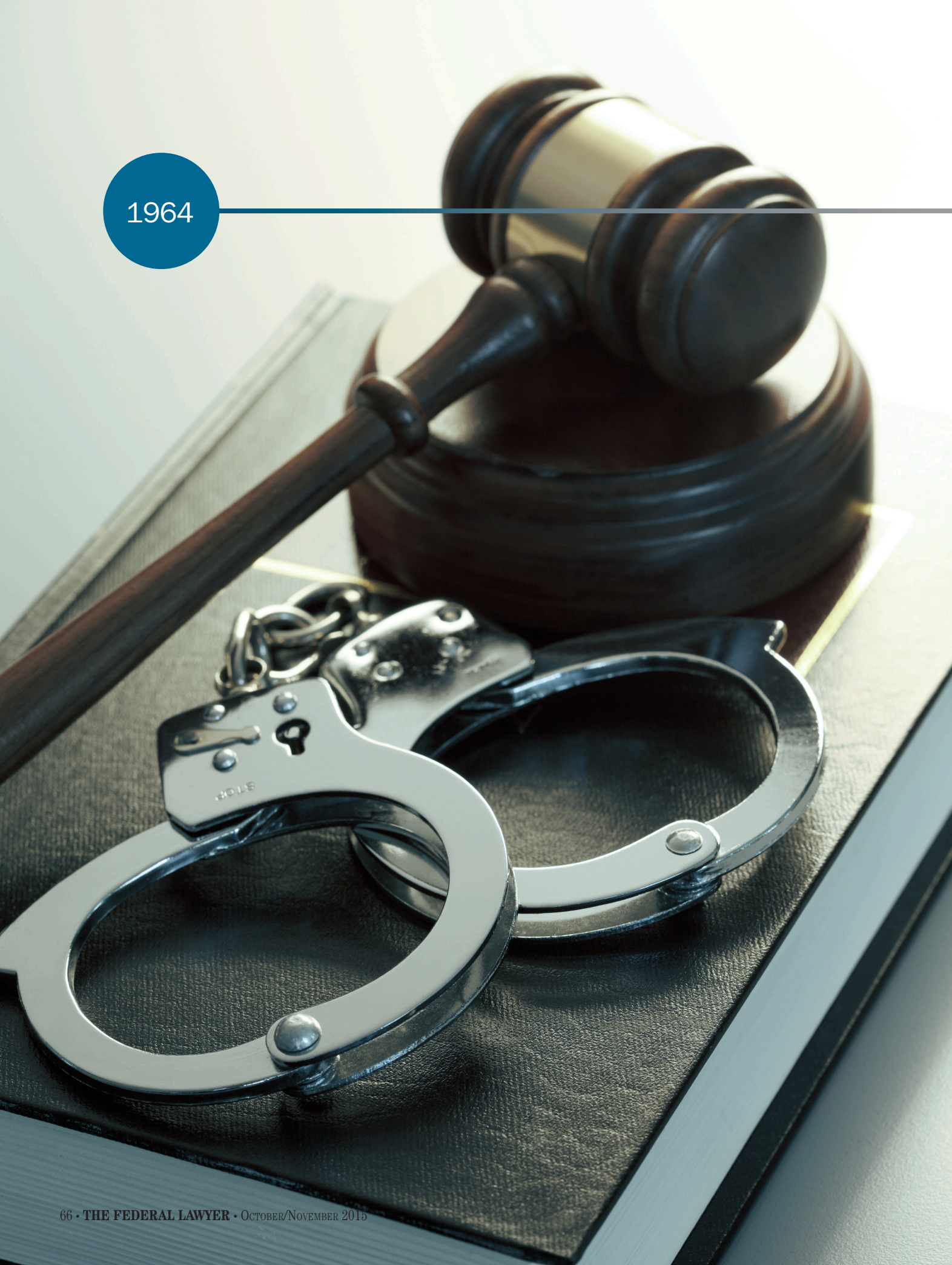
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A History of the Criminal Justice Act of 1964

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Capt. Thomas Preston, from his jail cell off Queen Street in the Boston Gaol, believed he that had little prospect other than the death penalty, "loss of life in a very ignominious manner."[1] Boston in 1770 was a time of great stress, both internally and externally. Relations between its citizens and forces manning the British garrison were extremely tense. Conflict between the Colonies and the ruling government in London had brought matters to the precipice of armed conflict. Stormy debates on the rights of citizens and the nature of freedom crackled. An atmosphere of mistrust and suspicion prevailed.

During these acute tensions, a group of British soldiers, with Capt. Preston as their commanding officer, fired into a crowd of angry Bostonians, killing five. The soldiers were set upon, and mob anger threatened to overbear the rule of law.

A Boston lawyer was called upon to risk career and reputation to defend Preston and the British soldiers in an American courtroom before American jurors. This lawyer was no British loyalist seeking to curry favor with the Crown, but a future Founding Father, signer of the Declaration of Independence, and second president of the United States. His name was John Adams.

Adams devoted a year of his life to this unpopular cause. At stake was a principle that lies at the foundation of law in a free society—that justice for all is secure only when every accused, no matter how unpopular the cause, how low his station, or how heinous his charge, receives a fair and impartial trial: fairness guarded with the representation of able counsel.

With Adams' assistance, and the "stubborn" facts of the cases (among them that no evidence of an order to fire was proved), Capt. Preston and six of the soldiers were acquitted outright. Two of the soldiers who had fired directly into the crowd, charged with capital murder, received the lesser verdict of manslaughter. For this work, Adams was paid 18 guineas by the soldiers, barely enough to buy a pair of shoes.[2]

Many observers, while acknowledging the legal setback, felt the vindication of the American judicial system a worthy compensation. Samuel Cooper wrote to Benjamin Franklin that the trials should, "wipe off the imputation of our being so violent and bloodthirsty a people, as not to permit law and justice to take place on the side of unpopular men."[3]

In England, the rule had been that a defendant was only afforded

the right to counsel when charged with a misdemeanor. No right to representation was afforded in cases of treason or felony. The judge, apologists reasoned, had the duty to see that proceedings were regular, that witnesses were examined, that the defendant was advised of her rights, and that she was not unjustly convicted. Sir Edward Coke confidently recorded in 1669 that when a serious crime was charged, "after the plea of not guilty, the petitioner can have no counsel assigned to him … nor defend him" as "the testimonies and the proofs of the offence ought to be so clear and manifest, as there can be no defence of it."[4]

However, William Blackstone criticized this optimistic conceit, labeling it "not at all of a piece with the rest of the humane treatment of prisoners by the English law. For upon what face of reason can that assistance be denied to save the life of a man, which yet is allowed him in prosecutions for every petty trespass?"[5]

In contrast to English common-law restrictions, the right to counsel in any criminal case has long been the American tradition. At least 12 of the 13 original Colonies contained such guarantees, a right that continued through the post-Revolutionary period. The Judiciary Act of 1789 provided that "in all courts of the United States, the parties may plead and manage their own causes personally or by assistance of such counsel or attorneys at law as by the rules of the said courts respectively shall be permitted to manage and conduct causes therein."[6] In 1790, the federal Crimes Act guaranteed that

> [e]very person indicted of treason or other capitol crime, shall be allowed to make his full defense by counsel learned in the law; and the court before which he is tried, or some judge thereof, shall immediately, upon his request assign him such counsel not exceeding two, as he may desire, and they shall have access to him at all reasonable hours.[7]

The right to counsel in federal criminal cases became a constitutional guarantee with the ratification of the Bill of Rights in 1791. The Sixth Amendment provides that "in all criminal prosecutions, the accused shall enjoy the right … to have the assistance of counsel for his defense."

However, the Sixth Amendment's phrasing begged a crucial question. What if a defendant lacked sufficient funds to hire counsel? For more than 100 years, the answer was: too bad.

During the evolution of the right to counsel, the adversarial process was frequently subject to failure where one side was unable to present its case effectively, either as to the law or in regard to the facts, during both the pretrial and trial stages. It was not until 1932 that the U.S. Supreme Court ruled in *Powell v. Alabama*[8] that the right to counsel was of such a fundamental nature that its denial by a state, under certain aggravating circumstances, constituted a violation of the 14th Amendment. *Powell* did not hold that the Sixth Amendment applied in all state proceedings, but rather that due process required the assistance of counsel "at least in cases like the present." To deny poor, illiterate defendants facing the death penalty legal representation "would be little short of judicial murder."[9]

In July 1939, Virgil Cooke was four years into an 11-year federal sentence. From his cell in the U.S. penitentiary at McNeil Island, Washington, he penned a petition for relief on grounds that he had been denied the assistance of a lawyer in violation of the Sixth Amendment. On March 5, 1935, Cooke had been arraigned, pleaded guilty, and was sentenced. He had not requested counsel, and the court did not advise him of the right. Cooke's hopes for relief were seemingly well founded. The Supreme Court had recently held in *Johnson v. Zerbst*[10] that the failure to provide counsel to an indigent defendant in federal court was a fundamental violation of the rights of an accused.

The two defendants in *Zerbst* had been arrested on charges of passing counterfeit money. They were informed of the indictment, arraigned, tried, convicted, and sentenced to four and a half years' imprisonment on the same day, all without the assistance of counsel. During their arraignment, the court asked whether they were represented by a lawyer. The two replied they were not. The court asked if they were ready for trial. Both replied they were. They did not ask the court to appoint counsel, and the court did not advise them of the right to appointed counsel.

The Supreme Court reversed their convictions. Justice Hugo Black, for the majority, emphasized that the right to counsel was so important as to be "necessary to insure fundamental human rights of life and liberty." He continued:

> The Sixth Amendment stands as a constant admonition that if the constitutional safeguards it provides be lost, justice will not "still be done." It embodies a realistic recognition of the obvious truth that the average defendant does not have the professional legal skill to protect himself when brought before a tribunal with power to take his life or liberty, wherein the prosecution is presented by experienced and learned counsel. That which is simple, orderly and necessary to the lawyer, to the untrained layman may appear intricate, complex and mysterious.[11]

The Sixth Amendment therefore guarantees the accused the right to the assistance of counsel. "[C]ompliance with this constitutional mandate is an essential jurisdictional prerequisite to a federal court's authority to deprive an accused of his life or liberty."

With the backing of the Supreme Court for his argument, Cooke must have felt some confidence in his chances. Not so. The district court denied his petition, stating,

> There is no requirement that counsel represent a defendant when he intends to enter a plea of guilty. The entry of such a plea indicates that he knows with what he is charged. It is tantamount to a waiver, not only of the right to counsel, but of the right to trial by a jury.[12]

The U.S. Court of Appeals for the Ninth Circuit concurred, with a touch of pique. "There is nothing in the law of the land as interpreted by the much misread *Zerbst* opinion that requires a person, free from disability, to have counsel in a United States court."[13] A practical right to counsel in the federal courts would yet be long in coming.

In 1944, U.S. district courts adopted the Federal Rules of Criminal Procedure that stated:

> If the defendant appears in court without counsel, the court shall advise him of his right to counsel and assign counsel to represent him at every stage of the proceeding unless he elects to proceed without counsel or is able to obtain counsel.[14]

Attorneys in private practice were assigned to represent indigent defendants on a case-by-case basis. Such assignment systems varied widely in their "success in spreading the workload throughout the bar and in picking a suitable lawyer for a particular case."[15] In a few urban districts, privately financed legal aid societies or voluntary defender organizations had been established to take appointments in federal court. But these were the exceptions to the ad hoc rule.

However, *Zerbst* called for effective and meaningful representation of the accused—representation that frequently required incurring expenses and employing experts and other service providers. Lacking any mechanism to provide it, assigned counsel were obliged to use their own resources. Actions by lawyers for fees were universally rejected. In *Nabb v. United States*,[16] for example, the U.S. Court of Claims held that the Sixth Amendment is a "declaration of a right in the accused, but not of any liability on the part of the United States." Instead, the lawyer, as an officer of the court, was expected to perform such representations as a professional obligation.

Much criticism was leveled at this state of affairs, which not only imposed hardships upon assigned attorneys but also resulted in inadequate representation of poor people in the federal courts. An article in the *ABA Journal* observed in 1959 that this "volunteer" system occasionally procured distinguished lawyers of talent and proficiency, but that most assignments fell to young lawyers with little experience, limited budgets, and no hope of reimbursement, even for out-of-pocket expenses.

> The result of all this is that in many instances a person who has been charged with a crime before a federal court and who cannot afford to hire competent counsel will receive a perfunctory or ineffective defense. … The result is, in effect, a double standard of justice: one for those who can afford to retain unusually competent and effective lawyers and other for those who must rely on the legal counsel provided to them by a court assignment.[17]

James V. Bennett, director of the Bureau of Prisons from 1937–64 wrote in 1949 that he

> hears almost every prisoner complain about the way he has been represented at his trial and wonders whether in fact his right to counsel is, as so frequently charged, merely an empty gesture. And it is not so much at the actual trial of important and serious cases where the right to counsel has a hollow ring as during the preliminary proceedings, the fixing of sentence and the ultimate disposition of minor offenders who are without friends or funds.[18]

Bennett also observed that during this period, the bulk of the American Bar shunned criminal practice, leaving judges with few lawyers to choose from when they did seek to appoint lawyers for poor defendants. Even more starkly, Bennett believed that many of his prisoners refused to be represented under the assigned counsel system because they feared such counsel would do them more harm than good.

Even this substandard representation was frequently absent. Statistics for 1963 showed that less than one-third of defendants in federal criminal cases had counsel assigned to them.[19]

Frustrated, some courts began to push for change within the context of individual cases. In *United States v. Germany*,[20] the court dismissed an indictment because the government refused to pay the expense of assigned counsel to interview witnesses or view the scene of the alleged offense. The court found that a failure to provide such resources deprived the defendant of the effective assistance of counsel and thus violated the Sixth Amendment. Seeming to agree, then-U.S. Attorney General Robert F. Kennedy stated in a 1963 hearing before the U.S. House of Representatives' Committee on the Judiciary: "There are going to be cases thrown out all over the country if this [case] is followed and it makes a good deal of sense, I must admit."[21]

The conclusion for many federal criminal justice administrators, participants, and observers was that a national federal defender system was needed. In September 1937, the Judicial Conference of the United States adopted, at the recommendation of Attorney General Homer Cummings, a resolution supporting the creation of a public defender system in districts where the volume of cases would justify the position. In less busy locales, the Judicial Conference recommended that counsel be appointed on an individual basis and compensated when services involved substantial time or effort.[22]

In 1941, then-Attorney General (and later Supreme Court Associate Justice) Robert H. Jackson came to a similar conclusion, stating:

> To impecunious defendants in criminal cases, as to others, the Constitution guarantees a right to counsel which the Supreme Court has broadly construed. It is frequently difficult to protect that right under the present system of assigned counsel. Yet the assistance of competent counsel for the proper protection of the defendant's rights is the concern of the Government as much as an efficient and zealous prosecution. The problem has been the subject of a thorough study in the Department of Justice. The result of this study has been the conclusion that the office of public defender should be established in the federal courts. Such an office has existed for a number of years in various states and cities where it has functioned with marked success. Its establishment in the federal system would materially further the impartial administration of justice.[23]

The Judicial Conference approved, in September 1945, the report of a study on the provision of counsel led by New York Circuit Court Judge Augustus N. Hand.[24] That report concluded that the mere payment of fees to appointed counsel would not solve the problem of indigent defense in metropolitan centers where numerous poor people were accused of crimes. For larger cities, the Conference recommended the appointment of salaried federal public defenders. Meanwhile, the Nuremberg trials of major Nazi war criminals, led by Justice Jackson as the chief U.S. prosecutor, began in November 1945 with compensated defense counsel appointed by the tribunal,[25] a protection U.S. citizens continued to lack in their own federal courts. Judicial Conference support for the federal defender program was renewed in 1946 and 1947.

In February 1947, Henry P. Chandler, director of the Administrative Office of U.S. Courts, wrote to the U.S. Senate Judiciary Committee and summarized the opinion of informed observers that the lack of compensation for appointed counsel is a "defect in the Federal judicial system" that should be corrected.[26] Bureau of Prisons Director Bennett reported in 1949 that "most wardens and prison

administrators have come to the conclusion that the public defender system gives living actuality to the right to counsel better than any other plan so far suggested."[27]

In March 1949, the Senate Judiciary Committee reported out a short bill for the provision of counsel to indigent defendants. It provided:

> That whenever a defendant shall be arraigned in any district court of the United States upon the charge that he has committed any felony or misdemeanor, and shall request the court to appoint counsel to assist his defense, and shall by his own oath, or such other proof as may be required, satisfy the court that he is unable, by reason of poverty, to procure counsel, the court shall appoint counsel, not exceeding two, for such defendant, to be paid upon order of the court by the United States marshal, $15 for service in the preparing for trial or plea and not to exceed $20 per day for each counsel, for the number of days such counsel is actually employed in court upon the trial.[28]

The committee's report, prepared in conjunction with the bill, explained:

> Many criminal cases have been tried in the United States district courts wherein the defendant has not had the financial ability to procure an attorney to defend him, and the United States district judges had, in those cases, appointed attorneys to represent the defendant at his plea and at his trial. The services of the attorneys have always been gratis so that the time and labor in preparation of such cases and for the participation in the trial has placed upon them a severe hardship. In many instances, the attorneys have been required to travel distances from their offices in order properly to defend the clients that have come to them through appointment by the judges of the United States district courts. It is felt that it is not proper to require attorneys to give their services in such cases without some compensation, particularly in view of the fact that in addition to the time and labor there is most generally some expense involved.[29]

The bill languished on the unanimous consent calendar, a significant sticking point being the creation of a federal defender system.

In a 1951 law review article, Professor David Fellman lamented:

> It is difficult to understand why such a modest bill of such obvious merit should take such a long time getting through Congress. In the interests of both indigent defendants and the legal profession, it ought to be adopted.[30]

In fact, the "long time getting through Congress" was only beginning.

On Feb. 17, 1953, Rep. Emanuel Celler (D-N.Y.) opened a hearing on the representation of indigent defendants in federal criminal cases with the observation:

> I have been offering a bill for a public defender for indigent defendants in criminal cases in the United States district courts for many, many years, and I am very happy to note that some action is now being taken on the bill. ... [I]t is like the story they tell in east India, that if you rub a bar of steel long enough, you can finally make a needle out of it, and I hope we can make a needle out of this bar of steel.

Rep. Celler further remarked that the federal public defender bill was "one of the most important and immediate problems confronting … this session of the 83d Congress."[31]

In that hearing, testimony established that 36,600 criminal cases were disposed of by the federal district courts. Of those, 4,000 went to trial. In one-third of the cases, the defendant could not afford counsel. Rep. Celler commented that such a result was "startling" and "indicates a strong possibility for attack on our system of criminal jurisprudence."

No measure advanced in either body of Congress, however, until the Senate passed a bill (S. 3275) late in 1958 that authorized each U.S. district court to appoint a federal public defender. The federal defender provision received Senate approval without controversy, likely reflecting the multiyear advocacy by the Judicial Conference, the U.S. Department of Justice (DOJ), and others. Unfortunately, passage came too late in the session for House consideration.

On April 28, 1959, S. 895 was reported out of the Senate Judiciary Committee. Identical to the 1949 bill, conservative Sen. Roman Hruska (R-Neb.) observed that the proposed legislation "may not, in this form, fulfill all the ambitions or realizes all the desires of a public defender system. ... But to the end that it safeguards and promotes the rights established under the [S]ixth [A]mendment to the Constitution, the bill deserves the unanimous support of the Senate."[32] Notwithstanding a growing consensus on the need for such legislation, the bill died in the House.

In May 1959, the House Judiciary Committee held hearings relating to four bills addressing indigent representation in federal court. Each bill had a different approach to the problem. The chairman of the House committee sponsored a counterpart of the Senate bill (H.R. 4185), but strong opposition to the federal defender options remained. A rival bill providing only for compensation to private, appointed counsel was supported by a majority of the committee. This alternate bill had no cap on the rate of compensation, but its sponsor indicated he would acquiesce to such a cap if that would assure passage.

The House measures failed to receive further action toward passage, however, and in 1960 the committee ordered further study of ensuring the right to representation in federal court. The initial study, titled Representation for Indigent Defendants in Federal Criminal Cases,[33] failed to sway enough members of the committee, and the chairman tabled consideration of the measures for the time being.

While public defender legislation for the district courts stalled again, Congress passed the District of Columbia Legal Aid Act of 1960.[34] This act, foreshadowing future national legislation, established a mixed system of a legal aid agency alongside private, appointed members of the bar. In effect, the act created a public defender program for Washington, D.C.

Sen. Hruska, along with fellow "rock-ribbed conservative Republican"[35] Sen. Norris Cotton of New Hampshire, Sen. Kenneth Keating (R-N.Y.), and later Democratic Sen. Sam Ervin of North Carolina, introduced S. 1484 in March 1961. This bill revised the measure passed by the Senate in the last congressional session by incorporating a number of recommendations made by the House report.

The test for eligibility was whether a defendant was "financially unable to employ counsel," notwithstanding the use of "indigent" in other parts of the bill. The bill included a public defender provision, and these public defenders would represent defendants at all stages, beginning at the preliminary hearing. The federal defender's salary would be comparable to that paid to the U.S. attorney for the same district. Reimbursable expenses included costs for experts and other services "reasonably incurred." Individually appointed attorneys were to have at least five years of experience, and their compensation was not to exceed $50 per day. On appeal, counsel would be provided in any matter "not plainly frivolous."

The Judicial Conference's Criminal Law Committee met in January 1962 to discuss the status of the indigent defense legislation then pending before Congress. The committee made recommendations for amendments, and Sen. Hruska introduced a modified bill (S. 2900). That bill would have expanded representation to defendants, regardless of their means, whose cases were sufficiently unpopular to prevent them from securing adequate representation. All eligible defendants would be afforded counsel during appeals, and the daily maximum for private lawyers was increased to $100. The purpose of these last two changes was to support continuity of representation and attract qualified counsel.

The committee went on to make further changes before reporting out the bill, including the requirement that public defenders be confirmed by the Senate and providing reimbursement for investigators in appointed cases. Public defenders were barred from accepting payments from a defendant without prior court approval. Again, the Senate passed the bill too late for House consideration, and nothing more than a record was made for the benefit of the next Congress.

President John F. Kennedy gave his final State of the Union address to a joint session of Congress on Jan. 14, 1963. Included in this address was the assertion that the "right to competent counsel must be assured to every man accused of crime in federal court, regardless of his means."[36]

On the afternoon of President Kennedy's address, Sen. Hruska again introduced his bill to secure adequate representation of counsel. This bill, S. 63, was essentially the same bill passed by the Senate the previous October.

Sen. Hruska's accompanying remarks sought to build on the momentum created by the president's call to action.

> To those of us who have urged passage of this bill, and have worked to that end for several years, the remarks of the President in his State of the Union message this afternoon were understandably gratifying. The expressed declaration of administration support of this effort, coupled with that of the American Bar Association [the ABA had made the passage of a public defender bill its legislative project of the year] and the Federal judiciary will, I am confident, increase the prospects for passage by both Houses in the current session.[37]

In April 1961, shortly after taking office, Attorney General Kennedy had appointed a special committee to study the problem of indigent defense in the federal system.[38] It was dubbed the "Allen Committee" after its chair, University of Michigan Law School Professor Francis A. Allen.

The Allen Committee report, *Poverty and the Administration of Federal Criminal Justice*, took a broad look at access to justice by low-income citizens in the federal system. A major area of investigation was adequate representation by qualified counsel. Many of its recommendations were incorporated into the language and structure of the Criminal Justice Act of 1964.

First, the report expanded "local options" for providing counsel. Along with private attorneys and salaried public defenders, the report recommended the option of bar associations, legal aid societies, and local defender organizations. Second, the report recommended expanded services available to defense counsel from investigators and experts to "investigative, expert and other services necessary to an adequate defense." Third, representation was to be provided at every stage of the proceeding, from initial appearance through a final appeal, to ensure early access to, and continuity of, counsel. Fourth, eligibility for appointment of counsel was changed from "indigence" to "persons financially unable to obtain an adequate defense," and supported the notion of partial eligibility.

The report's call for action was forceful and direct:

> Although *Johnson v. Zerbst* did not resolve all issues relating to the constitutional rights of counsel in the federal courts, the fundamental obligation of the federal government was clearly and unmistakably indicated. It is a matter for legitimate concern therefore, to discover that, except for legislation restricted in its application to the District of Columbia, Congress has as yet done little to implement the constitutional commands by placing the defense of financially disadvantaged persons on a systematic and satisfactory basis and that the federal statutes leave us little closer to the solution of these basic problems today than was true a quarter-century ago when *Johnson v. Zerbst* was decided.[39]

"By its impact on the administration of criminal justice, it is quite possible that the act will become recognized and rank as one of the major legislative achievements in a decade spanning both the New Frontier and the Great Society and crowded with congressional actions."

—Justice Hugo Black for a unanimous U.S. Supreme Court in *Gideon v. Wainwright*, 372 U.S. 335, 344 (Mar. 18, 1963).

The report was sent to Congress with a cover letter from Attorney General Kennedy to President Kennedy dated March 6, 1963. The cover letter referenced the president's State of the Union message, summarized the long struggle for adequate access to counsel for the poor, cited court decisions mandating such representation, catalogued the many deficiencies of the current system, and outlined the major features of the proposed legislation.

The president included a message to the vice president and the speaker of the House dated March 8, 1963. He recommended that Congress promptly consider the legislation, stating: "Its passage will be a giant stride forward in removing the factor of financial resources from the balance of justice."

Legislation based on the Allen Committee recommendations was introduced by Sens. Hruska and James Eastland (D-Miss.) as S. 1057 on March 11, 1963. The same bill was introduced by House Judiciary Committee Chairman Celler on March 13, 1963, as H.R. 4816. Both committees began hearings. In the Senate, opinion was broadly supportive of the federal public defender system, with most debate centered on keeping the system modest enough to overcome House objections. In the House, however, the public defender option ran into opposition serious enough to threaten its inclusion. The strategy in the Senate was to move the bill through as quickly as possible. Delayed action would be a disadvantage if the measure went to conference over the public defender provision. Working with lawyers from the deputy attorney general's office, Sen. Hruska revised S. 1057 to limit the federal defender option to the 18 districts with 150 or more appointments.

Because of these and other changes, a substitute bill, S. 1057, was reported unanimously on July 10, 1963, and was passed within the month. The bill was described by Sen. Hruska during debate as

> the product not only of past experience with public defender legislation introduced in this body but of extended hearings before the Judiciary Committee and consultation with … colleagues on both sides of the aisle and in both Chambers of the Congress. It is carefully drawn to avoid abuse while seeking to remedy a chronic problem of serious proportion in our Federal courts.... We are mindful, on the other hand, that the assumption of this responsibility will not be without costs. But these costs … are rightfully to be borne if the realization—not merely the aspiration—of equal treatment for every litigant is to be achieved.[40]

The Judiciary Committee reported the bill to the full Senate in late October 1963, but the measure failed to proceed further that year.

On the House side, debate took place on Jan. 15, 1964, and displayed a full spectrum of opinions.[41] The public defender system was discussed at length, but measures introduced into the Senate bill were never incorporated. Further, the more limited scope of eligibility was retained, despite the problem of changed circumstances and partial eligibility reforms. Finally, ceilings on payments remained in place without alteration. This House version, with its significant limitations, was passed, and the bill proceeded to conference to resolve the differences.

Conference finally took place in August 1964, delayed in part by congressional debate over civil rights legislation. During this pause, conferees had explored compromises on the major differences between the two bills. Informal agreement was reached as to all the points except for the major dispute—the establishment of a federal public defender program. Senate conferees, among them Sen. Hruska, fought hard for the federal public defender program. In an effort to at least plant the seed, their final proposal would have started a defender program on an experimental basis to test, in actual practice, the advantages or shortcomings of such system. To retain congressional control of the process, a five-year life span was proposed, and the program would sunset if not renewed or expanded at that time. Further, the program would be limited to five districts, each of which would have to have at least 150 annual appointments. The plan would have to be approved by the Judicial Conference and supplemented by an appointed counsel system to preserve the vitality of the private bar.

House delegates were not swayed by any of these modifications. The best the Senate delegates could procure was an invitation in the conference report for the DOJ to continue its study of the federal public defender system in view of the approved program and following experience with the new system in practice.[42] The department was urged to cooperate with the Judicial Conference to evaluate the need for a federal defender option going forward. After 27 years of agonizingly slow progress, the possibility of a federal defender program for the U.S. courts again failed to materialize.

On Aug. 6, 1964, the conference committee submitted its report to a receptive Congress. The House accepted the report first. Rep. Arch Moore (R-W.V.) commented: "I am proud that I had a significant hand in guiding this legislation and that it was my bill … that the Judiciary Committee reported to the House."[43] The Senate took action that same afternoon. Sen. Hruska, as usual, championed the cause.

> The case for this legislation is easy to state: we are a nation dedicated to the precept of equal justice for all. Experience has abundantly demonstrated that, if the rule of law will hold out more than an illusion of justice for the indigent, we must have the means to insure adequate representation that the bill before us provides. I am grateful to those who have labored so long and so well to draft a statute which recognizes the complexities and demands of modern criminal trials. By their devotion to the highest traditions of the law and their determination to relate them to the urgent needs in the administration of criminal justice, the principle of a fair trial, so fundamental to our society, is more nearly secured.[44]

Now passed by both bodies, the bill was signed into law by President Lyndon Johnson on Aug. 20, 1964. In the midst of pride and satisfaction over its passage, many recognized that the new law was a foundation, not a completed structure for securing the right to counsel. Sen. Jacob Javits (R-N.Y.) proclaimed: "This bill is a beginning."[45]

The passage of the Criminal Justice Act of 1964, after 30 years of struggle, was hailed as a watershed moment in the history of federal criminal justice.

> By its impact on the administration of criminal justice, it is quite possible that the act will become recognized and rank as one of the major legislative achievements in a decade spanning both the New Frontier and the Great Society and crowded with congressional actions.[46]

Even its timing was propitious. The act was passed on Aug. 6,

1963, just one day after Clarence Earl Gideon was acquitted, with the assistance of his appointed lawyer, after remand from the Supreme Court's landmark right-to-counsel decision in *Gideon v. Wainwright*, 372 U.S. 335 (1963).[47]

Following the passage of the Criminal Justice Act of 1964, the federal courts saw a much higher level of representation for financially eligible defendants. However, experience and study clearly indicated a need for a national federal defender program, and amendments to the Criminal Justice Act of 1964 were introduced in 1969 by yet again, Senator Hruska, and co-sponsored by Sens. Barry Goldwater (R-Ariz.) and Ted Kennedy (D-Mass.).[48] The amendments passed in 1970.[49] In 2013, only three of the 94 federal districts remained without federal defender representation—the Southern District of Georgia, the Eastern District of Kentucky, and the District of the Northern Mariana Islands. ⊙

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[45]*Id*. 18,522.

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