

Finally, there has developed in the past few years a universal recognition that outside-of-Government representation on the Conference is necessary to give it a more acceptable public "front," to use a common word. There would be inherent public suspicion of any conference organization composed entirely of Government personnel. It would be looked upon as a subterfuge organized entirely to subvert really constructive accomplishment. For these reasons, those who formerly opposed any public representation are now unanimously committed, as in the bill before you, to outside-of-Government membership.

In summary, then, on this point, there is a consensus among all concerned that the agency personnel must be members of the Conference in fair proportion so that neither the agencies nor the public members are subjected to an unfair representation.

Finally, I find that there is agreement among all interested in this subject that the creation of an Administrative Conference is a positive step which can be taken now to achieve substantial progress in the field of administrative law. It is the least controversial of all pending proposals for reform in the field of administrative practice and procedure.

I believe it would be helpful, Mr. Chairman, if I could briefly review the history of this matter within the American Bar Association to give you an idea of the public reaction and public opinion on this subject.

For many years the matter of administrative conference has been discussed with the American Bar Association. In July 1959, the house of delegates endorsed the idea of a permanent Conference by legislation and it directed one committee and one section jointly to formulate appropriate legislation. For more than three and a half years there was a split of opinion in the association as to how the legislation should be formulated. It wasn't until February 1963 that we arrived at a proposal which will be presented to you by Mr. Foster. It was finally after all that time blessed with the most substantial unanimity received by any major proposal in the field of administrative law we have had in several years within the American Bar Association. And as you pointed out in your opening remarks on Tuesday, Mr. Chairman, three sections and a special committee of the association were given the responsibility of seeking the enactment of the February 5, 1963, bill approved by the house of delegates or legislation equivalent in purpose and effect.

Now, we were able, Mr. Chairman, to get that unanimity of opinion because the bill did three things.

First, it provided for a Chairman with independent investigatory and reporting powers not only to initiate projects which would be considered by the Conference and to determine when particular matters would be of sufficient value for consideration by the Conference, but also to follow up on recommendations of the Conference and seek their implementation by the agencies.

Secondly, we provided for a Conference which would not be "loaded" with agency personnel, with Government personnel, or with public representatives, which would not be the "stacked deck" that Mr. Kennedy said someone had mentioned in a communication which Senator Dirksen had received.