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In Defense of Federal Judicial Sentencing

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Since we are imperfect—and there are no discernible signs that we are remotely approaching a spiritual state of perfection—many of our regulatory social processes are concomitantly imperfect. One of these less-than-perfect processes is the procedure for imposing sanctions upon convicted criminal offenders. The dramatic impact of this procedure seems to heighten its imperfections.

In our federal government, this procedure has remained exclusively judicial. But, there is a growing dissatisfaction, not only among the lay, but among lawyers and judges as well, with the judicial sentencing process.¹ The dissatisfaction centers around what has been commonly referred to as “disparity” in sentencing. It is claimed that there is too wide a range of sentences by different judges for the same offense and even by the same judge. Indeed some have gone so far as to say that the standards in the case of judge-imposed sanctions are “vague and almost non-existent.”²

In the past few decades, as our population has increased, so has crime,³ so has the number of offenders,⁴ so has the number of judges.⁵ With the increase in crime and the expansion of our judicial system, there has been

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¹ Much has been written on this subject. For some of the more recent comments see Editorial, “Excessive Sentences,” J. AM. JUD. SOC’Y 100 (1957); Rubin, *Sentencing Goals: Real and Ideal*, FED. PROB., June 1957, p. 51; Glueck, *The Sentencing Problem*, FED. PROB., Dec. 1956, p. 15; Sobeloff, *The Sentence of the Court*, 41 A.B.A.J. 13 (1955); Campbell, *Developing Systematic Sentencing Procedures*, FED. PROB., Sept. 1954, p. 3; Levin, *Sentencing the Criminal Offender*, FED. PROB., March 1949, p. 3; Bergan, *The Sentencing Power in Criminal Cases*, 13 ALBANY L. REV. 1 (1949); Lane, *Illogical Variations in Sentences of Felons Committed to Massachusetts State Prison*, 32 J. CRIM. L.&C. 171 (1941); McGuire and Holtzoff, *The Problem of Sentence in the Criminal Law*, 20 B.U.L. REV. 423 (1940); *Report of the Attorney General to the Judicial Conference of the United States*, 1956 ANN. REP. OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE U.S. (Appendix) 58; 1940 ATT’Y GEN. ANN. REP. 5; 1948 ATT’Y GEN. ANN. REP. 428. See also STAFF OF HOUSE COMM. ON THE JUDICIARY, 85TH CONG., 2D SESS., REPORT ON FEDERAL SENTENCING PROCEDURES (Comm. Print 1958) and the bibliography of eighty-three articles on sentencing at p. 162 of the report.

² Sobeloff, *The Sentence of the Court*, 41 A.B.A.J. 14 (1955).

³ 28 UNIFORM CRIME REPORTS FOR THE UNITED STATES 3 (1957).

⁴ *Ibid.*

⁵ See 28 U.S.C. § 133 (1952), and 28 U.S.C. § 133 (Supp. V, 1958).

an increase in the number of instances in which there appear to be inequitable sentences.

Fostered by many earnest men, judges, lawyers and sociologists, is the doctrine that a unified sentencing philosophy should condition judicial sentencing. The basis of this doctrine is that disparity of sentences, where the character of the offense and the background of the offender seem to be substantially similar, results from uncertainty and confusion among judges and causes public distrust of the efficiency and fairness of the judicial process.⁶

What is meant by disparity? I think that many, who have spoken or written on the subject, are not too clear as to what they are talking about. I think they mean that one judge habitually imposes more or less severe sentences in certain classes of cases than another judge, or that one judge is more severe than another because he had indigestion at the sentencing time, or that a judge becomes more severe if the defendant or his lawyer angers the judge at sentencing time, or that one judge follows the importunities of the public press and public clamor and another does not.

But we must not fall into the error of ascribing so-called disparity in sentencing entirely to ineptitude or infirmity of judges. Much of the disparity is due to the difference in the facts in each case. Theoretic critics may say, after *reading* about two cases, that they are substantially the same. But in fact they are not because the principals in the two cases are two different human beings. And to do justice, the two different human beings must be separately judicially appraised. It is extremely difficult to convince the theorists, who base decision on what they read, that this is so. Those of us who toil in the vineyard know that it is so. My years of experience in the criminal judicial field have convinced me that so-called similarity in the facts upon which criminal judgments are based, is in substantial part only a seeming similarity. Over the years I have passed judgment against hundreds, perhaps thousands, of criminal offenders. I have never found a pigeon hole into which I could put any two cases, let alone any two offenders. Seeming disparity is the result of the fundamental judicial philosophy, to judge each case upon its own facts. It is good to have it. For abstract uniformity we do not need the judicial process. The *ipse dixit* of the rubber stamp will suffice.

I think that the philosophy of unified sentencing, if accepted, would be an end to the judicial sentencing process itself. For it would mean that judges in some mysterious or undefined way would conform as nearly as can be, one to the other, in the imposition of sentences. That would only mean one thing, namely, the end of our fundamental belief that justice must be administered separately and exclusively in each individual case,

⁶ See note 1 *supra*.

absolutely set apart from all others, save only for precedents as to legal principles.

There is no doubt, however, that some disparity in judicial sentencing does exist. For certain types of offenses punishment varies widely from place to place and from judge to judge. Statistics and data have been collected which so indicate.⁷ But whatever infirmities in the technique of judicial sentencing do exist, they are probably no greater than infirmities which obtain in all governmental activities administered by human beings. Caprice is not unknown among legislators and within the executive branch as well some fail to function as expected. There is no such thing as abstract perfection.

Improvements can be made within the judiciary, but critics despair of accomplishing uniformity of sentencing within the judicial process itself.⁸ So, they say, the time has come to remove the sentencing process entirely from the judicial power, and to treat it as a sociological process to be administered by lay technicians and scientists. Sociologists have little faith in judicial handling of the convicted criminal, for they assert that the criminal is "sick" and his "cure" should be left to medical and social scientists. The argument is reminiscent of another—that the democratic techniques inherent in the judicial process have weaknesses and should therefore be abolished, e.g., decision-making by experts should replace juries in all civil cases.⁹

In evaluating this proposal as it might apply to sentencing in the federal courts, it is necessary to bear in mind the special impact which the problem of sentence disparity has in the federal field. Federal criminal statutes apply uniformly throughout the country, in eighty-seven federal judicial districts.¹⁰ In contrast, all local law enforcement is constitutionally in the hands of forty-eight states. As the mores and the will of the people vary in the several states, so do their criminal statutes and the sanctions imposed upon offenders. Consequently, disparity in sentences imposed for similar offenses in different states is not logically subject to the criticisms directed to alleged disparities within the same state. Thus the problem of sentence disparity in the unitary federal system must be compared with the problem of sentence disparity within a single state.

⁷ See, e.g., Davis, *Variations in Sentencing*, 2 NAT'L PROBATION AND PAROLE A.J. 385 (1956); Gaudet, *The Differences Between Judges in the Granting of Sentences of Probation*, 19 TEMPE L.Q. 471 (1946); Lane, *Illogical Variations in Sentences of Felons Committed to Massachusetts State Prison*, 32 J. CRIM. L.&C. 171 (1941); McGuire and Holtzoff, *The Problem of Sentence in the Criminal Law*, 20 B.U.L. REV. 423 (1940); Gaudet, Harris, and St. John, *Individual Differences in the Sentencing Tendencies of Judges*, 23 J. CRIM. L.&C. 811 (1933).

⁸ See, e.g., Bergan, *The Sentencing Power in Criminal Cases*, 13 ALBANY L. REV. 1 (1949).

⁹ See Goodman, *In Defense of Our Jury System*, *Colliers*, April 21, 1951, p. 24.

¹⁰ 28 U.S.C. §§ 81-131 (1952).

By far the most popularly suggested "reform" which would take sentencing from the judiciary is that of the "indeterminate sentence." By 1950, thirty-five states had indeterminate sentence laws applicable to at least some offenders sentenced to state penitentiaries.¹¹ Among these states, different formulas were used accordingly as they suited the popular will and the particular need.

A federal indeterminate sentence system administered by a lay authority would not solve the problem of sentence disparities. First, it is not unfair to say that the fixing of sentences by lay authorities by no means remedies the disparities claimed to inhere in judicial sentencing. For example, in California, the Adult Authority determines the sentences to be served which may not be less than the minimum term prescribed by statute and no greater than the prescribed maximum term.¹² It may determine and redetermine, after six months of imprisonment, the length of a prisoner's sentence.¹³ There is both disparity and uncertainty in these processes; of two offenders convicted of the same offense, both the time for fixing sentence and the length of sentence will vary. The disparity is justified by the perfectly proper explanation that compliance with prison requirements and rehabilitative progress of the two persons is different. Still, there is disparity and uncertainty in the process, no more explicable to one who knows the case only through its written report than are the disparities which may abide with judicial sentencing.

Second, the administrative difficulties which would be inherent in the operation of a federal indeterminate sentence system would aggravate the problem of sentence disparity. In 1957 there were 24,271 federal prisoners and thirty separate federal prisons and institutions.¹⁴ During the fiscal year ending June 30, 1957, 16,733 offenders were sentenced by the federal courts.¹⁵ If these offenders were committed under an indeterminate sentence law a sentencing authority would have to make approximately 1400 sentencing decisions a month. Assuming twenty-one working days a month, at least sixty-six sentencing decisions would be required each day, or seven minutes to a case. The mere weight of numbers would overwhelm any single group operating in a federal system. The difficulty of tailoring the sentencing decision to the individual offender would be overpowering. Judges, despite their other duties, can give more than seven minutes to a judgment, sentence, and the study that precedes sentence.

The nature of this administrative problem is illustrated by California's

¹¹ ILLINOIS LEGISLATIVE COUNCIL, REPORT, *Indeterminate Sentence and Parole Laws*, Oct. 1950, p. 2.

¹² CAL. PEN. CODE § 3023.

¹³ CAL. PEN. CODE § 3020.

¹⁴ 1957 FEDERAL PRISONS 7 (U.S. Dep't of Justice).

¹⁵ *Id.* at 58.

experience. The Adult Authority, the body presently empowered to fix sentences pursuant to the indeterminate sentence law, had three members when it was created in 1944.¹⁶ As time went on, the Authority was increased to five, then to six, and more recently to seven members.¹⁷ Sentencing decisions by the Adult Authority in California now total about 12,000 annually.¹⁸ The Authority is using panels of two or three members to perform its sentencing function. This, of course, is a step away from any goal of uniformity in sentencing. It is obviously an indication of the problem inherent in an attempt by one body to pass judgment in an increasingly huge number of individual cases.

The factors that make for disparity in sentencing by administrative bodies indicate to me that the *raison d'être* of indeterminate sentence procedure is not the isolated fact of disparity in judicial sentencing, but lay dissatisfaction with judicial sentencing *per se*—the desire that sentencing be a sociological and not a judicial process. In short, the inherent disparities are acceptable so long as they result from lay and not judicial determination.

There is, however, good reason to maintain the present federal judicial process with its inherent disparity, and to reject the principle of lay administrative sentencing, subject to some exceptions. The Constitution created the judiciary as a separate independent branch of the federal government. In the civil field, federal administrative agencies occasionally have been created to hear and determine civil controversies; the imposition of sanctions in the federal criminal field, however, has been exclusively a judicial function. It may be a dangerous innovation with far reaching consequences to turn over the sentencing function to the executive branch, because that branch does not have the independence and immunity from outside influence inherent in the judiciary.

But the judiciary need not stand still. There are some means presently available, and others well within our reach, to better the sentencing procedure and reduce the number of disparate sentences which are genuinely objectionable. They are clearly possible within the judicial process

¹⁶ When indeterminate sentencing began in California in 1917, the governing authority of each prison was entrusted with the power to fix sentences of prisoners confined there, subject to regulations promulgated by the Board of Prison Directors. The Board was a pre-existing body of five members charged with the management of state prisons. 1917 Cal. Stats. 665. In 1929, the sentencing responsibility was vested directly in the Board of Prison Directors. 1929 Cal. Stats. 1931. In 1931, the power to fix sentences was transferred to the Board of Prison Terms and Paroles, a newly created body with three members. 1931 Cal. Stats. 1061. In 1944, the Adult Authority was created and the power to fix sentences transferred to it. 1944 Cal. Stats. 28.

¹⁷ 1951 Cal. Stats. 2393; 1955 Cal. Stats. 853; 1957 Cal. Stats. 2467.

¹⁸ Estimate furnished in letter from the California Bureau of Criminal Statistics to the author, Mar. 11, 1958.

itself. I propose to call attention to some of these existing and proposed procedures.

Ways of Improving Federal Sentencing Procedures

1. *Use of pre-sentence reports.*

The federal probation system and the pre-sentence reports of probation officers are invaluable aids in the sentencing process, and substantially assist the federal judge in fixing criminal sanctions. The greater use of these aids will materially contribute to overcoming the principal criticism of disparity in sentences. I only reiterate what has been frequently said¹⁹ when I most emphatically extol the value of the pre-sentence report for its thorough appraisal of the background of the offender and of the circumstances of his violation.

Much is being done to improve and make more effective the probation service. The Judicial Conference of the United States has recommended to the Congress that appropriate legislation be enacted to authorize minimum qualification standards for all probation officers.²⁰ This legislation is now pending.²¹

Federal probation officers have a voluntary association of their own called "The Federal Probation Officers Association." They meet regularly, exchange ideas, and, on their own, seek to improve the formulae of their reports. This in itself is helpful in avoiding so-called disparity. A further proposal now pending before the Judicial Conference is to provide regional supervisory and coordinating officers.²²

The fifteen officers of the Probation Service in the Northern District of California are all men and women of high scholastic standing and experience. We have found their advice and reports to be invaluable. Some of us frequently consult personally with them regarding the troublesome problems of length of sentence. Increasingly each year, more judges avail themselves of the service of probation officers and willingly and conscientiously apply the information and advice thus received in the sentencing process. And as time goes on, this in itself will aid in reducing disparity.

2. *Institutes and Joint Councils re Sentencing Procedure*

Approximately 250 district judges make up the eighty-seven judicial districts.²³ These districts are a part of ten circuits, exclusive of the District

¹⁹ See, e.g., Rubin, *Sentencing Goals: Real and Ideal*, FED. PROB., June 1957, p. 51; Campbell, *Developing Systematic Sentencing Procedures*, FED. PROB., Sept. 1954, p. 3; Kennedy, *The Pre-Sentence Investigation Report is Indispensable to the Court*, FED. PROB., April-June 1941, p. 3; Duffy, *The Value of Pre-Sentence Investigation Reports to the Court*, FED. PROB., July-Sept. 1941, p. 3.

²⁰ 1957 ANN. REP. OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE U.S. 42.

²¹ H.R. 3817, 85th Cong., 1st Sess. (1957).

²² 1957 ANN. REP. OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE U.S. 13.

²³ 28 U.S.C. § 133 (1952), as amended, 28 U.S.C. § 133 (Supp. V, 1958).

of Columbia.²⁴ The same federal criminal statutes are enforced in each of the circuits and districts by the 250 district judges. In the fiscal year ending June 30, 1957, there were 33,765 defendants processed in all the federal district courts.²⁵ In the Ninth Circuit alone, there were 4,944 defendants.²⁶

Two hundred fifty district judges therefore had before them a total of 33,765 defendants. The seven judges of the Northern District of California had to pass upon the cases of 830 defendants, or an average of 118 defendants for each judge.²⁷ Hundreds of judgments in criminal cases are being made daily all over the United States in federal courts.

There has heretofore been no effective means of intercourse or consultation between the judges, with respect to objectives, standards, or policies in the sentencing procedure. The Eighty-fifth Congress enacted a resolution introduced by Congressman Cellar of New York, which authorizes the Chief Judge of each circuit to call Institutes and Joint Councils of the District Judges of the Circuit, upon the approval of the Judicial Conference of the United States.²⁸ By the selection of the Attorney General, U. S. Attorneys, other officials of the Department of Justice, criminologists, psychiatrists, penologists, and other experts may participate. The purpose of such institutes and councils is, as the statute provides, to formulate sentencing standards and policies in aid of better and fairer administration of criminal justice. The Judicial Conference of the United States approved this legislation.²⁹ Its enactment will bring into being for the first time a machinery for the education of judges in judgment and sentencing techniques in the vast federal judicial system.

3. *Eligibility for Parole as Part of Sentencing Procedure.*

Until recently, a federal prisoner other than a juvenile, serving a term of imprisonment of one year or more, could be released on parole only after serving one third of his sentence.³⁰

Legislation has now been enacted by Congress³¹ which authorizes a sentencing court to designate, in the sentence imposed, the time when a defendant shall become eligible for parole, the time designated not to be

²⁴ 28 U.S.C. § 41 (1952).

²⁵ 1957 ANN. REP. OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS 207.

²⁶ *Id.* at 211.

²⁷ *Ibid.*

²⁸ Act of Aug. 25, 1958, § 1, 72 Stat. 845.

²⁹ 1957 ANN. REP. OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE U.S. 29.

³⁰ 18 U.S.C. § 4202 (1952).

³¹ Act of Aug. 25, 1958, § 3, 72 Stat. 845.

later than the time fixed by statute.³² Under the new law, the sentencing judge will have the power to fix the time of eligibility for parole at any date prior to the expiration of one third of the sentence.

The purpose of this law is to make more flexible the time when parole eligibility occurs. The records of the Federal Bureau of Prisons show that many prisoners receive the maximum benefits of prison rehabilitation programs before they become eligible for parole. The background information before the sentencing judge at the time of judgment may indicate that parole should be considered prior to the time formerly fixed by statute. Thus, judges will have a device which will enable them to narrow the range of disparity and to bring actual terms of imprisonment within more just and fair ranges and limits.

The Judicial Conference of the United States approved the legislation.³³ It will provide another instrumentality for the better and more just judicial administration of criminal justice.

4. *Youth Correction Act.*

The Federal Youth Correction Act, as recently amended, grants the sentencing judge discretion to sentence a youth offender — *i.e.*, a person under twenty-six years of age—to the custody of the Attorney General for treatment by the Youth Correction Division of the Board of Parole for an indeterminate period within specified limits in lieu of imprisonment under applicable provisions of law.³⁴ Currently, thirty-nine percent of all federal offenders are twenty-five years of age or younger.³⁵

With the recent enactment by the Congress of the bill to extend the age limit of youth offenders from twenty-two to twenty-six years,³⁶ approved by the Judicial Conference of the United States,³⁷ there is potential machinery for treatment of one-third of all offenders without the imposition of specific sentences.

The treatment to be given youth offenders by the Youth Correction Division is prescribed by 18 U.S.C. section 5011. It provides for commitment of youth offenders to institutions of different degrees of security, hospitals, training schools, farm and forestry camps, and so on.

While the act became effective in 1950, the process of providing the

³² 18 U.S.C. § 4202 (1952).

³³ 1957 ANN. REP. OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE U.S. 29.

³⁴ 18 U.S.C. §§ 5005-5026 (1952), as amended by Act of Aug. 25, 1958, 72 Stat. 846, extending the age limit to 26 years.

³⁵ See STAFF OF HOUSE COMM. ON THE JUDICIARY, 85TH CONG., 2D SESS., REPORT ON FEDERAL SENTENCING PROCEDURES 3 (Comm. Print 1958). Under the act prior to extension of the age limit from 21 to 26 years (see note 34 *supra*), 21% of federal offenders came within its provisions. *Ibid.*

³⁶ Act of Aug. 25, 1958, 72 Stat. 846.

³⁷ 1957 ANN. REP. OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE U.S. 29.

necessary facilities has taken time. During the first years of the operation of the act, it was applied only in the eastern half of the United States.³⁸ During the last two or three years, it has been extended to the western half of the United States. During the last fiscal year, 626 youth offenders have been committed, by federal judges, to the custody of the Youth Correction Division.³⁹

It may be claimed that advocacy of the Youth Correction Act is inconsistent with this defense of judicial sentencing. But the problem of youth offenders is a special and exceptional one. And specifically, responsibility for using the act is reposed by its very terms in the sentencing *court* alone. The federal judge has the exclusive judicial power to determine, under the circumstances of each case, whether to sentence pursuant to the applicable penal statutes or to commit to the Youth Authority for treatment under the Act. There is no abrogation of the judicial function.

5. *Advisory Corrections Council.*

In 1950, the Congress created an "Advisory Corrections Council," consisting of a chairman to be designated by the Attorney General, one circuit judge and two district judges to be designated by the Chief Justice, and as ex-officio members, the chairman of the Board of Parole, the chairman of the Youth Division, the Director of the Bureau of Prisons, and the Chief of Probation of the Administrative Office of the U.S. Courts.⁴⁰ The purpose of the statute is to enable the Council to study the problems affecting treatment and correction of all offenders and to make recommendations in the field to the Congress, the President, the Judicial Conference of the United States, and other agencies dealing with the administration of criminal justice.

Under the guidance of the Attorney General, many improvements and constructive changes have been suggested, some of which bear upon sentencing procedures.⁴¹ This again is a device within the judicial process which already has and will continue to bear fruit in sentencing procedures.

6. *The Hawaiian Formula.*

Of all the states and territories, the Territory of Hawaii alone has adopted an indeterminate sentencing procedure which leaves the length of sentence within the control of the trial court. The court imposes only the statutory maximum sentence. After a fixed period of confinement, the offender is returned to the sentencing court and the latter, after having

³⁸ 1957 FEDERAL PRISONS 9 (U.S. Dep't of Justice).

³⁹ 1957 FEDERAL PRISONS 84 (U.S. Dep't of Justice).

⁴⁰ 18 U.S.C. § 5002 (1952).

⁴¹ *Report of the Attorney General to the Judicial Conference of the United States, 1957* ANN. REP. OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE U.S. (Appendix) 57.

been furnished with all the information concerning the activities of the offender while in prison, fixes the term of imprisonment, which can be any period, from the time already served to the statutory limit.⁴²

The Hawaiian sentencing judge has the same data and information that a lay Authority would have if it fixed the sentence. Under these circumstances, it could not reasonably be argued that a lay Authority would be more competent to mete out justice than the sentencing court. Yet according to the critics of judicial sentencing, there is something intrinsically wrong about a judge passing sentence. He is said to possess infirmities from which lay fixers of sentences are singularly immune.

The Hawaiian system is well worth consideration elsewhere. In fact, federal legislation which has some similarity to the Hawaiian statute has just been adopted.⁴³ This legislation provides for committing defendants, at the option of the court, to the custody of the Attorney General for maximum lawful sentence, for study by the Bureau of Prisons, and for report back to the court not later than six months thereafter for final fixing of sentence by the court.

7. *Other Activities re the Sentencing Process.*

The Judicial Conference of the United States has a special sub-committee, under the chairmanship of Chief Judge Laws of the District of Columbia, which has been and is now engaged in an investigation of the problem of so-called disparity in sentences.⁴⁴ The Advisory Corrections Council is now considering the same problem.⁴⁵ The American Law Institute has drafted a proposed penal code wherein the problem is sought to be met.⁴⁶

A bill has been introduced in the Congress to provide for appellate review of sentences.⁴⁷ Appellate courts would be authorized to review sentences and affirm, reduce, increase, or modify sentences. There is contrariety of view concerning this proposal. It has not been approved by the Judicial Conference of the United States. The principal opposing argument is that instances of truly excessive or outrageous sentences are rare and in such cases executive clemency by way of commutation of sentence is available.

⁴² Revised Laws of Hawaii § 258-52 (1955).

⁴³ Act of Aug. 25, 1958, 72 Stat. 845. The legislation was proposed in Report of the Subcommittee to consider the Problem of Disparities in Sentences of the Committee on Administration of Criminal Law of the Judicial Conference of the United States, p. 8 (March, 1958).

⁴⁴ See report of this sub-committee referred to at note 43 *supra*.

⁴⁵ *Report of the Attorney General to the Judicial Conference of the United States, 1957* ANN. REP. OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE U.S. (Appendix) 57.

⁴⁶ MODEL PENAL CODE, Tentative Draft No. 2, arts. 6, 7 (1954).

⁴⁷ H.R. 270, 85th Cong., 1st Sess. (1957).

These various proposals and activities are examples of continuing efforts to improve and equalize the procedures of the judicial process. No overnight theoretic panacea is within human reach. Time, experience, hard work, and effort are required.

Conclusion

As in all processes of government, federal judicial sentencing procedures can be improved. Let us do that first, before we abandon an important part of the judicial function of administering justice "without respect to persons, and [doing] equal right to the poor and to the rich."⁴⁸

⁴⁸ Federal Judicial Oath, 28 U.S.C. § 453 (1952).