the Director. The division of bankruptcy would undertake the gathering of bankruptcy statistics (then handled by the Department of Justice), the examination and audit of the offices of referees and other officers, the investigation of rules and practices of bankruptcy administration, the investigation of complaints, and the conduct of surveys to determine the number of referees and their salaries. The Attorney General's Report, as it turned out, was the forerunner of the Division of Bankruptcy in the Administrative Office of the United States Courts and the Referees' Salary Act of 1946.

During this period, the National Bankruptcy Conference, under the leadership of Referee Paul H. King of Detroit, met in October, 1940 and again in January, 1941. The membership roster in attendance at these meetings is a catalogue of the leading figures in the bankruptcy field at the time; one well worth listing for historical purposes, since many of these men were among the pioneers of the contemporary system of bankruptcy administration.*

In April, 1941, the Journal reported that for the first time the Government, through the Administrative Office of the United States Courts, had assembled and published an official list of active referees in bank-

*In addition to Chairman King, there were Referee Watson B. Adair of Pittsburgh; Charles E. Baldwin of Washington, D.C.; W. R. C. Cocke of Norfolk; Robert A. B. Cook of Boston; R. S. Douglas of Cleveland; Referee Carl D. Friebolin of Cleveland; John Gerdes of New York; Harry Glieck of St. Louis; Alfred Hueston of New York; Homer J. Livingston of Chicago; Professor James Angell McLaughlin of Harvard Law School; W. Randolph Montgomery of New York; G. W. S. Musgrave of Baltimore; D. J. Needham of Washington, D.C.; Referee Peter B. Olney, Jr. of New York; Luther D. Swanstrom of Chicago; David Teitelbaum of New York; Jacob I. Weinstein of Philadelphia; Hugh Wells of Cleveland; Jacob M. Lashley of St. Louis; Frank Stonecipher of Pittsburgh; Referee Charles True Adams of Chicago; Carroll A. Teller of Chicago; and Reuben G. Hunt of Los Angeles.

ruptcy. All prior lists had been assembled and published by the Association's Secretary, Herbert M. Bierce.

After the Conference of Senior Circuit Judges approved the Attorney General's Report, with minor changes, a bill was drafted by the Attorney General to implement its recommendations. Before submitting the bill to Congress, however, the Attorney General submitted it to the National Bankruptcy Conference for study. A committee of that Conference, consisting of Jacob I. Weinstein, Chairman, Charles F. Baldwin and David Teitelbaum, was selected to study the draft. In the course of its deliberations it sought the advice of Referee Watson B. Adair. Following the study committee's report, the Attorney General introduced the bill in Congress. The measure became known as H. R. 4394.

Francis M. Shea, Assistant Attorney General, Chief of the Claims Division, with supervisory jurisdiction over the Attorney General's Bankruptcy Committee, after extending his appreciation to the National Association of Referees in Bankruptcy and its members for their generous assistance to the Committee, remarked:

> "The office of referee in bankruptcy is constantly growing in importance. Our report and recommendations are a recognition of that fact, in an attempt to elevate it to the status which its increasing importance and significance in our economic and judicial system fully warrants."

The War Years

By mid-1941 the Journal mirrored the momentous developments engulfing the world beyond the field of bankruptcy. Leaves of absence and retirements among referees were being announced on behalf of those who were called to military service during the months preceding America's entry into the Second World War. The attrition in association membership was to pose difficulties in respect to the continuing publication of the Journal.

In August, 1941, the Association held its annual meeting at the Statler Hotel in Boston. Uppermost in the minds of the members was H. R. 4394, a bill which would reorganize the referee system and change their tenure and method of compensation. Jacob I. Weinstein outlined the bill to those present.

In 1942, the Association convened in New Orleans, under the gavel of its president, Referee Irwin Kurtz of New York City. The Association claimed 271 members among the 378 active referees in bankruptcy. By then a considerable number of referees were reported to have entered the military service.

Just prior to the New Orleans meeting, Referee Edwin L. Covey had been appointed the first chief of the new Division of Bankruptcy of the Administrative Office of United States Courts. Thomas M. Huff became his assistant.

The New Orleans meeting was saddened by the news of the death of the Association's first president and organizer, Referee Paul H. King of Detroit, on May 17, 1942, at the age of 62.

At New Orleans it had been determined to hold the next annual meeting in Toledo, Ohio. But the 1943 meeting was cancelled, due to wartime restrictions on travel. Toledo remained the choice for the 1944 meeting, however. Meanwhile, due to the war and its attendant reduction in the number of bankruptcy filings, many judicial districts throughout the country reorganized their referee systems, generally reducing the number of positions.

The 1944 meeting in Toledo was significant in several respects. The constitution of the Association was revised. Losses in membership mandated severe restrictive measures. Suspension of publication of the Journal was seriously discussed, because of the paper shortage and the Association's financial difficulties. Gloom characterized the atmosphere of the meeting. In addition to its internal problems the Association reviewed at length the resolution taken in 1942 by the Conference of Senior Circuit Judges that it would be in the public interest to confer discretion upon courts of bankruptcy to suspend or condition discharges.

The Association was addressed by Edwin L. Covey, Chief of the Bankruptcy Division, on the work of the new Division since its inception, and by Henry P. Chandler, Director of the Administrative Office of United States Courts. The tone of their remarks evidenced the spirit of cooperation, which was to govern their relationship with the Association.

Secretary Bierce reported in the Journal that there were 344 referees throughout the country in 1945, exclusive of the territories and island possessions.*

*In the semi-annual reports to the Administrative Office, filed in conformity with General Order 26, the earnings of referees, which in many instances had reached sub-

No annual meeting was held in 1945, again due to wartime restrictions, but plans had been laid for the 1946 meeting. In 1946, the annual meeting of the Association was held at the Hotel John Marshall in Richmond, Virginia. There the Association accorded Jacob I. Weinstein of Philadelphia high honor in grateful recognition of his great accomplishments in the field of bankruptcy law.

H. R. 4394, the proposal for a salary system for referees in bankruptcy, regulating their appointments and lengthening their terms to six years, had been amended, after committee hearings, and reintroduced as H. R. 7814 in the 77th Congress, and again in the 78th Congress, as H. R. 1107. In January, 1945, Congressman Sam Hobbs of Alabama, Chairman of the House Judiciary Committee, reintroduced the bill in the 79th Congress as H. R. 33. On May 28, 1945, another revision of the bill became H. R. 3338. Later, the Referees' Salary Bill was finally reintroduced, this time as H. R. 4160.

Following years of debate and delay, the Referees' Salary Act became law on June 28, 1946 (P. L. 464, 79th Cong.), marking the end of the fee system in bankruptcy. Another benchmark had been established in the continuing process of improving the administration of justice in the bankruptcy courts. Its passage was followed by an extensive survey of each judicial district to determine the number of positions needed.

On April 21, 1947, a special session of the Conference of Senior Circuit Judges took formal action approving the creation of new referee positions under the Referees' Salary Act of 1946, as well as the salary, office locations, places of holding court and the territory of each referee. Simultaneously, it approved a schedule of fees and assessments to be charged in asset, arrangement and wage earner cases.

By then two new assistants in the Division of Bankruptcy, Royal E. Jackson and Ernest Geeslin, had been appointed. They were to remain with the Bankruptcy Division for many years.

It took a while for the new order to become established. Marked changes began taking place in referee personnel as the district judges made their appointments of salaried referees. As of July, 1947, approximately 200 referees had not been reappointed, due to reductions in the number authorized. Consequently, there passed from the scene

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stantial proportions during the depression years, particularly prior to the advent of the reorganization and arrangement chapters of the Act, were now very much reduced. One hundred fifty-eight (158) referees reported earnings for the fiscal year of less than $400; 196 had earnings of less than $600; 227 less than $1,000; and only 97 had earnings over $1,000.

many men of long and faithful service in bankruptcy administration, some whose service dated back as far as 1902. With such a drastic reduction in its membership the new system was seen by many as having the potential for destroying the Association, as well as the Journal.

In 1947 the Association met at the Breakers Hotel at Cedar Point, a resort near Sandusky, Ohio. Fifty-seven members attended, of the 156 referees then in office. Henry P. Chandler, the Director of the Administrative Office, was in attendance, as were Assistant Director Elmore Whitehurst and Bankruptcy Division Chief Edwin L. Covey. Their part on the program was styled "A Day with the Administrative Office," a feature of the program which was to be repeated annually for some years thereafter.

The Arlington Hotel, at Hot Springs, Arkansas, was the scene of the 1948 annual meeting, over which Referee Wallace Streeter of Chicago presided. Only twenty-four referees holding office under the new salary system had not yet become members of the Association.

The Association took note of the fact that the American Bankruptcy Reports, a reporter series which had come into existence in 1898, had ceased publication during the war years.* The absence of a publication to report bankruptcy court decisions was deemed a major handicap and discussions were held in an endeavor to find a solution. The only other service then available was a loose leaf service of Commerce Clearing House, entitled the Bankruptcy Law Reports, reporting in digest form.

The first to retire under the new order, pursuant to Section 40d(1) of the Act, was Referee George A. Marston, the senior referee in Detroit, who had been a contemporary of the Conference founder, Paul H. King. Referee Marston had co-hosted the organizational meeting and subsequent meetings of the Association held in Detroit. He was succeeded by Referee Archie Katcher.

July 1, 1948 marked the 50th Anniversary of the Bankruptcy Act of 1898 and the occasion was observed by the Association at Hot Springs. Those in attendance at Hot Springs took note of the failure of Congress to extend the Frazier-Lemke Act, providing a moratorium for farm debt, on or before March 31, 1947, although it had been extended several times before.

In October, 1949, when the Association met at the Ben Franklin

*During the fiscal year ending June 30, 1947, only 13,170 bankruptcy cases were filed throughout the country; 10,354 liquidation bankruptcies and 2,354 wage earner cases.

Hotel in Philadelphia, Herbert M. Bierce, the organization's one and only secretary since its founding in 1926, made an urgent plea to be relieved as Secretary and Editor of the Journal. There could be no doubt in the minds of those familiar with the affairs of the organization that Herbert M. Bierce was a central figure in coordinating and chronicling the activities of the Association ever since its inception twenty-three years before. Under his editorship, the Journal of the National Association of Referees in Bankruptcy had become the leading bankruptcy periodical. It featured valuable discussions on bankruptcy law and practice, as well as information about the activities of the Association, which constituted almost the only available source material with which to thread together the early history of the Association and of parallel developments in bankruptcy administration.

The membership voted to separate the editorship of the Journal from the offices of secretary-treasurer. The second Editor of the Journal was Referee Archie H. Cohen of Chicago, an experienced referee in bankruptcy who served the Journal ably until his death on May 21, 1958.

The 1949 Philadelphia meeting was outstanding in several respects. It was well attended and the program included several prominent persons leading discussions on many challenging subjects. The principal address was delivered by Associate Justice Harold H. Burton of the United States Supreme Court.

The membership was informed of the status of H. R. 3111, a noncontroversial bill comprised of fifty printed pages of clarifying and perfecting amendments recommended as necessary and desirable by the National Bankruptcy Conference in the light of experience under the Chandler Act of 1938.

The 1950 conference at the Mayo Hotel in Tulsa, Oklahoma installed the new Secretary-Treasurer, Referee Robert J. Clendenin of Peoria, Illinois, who reported that there were 161 referee positions filled and three unfilled throughout the country.

Silver Anniversary

The Silver Anniversary of the Association was observed in Detroit in 1951. Three founding members in attendance at the organizational meeting in 1926 were present: Watson B. Adair of Pittsburgh, James Persons of Buffalo and John Thornburg of Knoxville, Tennessee. Her-

bert M. Bierce wrote a detailed history of the organization* for the occasion and was elected President of the Association.

The first twenty-five years had been meaningful for those involved in bankruptcy administration, but the next quarter century would witness a remarkable enhancement of the role and status of the bankruptcy court. Yet the decade of the 1950's and the early 1960's were comparatively uneventful. The Association was not yet poised nor the occasion ripe for major initiatives in the area of legislative revision.

The next year the Association held its annual meeting in Birmingham, Alabama, at the Tutweiler Hotel. The Journal began to publish a few digests of the decisions of referees. The 1952 Amendments repaired the Chandler Act for further service.

In 1953, the Association met at the Edgewater Gulf Hotel in Gulfport, Mississippi; in 1954 at the Phister Hotel in Milwaukee;[10] in 1955, it convened at the Willard Hotel in Washington, D.C., with Associate Supreme Court Justice John M. Harlan as principal speaker. During the next few years, the Association met in Miami, Indianapolis and Seattle.

Referee Elmore Whitehurst of Dallas, Texas, former Deputy Director of the Administrative Office of United States Courts, became the third Editor of the Journal in 1958, succeeding the late Archie H. Cohen, who had served the Journal so well. Under Elmore Whitehurst the Journal was to continue its important role, informing its readership of current developments, decisions and trends in bankruptcy law and administration, as well as of internal organizational matters.

Former Administrative Office Director Henry P. Chandler returned to address the Association at its 1959 annual meeting in Boston. There were twenty-two pieces of bankruptcy legislation pending in Congress at the time. Pressures were building for change in the Act; its ferment would engage the attention of the Association and its members for years to come.

By 1960 when the Association met in Pittsburgh, the wearing of judicial robes by referees, now a standard practice, had begun to take hold. One referee had even hazarded (and won) the disfavor of the Judicial Conference by presuming to conduct a jury trial in a contested involuntary proceeding, on no more substantial ground than

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*See 25 Ref. J. 67 (1951).

[10]In 1954, Senator Langer, Chairman of the Senate Judiciary Committee, introduced four bills providing for the administration of bankruptcy cases by salaried receivers, trustees and attorneys, and for greater involvement by United States Attorneys.

that the statutory definition of "court,"* as used in Section 19 of the Act,* includes both district judge and referee.

At the Dallas meeting, held in 1961, Robert J. Clendenin stepped down as secretary-treasurer and was succeeded by Elmore Whitehurst.

The Sherman Hotel in Chicago was the scene of the 1962 meeting, which was addressed by Chief Justice Warren. The educational program included a seminar on the Uniform Commercial Code, then being adopted by more and more states, conducted by Professor Frank R. Kennedy of the University of Michigan Law School and Peter Coogan, Esquire of the Boston Bar.

In 1963, the Association met in Atlanta, and in 1964 at the Kona Kai Club in San Diego.

It was in 1964 that the program of National Seminars for Referees in Bankruptcy was launched under the leadership of Referee Asa S. Herzog of New York City. Royal E. Jackson became Chief of the Bankruptcy Division of the Administrative Office of United States Courts in 1964, succeeding Edwin L. Covey.

National Conference of Referees in Bankruptcy

The Association revised its by laws at its thirty-ninth annual meeting in 1965 at Detroit. Henceforth, the organization would be known as the National Conference of Referees in Bankruptcy. Royal E. Jackson reviewed forty years of progress in a comprehensive survey of the activities of the organization. The Conference was made aware that the Brookings Institution of Washington, D.C. had undertaken a study of bankruptcy administration.

New Orleans

A record number of ninety-seven referees in bankruptcy attended the fortieth anniversary meeting held at the Roosevelt Hotel in New Orleans in 1966. That was the year in which Congress enacted legislation limiting the priority and non-dischargeability of taxes. Another measure which became law that year resolved the circuity of liens

*Bankruptcy Act § 1(9), 11 U.S.C. § 1(9).
*Bankruptcy Act § 19, 11 U.S.C. § 42.

problem encountered in *Quaker City Uniform Co.* Yet another bit of legislative tinkering was done that year with the amendment of Section 70(c), providing that the trustee in bankruptcy became possessed of the powers of a judgment creditor as of the date of bankruptcy. The more important and far-reaching Dischargeability Bill was languishing in committee.

Washington, D.C.

The 1967 annual meeting of the Conference at the Washington Hilton Hotel in Washington, D.C. marked the beginning of the modern era for the Conference. Referee Asa S. Herzog presided over a Conference which would assert itself increasingly more effectively in every sphere bearing upon bankruptcy law and administration. Elmore Whitehurst relinquished the offices of secretary and treasurer, but remained on as Editor of the Journal. He was succeeded by Referee Harold Bobier of Flint, Michigan.

It was reported that the Rules Advisory Committee of the Supreme Court was hard at work on new bankruptcy rules, but was not expected to complete its work on rules governing liquidation proceedings for at least another year.

Royal Jackson reported to the membership of the Conference that the annual national seminar program for referees, under the chairmanship of Referee Herzog, was "the most progressive development since the salary system was established." Regional seminar programs were also getting under way in many parts of the country. Congress created the Federal Judicial Center in 1967, a new agency to conduct research and generate educational programs for the judiciary. The seminar programs later were placed under the supervision of the Federal Judicial Center.

The Washington meeting was saddened by news of the passing, on July 1, 1967, of Referee Carl D. Friebolin of Cleveland, one of its ablest members.

Colorado Springs

In 1968, the annual meeting of the Conference, presided over by Referee Russell Hiller of Reading, Pennsylvania, was held at the famous Broadmoor Hotel in Colorado Springs, Colorado. Referee Har-

old Bobier stepped down as Secretary of the Conference to devote more time to his increasingly demanding duties as Chairman of the Legislative Committee. Referee Conrad K. Cyr of Bangor, Maine succeeded him as Secretary.

A Salary Commission had been established under the authority of the Postal Revenue and Federal Salary Act of 1967 to review the compensation paid to justices, members of Congress, judges and referees in bankruptcy.[11] During the same year, Congress enacted the Consumer Credit Protection Act, by which, among other things, it preempted state law by restricting the garnishment of wages. The impact of that limitation markedly slowed the mounting volume of consumer bankruptcy filings which had risen steadily since the end of World War II.[12]

San Juan, Puerto Rico

The Conference met outside the continental limits of the United States for the first time in 1969. Referee Daniel R. Cowans of San Jose, California presided over the Conference in San Juan, Puerto Rico.

Elmore Whitehurst submitted his resignation as Editor of the Journal. Conrad K. Cyr of Bangor, Maine succeeded him as the fourth Editor of the Journal.

Ottawa, Canada

The 1970 meeting of the Conference was again held outside the continental limits of the United States, meeting that year in joint session with the Canadian bankruptcy bar at the Chateau Laurier in Ottawa, Canada. Referee Clive W. Bare of Knoxville, Tennessee was President of the Conference that year.

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[11]It was due to the alertness of the leadership of the Conference that referees in bankruptcy were included under this legislation, at the last minute. In January, 1969, President Lyndon B. Johnson, acting on the recommendation of the Salary Commission, proposed that the salaries of referees in bankruptcy be set at $36,000. Congress adopted the proposal, but the Judicial Conference of the United States refused to allow the maximum to be paid. The Conference finally succeeded in securing the maximum for all bankruptcy judges with the enactment of the amendment to Bankruptcy Act § 40a, increasing the salary to $37,800 and eliminating the role of the Judicial Conference in the fixing of the salaries of bankruptcy judges, effective February 27, 1976.

[12]Until fiscal 1975, fiscal 1967 saw the highest volume of cases filed in the bankruptcy courts – 208,329.

On October 19th, 1970 the President signed into law Public Law 91-467, the so-called "Dischargeability Bill," which had been pending for years* and had been strongly supported by the members of the Conference.

That same year, Congress approved Senate Joint Resolution 100, establishing the Commission on the Bankruptcy Laws of the United States to study the entire system of bankruptcy. Change was once again in the wind!

Seattle

In 1971, the Conference met at the Washington-Plaza Hotel in Seattle, Washington under the leadership of Referee William J. O'Neill of Cleveland. Royal S. Jackson, recently retired Chief of the Division of Bankruptcy, was awarded honorary Conference membership.

In January, the format and title of the Journal were changed on the recommendation of its new editor, with the approval of the Board of Directors. Thenceforth, the Journal would be entitled "The American Bankruptcy Law Journal" and the dissemination of Conference news would no longer be a function of the Journal, but of a Conference Newsletter.* Instead, the Journal would be devoted primarily to the publication of original articles on bankruptcy and commercial law, along the lines of the traditional law review.

By 1971 the signs of change had become obvious and unmistakable; these would engage the interest and attention of the Conference for at least a decade. In preparation for the challenge, Conference membership and Journal subscriptions were increased substantially, indispensable steps in enabling effective Conference action in respect to a host of vital issues facing it and its members.

There was the need to accommodate the substantial jurisdictional expansion conferred upon the court by the recent dischargeability legislation, for which members of the Conference had labored diligently for years. There was the need to consider ways and means to assure

*Among the principal proponents of the Dischargeability Bill were then Referee Daniel R. Cowans of San Jose, California and Harvard Law Professor Vern Countryman.

*The first Conference Newsletter Editor was Judge A. David Kahn of Atlanta, Georgia, whose three issues of the "Silver Whistle" have become collectors' items, due primarily to their author's 'unjudicial' prose. Judge Kahn was succeeded by Judge Edward Davis of Phoenix, Arizona; Judge Ruth Kinnard of Nashville, Tennessee; and by Judge Robert Hughes of Oakland, California, who has completely revamped the format of the Newsletter into a most attractive and informative publication.

that the valuable contribution of the Conference be brought to bear effectively upon the work of the Commission on the Bankruptcy Laws of the United States. Soon the Supreme Court Advisory Committee on Bankruptcy Rules was expected to publish its first draft of the new Bankruptcy and Chapter XIII rules for study and comment by the bench and bar. New Federal Rules of Evidence, eventually to be made applicable in bankruptcy proceedings, were in the developmental stage.

University of Michigan Law School Professor Frank R. Kennedy, who had been named Staff Director for the Commission on the Bankruptcy Laws of the United States, formally invited the Conference and its members to present their views to the Commission:

> "The members of the Commission and of its staff are fully aware that no group of persons in the world are so well able to inform us as to the problems that have arisen under the present system of bankruptcy administration and to make recommendations for needed changes."

The step was more than a gesture, rectifying as much as possible the earlier successful efforts of the Judicial Conference to exclude referees in bankruptcy from Commission membership. Setting aside altogether the insensitive and shortsighted treatment accorded them, referees did everything in their power to assist the Commission. Unfortunately, they had no voice in Commission deliberations, a shortcoming of which the final Commission product left no doubt.

Boston

The 1972 annual meeting was held in Boston at the Sheraton-Boston Hotel under Referee Saul Seidman of Hartford, Connecticut. Among the featured speakers were Walter Ray Phillips, Associate Director of the Commission, and three leading bankruptcy law professors, Charles Seligson and Lawrence P. King, both of New York University Law School, and Vern Countryman of Harvard Law School.

In anticipation that the proposed new Bankruptcy Rules would soon become effective, the Conference established rules committees to recommend last minute changes and to instruct its membership.

The Conference Board of Directors created a new and vitally important special Committee, which was to be known as the 'Study Committee,' then the 'Liaison Committee' and, finally, the 'Legislative Committee.' It included at various times, Clive W. Bare, John T.

Copenhaver, Jr., Daniel R. Cowans, Conrad K. Cyr, W. Homer Drake, Jr., Asa S. Herzog, Joe Lee, Arthur L. Moller, and Robert B. Morton. These men were to bear the brunt of the burdens and responsibility for studying, developing, coordinating and implementing Conference policy in such crucial areas as the promulgation of new bankruptcy rules, correction of the inequities in the salary and tenure of bankruptcy judges, proposals for structural, procedural and substantive reform through the Commission on the Bankruptcy Laws of the United States, the drafting and support of the Judges' bill, and the supervision of Conference liaison with a multitude of professional organizations concerned with bankruptcy legislation.

Atlanta

The 1973 meeting was held in Atlanta at the Hyatt Regency Hotel, with Judge W. Homer Drake, Jr. of Atlanta, presiding. A welcome was extended to the Conference by Georgia Governor Jimmy Carter. Among the speakers was Congressman Don Edwards of California, Chairman of the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, with jurisdiction over the proposed bankruptcy reform legislation. Others on the program included the Honorable Herman E. Talmadge, United States Senator from Georgia.

National Conference of Bankruptcy Judges

The Conference amended its By-Laws and Articles of Incorporation, and changed its name to "National Conference of Bankruptcy Judges," to conform with the change of title effective October 1, 1973 upon the adoption of the new Bankruptcy Rules.

Shortly before the Atlanta meeting, the Commission filed its report and the text of a new bankruptcy act entitled "Proposed Bankruptcy Act of 1973." Professor Frank R. Kennedy outlined its major features.

The Conference Liaison Committee, being of the unanimous view that many of the Commission's major proposals, particularly the structural and consumer bankruptcy procedural proposals, were unfeasible and improvident and could be improved upon, immediately set to work on the study and drafting of an entirely new bill — the Judges' bill —

incorporating in statutory language important provisions more in keeping with the actual needs of the bankruptcy system so familiar to bankruptcy judges. That eleventh hour undertaking represented a monumental task which was to consume more than one year and every ounce of energy of the Legislative Committee membership, which then consisted of Judges John T. Copenhaver, Jr., Conrad K. Cyr, W. Homer Drake, Jr., Joe Lee, Arthur L. Moller and Robert B. Morton. Judge Joe Lee and Conference Counsel Murray Drabkin later assumed the primary responsibility for drafting the Judges' bill, with the able assistance of all other Committee colleagues. The final product, the complete text of a new bankruptcy act, not only surprised, it astounded Commission bill proponents. The Judges' bill was not only a fine product which eliminated much that was impractical, unnecessary and unworkable in the Commission bill, but it also achieved for bankruptcy judges what had been unfairly denied them by their exclusion from Commission membership – an equal voice in the deliberative process before the Committees of Congress.

During 1973 a great deal was accomplished by the Conference under the able leadership of Judge W. Homer Drake, Jr. of Atlanta by way of prompting the promulgation of the new Bankruptcy Rules by the Supreme Court. On the eve of the May 1, 1973 deadline by which the Court was required to transmit the Rules to the Congress or face a minimum further one-year delay in their adoption, Judge Drake and Judge Conrad K. Cyr, together with Conference counsel Murray Drabkin, Esquire, made a final effort to free the Bankruptcy Rules from the rules logjam at the Supreme Court. The key to their success was the assurance they obtained from Senator Sam Ervin, Chairman of the Senate Watergate Investigative Committee and one of the most respected members of the United States Senate, on the eve of the public disclosure of the Watergate scandal, that the Bankruptcy Rules would not encounter the resistance that Senator Ervin had been instrumental in bringing about in respect to the Federal Rules of Evidence because of his concern that fundamental legal rights were being affected by the rulemaking process.

The legislative process had become of increasing concern to the Conference during this period, particularly once its leadership had witnessed unmistakable evidence that the legitimate needs and concerns of the bankruptcy courts were not receiving adequate legislative attention.

Murray Drabkin, Esquire, of the Washington, D.C. and New York

bars and former counsel to the House Judiciary Committee, became Conference counsel on May 10, 1969. The wise counsel since provided by Mr. Drabkin to the Conference was a major factor in its later accomplishments and remains indispensable in the continuing Conference effort to strengthen and improve the bankruptcy courts and the important laws they administer.

San Francisco

In 1974, the Conference convened in San Francisco, at the St. Francis Hotel, with Judge Joe Lee of Lexington, Kentucky as its presiding officer. The program included a panel discussion by staff members of the subcommittees of the House and Senate Judiciary Committees concerned with the pending bankruptcy reform legislation. The program was also devoted to a discussion of the recently adopted Bankruptcy Rules, under the guidance of George Treister, Esquire, an eminent member of the Los Angeles bar, and Bankruptcy Judge Asa S. Herzog of New York City, both veterans of the Supreme Court Advisory Committee on Bankruptcy Rules. The Commission and Judges' bills were discussed at length as part of the educational program.

Houston - Mexico City

In 1975, the Conference, under the leadership of Judge Robert B. Morton of Wichita, Kansas, planned a unique annual meeting program. It convened in Houston, Texas, at the Hyatt Regency Hotel, for two days, after which the meeting reconvened in Mexico City at the Camino Real Hotel, for the remaining two days.

Much had transpired during 1975. The tremendous efforts of the Conference leadership in promoting salary justice for bankruptcy judges took a new direction and developed even greater momentum. During 1975, at meetings with the chairmen and staffs of the appropriate House and Senate subcommittees, representatives of the Conference submitted a formal presentation prepared by Bankruptcy Judge Conrad K. Cyr of Bangor, Maine, which thoroughly documented and discussed the intolerable salary treatment being accorded bankruptcy judges, contrary to the spirit and letter of Section 40 of the Act. Shortly thereafter, bills were introduced in both the House and Senate amending Section 40 of the Act to restore to Congress the exclusive authority to fix the salaries of bankruptcy judges. Following

more than a year of intense effort by the Conference Legislative Committee, inspired and led by Conference President Robert B. Morton, the proposed amendment of Section 40, eliminating the role of the Judicial Conference in fixing the salaries of bankruptcy judges, became law.

In the 94th Congress the Commission bill to revise the entire bankruptcy system became H. R. 31 in the House and S. 236 in the Senate. The Judges' bill, so-called, became H. R. 32 and S. 235.

Atlanta Accords

In late 1974, plans were made for members of the Committee on Legislation of the National Conference of Bankruptcy Judges to meet with representatives of the National Bankruptcy Conference for the purpose of attempting to resolve some of the differences between the Commission bill, championed for the most part by the leadership of the NBC, and the Judges' bill. Major differences of opinion divided the two groups concerning more than twenty aspects of the two bankruptcy bills. Unfortunately, advance agreement was not reached as to an agenda or the precise authority of the representatives in attendance to bind their respective groups. Representatives of the two groups met in Atlanta on February 15-16, 1975 and adopted the so-called "Atlanta accords." Five of the twenty-four resolutions approved at the Atlanta meeting were later disapproved by the Board of Governors of the National Conference of Bankruptcy Judges and certain others were rejected by the membership of the National Bankruptcy Conference. Nevertheless, there was broad agreement on a number of items and the areas of difference were narrowed considerably.

Washington Accords

The meetings between the representatives of the Conference and the National Bankruptcy Conference were resumed in 1976 at the suggestion of Congressman Don Edwards (D. Calif.), Chairman of the Subcommittee on Civil & Constitutional Rights of the House Judiciary Committee. The two groups met in Washington, D.C.[13] on

[13]The Conference was represented by its President, John T. Copenhaver, Jr.; First Vice President Conrad K. Cyr; past Presidents Joe Lee and Robert B. Morton; former Bankruptcy Judge Arthur Moller; and Conference Counsel Murray Drabkin. The National Bankruptcy Conference was represented by its Chairman, Charles Horsky, Esquire; its Vice

May 22, 1976 and agreed on basic principles for a single business reorganization chapter. At a subsequent meeting on June 12, 1976, a consensus was reached on all remaining areas of major difference between the two bills. The "Washington accords" were promptly transmitted to the appropriate subcommittees of the House and Senate where they were welcomed as a significant contribution to the advancement of the prospects for prompt passage of comprehensive bankruptcy legislation.

There continue to be expressions on both sides of the Hill that a draft bill may emerge from committee prior to the close of the current Congress. A substantial volume of testimony was offered by Conference representatives in numerous invited appearances before the appropriate subcommittees of both the House and Senate.

Every indication points to the prospect that legislation may emerge during the 95th Congress, overhauling the entire bankruptcy system of the United States. Since 1967, when the Conference proposed and supported the creation of a study commission, through the succeeding decade when its interest and commitment to the revisionary effort never flagged, the contributions of the National Conference of Bankruptcy Judges have been matched by no other group. Those contributions will prove to have been indispensable to the revisionary effort and to the final legislative product it fostered.

Golden Anniversary

In 1976, the Fiftieth Annual Meeting of the Conference is being held in Washington, D.C., at the Mayflower Hotel with Judge John T. Copenhaver, Jr. presiding. The Conference and its members are keenly aware that they are on the threshold of a new order of things in bankruptcy administration in this country. The change, while perhaps not abrupt, will require many fundamental adjustments by judges and others involved in bankruptcy administration. Whatever the impact, we can be assured that the bankruptcy court and the judges who preside over it will finally be invested with the jurisdiction and status long recognized as essential to the effective performance of their important functions in the administration of justice.

Chairman, George Treister, Esquire and Professor Vern Countryman, as well as Professors Lawrence P. King and Frank R. Kennedy, and Ronald Trost, Esquire.

NATIONAL CONFERENCE OF BANKRUPTCY JUDGES

			Meeting Site
	Organizational Meeting, July 9, 10, 1926		Detroit, Michigan
Paul H. King	Detroit, Michigan	(1926-27)	Buffalo, New York
Watson B. Adair	Pittsburgh, Pennsylvania	(1927-28)	Chicago, Illinois
James W. Persons	Buffalo, New York	(1928-29)	Memphis, Tennessee
Charles T. Greve	Cincinnati, Ohio	(1929-30)	Chicago, Illinois
Charles H. King	Memphis, Tennessee	(1930-31)	Atlantic City, New Jersey
Carl D. Friebolin	Cleveland, Ohio	(1931-32)	Washington, D.C.
George R. Beach	Jersey City, New Jersey	(1932-33)	Mackinac Island, Michigan
Fred S. Hudson	Kansas City, Missouri	(1933-34)	Cincinnati, Ohio
L. Earl Curry	Miami, Florida	(1934-35)	Washington, D.C.
Peter B. Olney	Old Saybrook, Connecticut	(1935-36)	Detroit, Michigan
John M. Thornburgh	Knoxville, Tennessee	(1936-37)	Kansas City, Missouri
John Keogh	South Norwalk, Connecticut	(1937-38)	New York, New York
William Jerome Kuertz	Cincinnati, Ohio	(1938-39)	Los Angeles, California
Samuel W. McNabb	Los Angeles, California	(1939-40)	Chicago, Illinois
B. Loring Young	Boston, Massachusetts	(1940-41)	Boston, Massachusetts
Edwin J. Covey	Washington, D.C.	(1941-42)	New Orleans, Louisiana
Irwin Kurtz	New York, New York	(1942-44)	*Toledo, Ohio (1944)
Estes Snedecor	Portland, Oregon	(1944-46)	*Richmond, Virginia (1946)
Edmond E. Talbot	New Orleans, Louisiana	(1946-47)	Sandusky, Ohio
Wallace Streeter	Chicago, Illinois	(1947-48)	Hot Springs, Arkansas
William B. Woods	Cleveland, Ohio	(1948-49)	Philadelphia, Pennsylvania
L. Leroy Deininger	Philadelphia, Pennsylvania	(1949-50)	Tulsa, Oklahoma

*No annual meeting held in 1943, 1945 due to wartime restrictions.

Maurice F. Ellison	Tulsa, Oklahoma	(1950-51)	Detroit, Michigan
Herbert M. Bierce	Winona, Minnesota	(1951-52)	Birmingham, Alabama
Stephen B. Coleman	Birmingham, Alabama	(1952-53)	Edgewater Park, Mississippi
Walter I. McKenzie	Detroit, Michigan	(1953-54)	Milwaukee, Wisconsin
Edward R. Sloan	Topeka, Kansas	(1954-55)	Washington, D.C.
Charles H. Weelans	Trenton, New Jersey	(1955-56)	Miami, Florida
Lee Cazort	Little Rock, Arkansas	(1956-57)	Indianapolis, Indiana
Frank C. Kniffin	Toledo, Ohio	(1957-58)	Seattle, Washington
Van C. Griffin	Seattle, Washington	(1958-59)	Boston, Massachusetts
Reginald W. McDuffee	Savannah, Georgia	(1959-60)	Pittsburgh, Pennsylvania
Joe D. Huffstutler	Tyler, Texas	(1960-61)	Dallas, Texas
Theodore W. Bates	Louisville, Kentucky	(1961-62)	Chicago, Illinois
Herbert Loewenthal	New York, New York	(1962-63)	Atlanta, Georgia
Robert M. Ervin	Tallahassee, Florida	(1963-64)	San Diego, California
Stephen R. Chummers	Chicago, Illinois	(1964-65)	Detroit, Michigan
James E. McCarty	Milwaukee, Wisconsin	(1965-66)	New Orleans, Louisiana
Asa S. Herzog	New York, New York	(1966-67)	Washington, D.C.
Russell L. Hiller	Reading, Pennsylvania	(1967-68)	Colorado Springs, Colorado
Daniel R. Cowans	San Jose, California	(1968-69)	San Juan, Puerto Rico
Clive W. Bare	Knoxville, Tennessee	(1969-70)	Ottawa, Canada
William J. O'Neill	Cleveland, Ohio	(1970-71)	Seattle, Washington
Saul Seidman	Hartford, Connecticut	(1971-72)	Boston, Massachusetts
W. Homer Drake	Atlanta, Georgia	(1972-73)	Atlanta, Georgia
Joe Lee	Lexington, Kentucky	(1973-74)	San Francisco, California
Robert B. Morton	Wichita, Kansas	(1974-75)	Houston, Texas/Mexico City
John T. Copenhaver, Jr.	Charleston, West Virginia	(1975-76)	Washington, D.C.
Conrad K. Cyr	Bangor, Maine	(1976-77)	Quebec City, Canada