

REPORT
of the
PROCEEDINGS OF THE
JUDICIAL CONFERENCE OF THE
UNITED STATES

March 7-9, 1979

Washington, D.C.
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**ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS**

**William E. Foley
Director**

THE JUDICIAL CONFERENCE OF THE UNITED STATES, 28 U.S.C. 331

§ 331. JUDICIAL CONFERENCE OF THE UNITED STATES

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years.

If the chief judge of any circuit or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit. If the chief judge of the Court of Claims or the chief judge of the Court of Customs and Patent Appeals is unable to attend, the Chief Justice may summon an associate judge of such court. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

The conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

TABLE OF CONTENTS

REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

March 7-9, 1979

	<i>Page</i>
Call of the Conference	1
Report of the Director of the Administrative Office of the United States Courts	2
Report of the Federal Judicial Center	3
Judicial Panel on Multidistrict Litigation	4
Committee on Court Administration	4
Judicial Tenure	4
Membership of District Judges on Circuit Councils	6
Uniform Rules of Disciplinary Enforcement	7
Libraries	7
Associations of District Judges	8
Schedule of Fees in Federal Courts	9
Other Fees	12
Cost of Living Allowances for Judicial Officers and Employees Serving Outside the Continental United States or in Alaska	12
Appellate Jurisdiction of the Supreme Court	13
Air Disaster Litigation	13
Virgin Islands Federal Relations Act	14
Transfer of Cases to Other Courts	15
Salary Limitations on a Judge's Personal Staff	15
Reemployed Annuitants	15
Court Reporters	16
Committee on the Budget	17
Supplemental Appropriations for the Fiscal Year 1979	17
Appropriations for the Fiscal Year 1980	17
Limitations on Salaries of a Judge's Personal Staff	17
Space and Facilities	18
Printing of Opinions	18
Judicial Ethics Committee	19
Appointment of the Committee	19
Reporting Form and Instructions, Rules and Regulations	20
Filing Regulations	20
Methods of Valuation	21
Extensions of Time for Filing Reports	21

Inspection of Reports	22
Resolutions Pertaining to the Review Committee	22
Applicability of the Code of Judicial Conduct	23
Nominees to Judicial Office	23
Advisory Panel	23
Joint Committee on the Code of Judicial Conduct	24
Investitive, Ceremonial and Naturalization Proceedings	24
Codes of Conduct for Clerks of Court and Probation Officers	25
Participation in Business Corporations	25
Remittal of Disqualification	26
Advisory Committee on Judicial Activities	26
Committee on the Administration of the Federal Magistrates System	27
Changes in Magistrates Positions	27
Committee on the Administration of the Bankruptcy System	31
Salaries and Arrangements for Referees	32
Reporting of Proceedings in the Bankruptcy Court	33
Committee on the Administration of the Probation System	34
Sentencing Institutes	34
Protection of Probation Officers	34
Pretrial Services Agencies	35
Mandatory Retirement	36
Committee on the Administration of the Criminal Law	36
Use of the Spanish Language in the United States District Court for the District of Puerto Rico	37
Transportation Expenses for Defendants in Criminal Cases	37
Committee to Implement the Criminal Justice Act	38
Appointments and Payments	38
Grant Requests—Community Defender Organizations	39
Community Defenders—Conditions of a Grant	39
Amendments to Criminal Justice Act Guidelines	40
Amendments to the Criminal Justice Act	40
Assistant Federal Public Defenders—Name Checks	41
Committee on the Operation of the Jury System	41
Public Drawing of Juror Names	41
Appointment of Counsel for Jurors	42
Juries in Bankruptcy Cases	43
Juror Qualification Form	44
Injuries to Jurors	45
Committee on Intercircuit Assignments	45
Ad Hoc Committee on the Disposition of Court Records	46
Memorial Resolutions	46
Elections	48
Pretermission of Terms of the Courts of Appeals	49
Release of Conference Action	49

Conference of the United States

March 7-9, 1979

The Judicial Conference of the United States convened on March 7, 1979, pursuant to the call of the Chief Justice of the United States, issued under 28 U.S.C. 331, and continued in session on March 8 and 9. The Chief Justice presided and the following members of the Conference were present:

First Circuit:

Chief Judge Frank M. Coffin
Chief Judge Andrew A. Caffrey, District of Massachusetts

Second Circuit:

Chief Judge Irving R. Kaufman
Chief Judge T. Emmet Clarie, District of Connecticut

Third Circuit:

Chief Judge Collins J. Seitz
Chief Judge Alfred L. Luongo, Eastern District of Pennsylvania

Fourth Circuit:

Chief Judge Clement F. Haynsworth, Jr.
Judge Charles E. Simons, Jr., District of South Carolina

Fifth Circuit:

Chief Judge John R. Brown
Chief Judge William C. Keady, Northern District of Mississippi

Sixth Circuit:

Chief Judge George C. Edwards, Jr.
Chief Judge Charles M. Allen, Western District of Kentucky

Seventh Circuit:

Chief Judge Thomas E. Fairchild
Judge S. Hugh Dillin, Southern District of Indiana

Eighth Circuit:

Chief Judge Floyd R. Gibson
Chief Judge James H. Meredith, Eastern District of Missouri

Ninth Circuit:

Chief Judge James R. Browning
Judge Morell E. Sharp, Western District of Washington

Tenth Circuit:

Chief Judge Oliver Seth
 Judge Wesley E. Brown, District of Kansas

District of Columbia Circuit:

Chief Judge J. Skelly Wright
 Chief Judge William B. Bryant, District of Columbia

Court of Claims:

Chief Judge Daniel M. Friedman

Court of Customs and Patent Appeals:

Chief Judge Howard T. Markey

Circuit Judges Edward A. Tamm and Gerald B. Tjoflat; Judge Robert L. Kunzig of the Court of Claims; Senior District Judge Charles M. Metzner; and District Judges C. Clyde Atkins, Oliver Gasch, Alexander Harvey II, Elmo B. Hunter, Robert E. Maxwell, and Edward Weinfeld, attended all or some of the sessions of the Conference.

The Attorney General of the United States, Honorable Griffin B. Bell, accompanied by the Solicitor General, Honorable Wade H. McCree, attended the morning session of the first day of the Conference and addressed the Conference briefly on matters of mutual interest to the Department of Justice and the Conference.

William E. Foley, Director of the Administrative Office of the United States Courts; Joseph F. Spaniol, Jr., Deputy Director; James E. Macklin, Jr., Assistant Director; and Mark W. Cannon, Administrative Assistant to the Chief Justice, attended all sessions of the Conference.

The Director of the Federal Judicial Center, A. Leo Levin, reported on the activities of the Center since the last session of the Conference.

**REPORT OF THE DIRECTOR
 OF THE ADMINISTRATIVE OFFICE
 OF THE UNITED STATES COURTS**

The Director of the Administrative Office of the United States Courts, Mr. William E. Foley, submitted to the Conference a brief report on the caseloads of the United States courts during the calendar year 1978. Mr. Foley reported that

appeals docketed in the courts of appeals increased from 18,948 in 1977 to 19,471 in 1978, an increase of 2.8 percent. Appeals were terminated at a slightly higher rate (.8 percent) than the previous year, but were less than filings. As a result, appeals pending on the dockets of the courts of appeals climbed to an all-time high of 17,771 on December 31, 1978, an increase of 8.2 percent.

During the calendar year 1978 there were 144,212 new civil cases docketed in the United States district courts, a 6.6 percent increase over the previous year. Civil cases disposed of climbed 10.5 percent to a record 134,248 cases, but dispositions were almost 10,000 cases less than the number filed. As a result the pending civil caseload in the district courts grew 6.1 percent to a record 173,827 cases pending on December 31, 1978.

During 1978 there were 33,573 criminal cases docketed in the district courts, 4,702 cases fewer than the previous year. Criminal cases disposed of in the district courts during the year declined 19.1 percent, but exceeded new filings by four cases. On December 31, 1978 there were 16,123 criminal cases pending on the dockets of the district courts.

In 1978 there were 208,278 new bankruptcy cases filed in the district courts, compared with 208,433 filed in 1977. There were 209,082 bankruptcy cases closed, and the pending caseload declined slightly to 244,753 on December 31, 1978.

REPORT OF THE FEDERAL JUDICIAL CENTER

The Director of the Federal Judicial Center, A. Leo Levin, reported to the Conference that the Center has developed plans to conduct seminars for the new judges to be appointed under the Omnibus Judgeship Act. The Center is also planning to send various informative materials to all new judges at the time of their appointment and in advance of the seminars. Director Levin also reported that the Center is progressing with the COURTRAN system of record keeping in the district courts and is expanding the system to include applications in the courts of appeals.

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

The report submitted on behalf of the Judicial Panel on Multidistrict Litigation indicated that the Panel had conducted four hearings during the six-month period ending December 31, 1978 and had issued 33 main orders, most of which were accompanied by opinions of the Panel. The Panel has acted on 14 new groups of multidistrict litigation cases in the last six months and has ordered transfers in eight groups encompassing 60 civil actions. Of these, 24 actions were transferred for purposes of pretrial procedure and 36 were actions originally filed in the transferee districts. The Panel denied transfers in six groups of cases consisting of 24 actions. In addition, 202 other cases were transferred by the Panel as tag-along cases for inclusion in on-going proceedings. Since the establishment of the Panel in 1968 there have been 6,738 civil actions centralized in pretrial proceedings under 28 U.S.C. 1407.

COMMITTEE ON COURT ADMINISTRATION

Judge Elmo B. Hunter, Chairman of the Committee on Court Administration, presented the Committee report.

JUDICIAL TENURE

The Conference in September 1978 (Conf. Rept., p. 50) directed the Committee to conduct a study to determine whether legislation is necessary to clarify the powers of the Judicial Councils of the Circuits to adopt procedures for the examination of judicial conduct in cases where it is warranted and to take appropriate action with respect to such instances. Judge Hunter submitted for Conference consideration amendments to 28 U.S.C. 332, drafted by the Committee, to provide for circuit council consideration of complaints involving judicial misconduct.

After full discussion the Conference agreed that the Judicial Councils of the Circuits should be involved in the examination of complaints relating to judicial conduct and that the

procedure should be formalized. The Conference thereupon adopted the following resolution:

1. The Judicial Conference of the United States expresses its approval of the following principles to be reflected in any legislation dealing with procedures for inquiries into the conduct of Federal judges:

(a) Removal of an Article III judge from office by any method other than impeachment as provided in Article I of the Constitution would raise grave constitutional questions which should be avoided.

(b) The primary responsibility for dealing with a complaint against a United States judge should rest initially with the chief judge of the circuit as presiding judge of the Judicial Council, who may dismiss the complaint if it is frivolous or relates to the merits of a decision or procedural ruling, or may close the complaint after assuring himself that appropriate corrective action has been taken.

(c) Any complaint not dismissed or closed by the presiding judge should be referred to a committee appointed by the presiding judge, consisting of an equal number of circuit and district judges and the presiding judge.

(d) The joint committee should report its findings and recommendations to the Judicial Council, which should take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

(e) The Judicial Council may, in its discretion, refer a complaint and the Council's recommended action to the Judicial Conference of the United States.

(f) If the Judicial Council concludes that grounds for impeachment may exist, it should transmit the record upon which its conclusion is based to the Judicial Conference of the United States; the Judicial Conference shall then determine whether, in all the circumstances, the matter should be referred to the House of Representatives.

2. The Judicial Conference recommends that the Judicial Councils of the several circuits, at their earliest opportunity, consider the formulation and promulgation of rules of procedure for the receipt and processing of complaints against judges in accordance with the principles expressed in paragraph 1; such rules and regulations should be announced in such manner as to assure that the public and the bar will be informed.

3. The Chairman of the Court Administration Committee and the members of the Executive Committee of the Conference are directed (1) to review and revise, in accordance with the principles stated in paragraph 1, the Court Administration Committee's proposed amendments to 28 U.S.C. §332, and (2) to transmit the revised proposed amendments to all members of the Conference for their approval. Following approval by the Conference, the Chairman of the Court Administration Committee, if called upon by the Congress to testify upon pending legislation, is authorized to inform the Congress that, if legislative action is to be taken, the Conference recommends amendments to 28 U.S.C. §332 as approved by the Conference in accordance with this paragraph.

4. All previous Judicial Conference resolutions or comments upon legislation dealing with the conduct of Federal judges are superseded by this resolution.

MEMBERSHIP OF DISTRICT JUDGES ON CIRCUIT COUNCILS

Judge Hunter informed the Conference that the Committee, in considering proposed amendments to 28 U.S.C. 332, had made provision for the inclusion of district judges as members of the Judicial Councils of the Circuits. The Conference, after full discussion, concluded that district judges should be represented on the Judicial Councils of the Circuits and adopted the following resolution:

The Judicial Conference of the United States expresses its approval of the following principles to be reflected in any legislation dealing with the membership of the Judicial Councils of the Circuits:

1. Any Judicial Council having less than six circuit judges as members shall have, as members, not less than two district judges in regular active service.
2. Any Circuit Council having six or more circuit judges as members shall have, as members, not less than three district judges in regular active service.
3. The number of district judge members of a Judicial Council, fixed in accordance with the above principles, shall be fixed by majority vote of the active circuit judges of the Council.
4. District judges shall serve as members of a Judicial Council in the order of their seniority, for terms of three years.
5. No more than one district judge from any one district

shall serve simultaneously on the Circuit Council, unless there is already a representative on the Council from each district in the circuit.

UNIFORM RULES OF DISCIPLINARY ENFORCEMENT

At its session in September 1978 (Conf. Rept., p. 42) the Conference approved model rules of disciplinary enforcement and authorized their distribution to all circuit and district courts with a recommendation that they be adopted by these courts on an optional basis. Recently, concern has been expressed about the provisions of Rules XI and XII requiring every attorney practicing in a Federal court to pay an annual fee into a fund to be administered centrally by the Administrative Office of the United States Courts. Some courts have already adopted the recommended rules without including any provision for the payment of an annual attorney's fee.

Judge Hunter informed the Conference that the Committee is now of the view that the collection of fees should be left to the discretion of each court and that any fees collected should be retained in a fund to be administered locally by each court. Upon recommendation of the Committee the Conference approved the following notes to be shown under the present headings for Rules XI and XII in lieu of the original text.

Rule XI

Periodic Assessment of Attorneys: Registration Statements

Note: Each Court shall make such provisions as it deems advisable for the assessment and registration of attorneys. Any fees collected should be maintained in a separate fund held by the Clerk of Court, as trustee, for the payment, pursuant to Rule XII, of expenditures incurred, and not on behalf of the United States.

Rule XII

Payment of Fees and Costs

Note: Each Court may make such provision as it deems advisable for the payment of fees and costs incurred in the course of a disciplinary investigation or prosecution.

LIBRARIES

The report of the Board of the Federal Judicial Center for improving libraries and research services in the Federal

courts recommended the creation of the position of Director of Federal Court Libraries in the Administrative Office. The position has been created and was recently filled by a professional law librarian who for several months has been studying Federal court libraries and consulting with court personnel. In order to assist the Director of Libraries in working toward better central library facilities and to improve the list of law books regularly furnished to new judges, as approved by the Conference in September 1964 (Conf. Rept., p. 5), the Conference, upon recommendation of the Committee, adopted the following resolution:

In furtherance of prior policy statements regarding the furnishing of adequate library facilities for Federal judges, the Judicial Conference authorizes the Director of the Administrative Office to take such action as necessary to provide judges and other court personnel with all legal research material and services necessary to fulfill their functions. In so doing, he shall endeavor to establish and maintain well-organized, adequate and professionally administered central libraries when such would facilitate essential sharing of materials and ensure the efficient use of appropriated funds. He shall provide lawbooks, other legal research materials and services for chambers libraries after having given due consideration to the availability of central library facilities and after having allowed flexibility and latitude to the end that the lawbook requirements of chambers libraries may be satisfied.

The Judicial Conference further authorizes the Chairman of the Committee on Court Administration to designate three judges of that Committee to constitute an ad hoc group with which the Director of the Administrative Office may consult informally to resolve, on a continuing basis, policy matters related to the creation, maintenance and administration of libraries.

ASSOCIATIONS OF DISTRICT JUDGES

Judge Hunter advised the Conference that the Ninth Circuit District Judges Association had adopted a resolution calling for the statutory recognition of associations of district judges and an authorization for the payment of expenses to attend association meetings. The Committee reported that it could find no justification for such legislation, particularly in

view of the number of associations representing other categories of members of the court family which would also call for recognition. Upon recommendation of the Committee the Conference disapproved the proposal.

SCHEDULE OF FEES IN FEDERAL COURTS

The Conference, pursuant to 28 U.S.C. 1913 and 1914(b), is authorized to prescribe the fees and costs to be charged and collected in each United States court of appeals, and the fees, in addition to statutory filing fees, to be charged and collected in each United States district court. The fee schedules prescribed by the Conference have not been reviewed since September 1973 (Conf. Rept., p. 44). In addition, the new Bankruptcy Act requires the Conference to prescribe the miscellaneous fees to be charged in bankruptcy courts pursuant to 28 U.S.C. 1930.

Judge Hunter submitted to the Conference revised schedules of fees to be charged and collected in the courts of appeals and district courts, and a new miscellaneous fee schedule for bankruptcy courts. Upon the recommendation of the Committee, the Conference approved the following fee schedules to become effective October 1, 1979:

Judicial Conference Schedule of Fees for United States Courts of Appeals

Fees to be paid to clerks of courts of appeals (except that no fees are to be charged for services rendered on behalf of the United States).

1. For docketing a case on appeal or review, or docketing any other proceeding—\$65.00. A separate fee shall be paid by each party filing a notice of appeal in the district court, but parties filing a joint notice of appeal in the district court are required to pay only one fee. A docketing fee shall not be charged for the docketing of an application for the allowance of an interlocutory appeal under 28 U.S.C. 1292(b), unless the appeal is allowed.
2. For every search of the records of the court and certifying the results thereof, \$2.00.
3. For certifying any document, or paper, whether the cer-

tification is made directly on the document, or by separate instrument, \$2.00.

4. For reproducing any record or paper, 50 cents per page. This fee does not include certification.
5. For comparing with the original thereof any copy of any transcript of record, entry, record or paper, when such copy is furnished by any person requesting certification, \$2.00 per page or fraction thereof. This fee is in addition to the fee for certification.
6. For reproduction of magnetic tape audio recordings, either cassette or reel-to-reel, \$2.00 plus the cost of materials, minimum charge \$5.00.
7. For reproduction of the record in any appeal in which the requirement of an appendix is dispensed with by any court of appeals pursuant to Rule 30(f), Federal Rules of Appellate Procedure, a flat fee of \$25.00.
8. Fees to be charged and collected for copies of opinions shall be fixed, from time to time, by each court, commensurate with the cost of printing.

No other fees for miscellaneous services than those prescribed by the Judicial Conference of the United States shall be charged or collected by any clerk of court.

*Judicial Conference Schedule of Additional
Fees for the United States District Courts*

Fees to be charged for services performed by clerks of the district courts (except that no fees are to be charged for services rendered on behalf of the United States).

1. For filing or indexing any paper not in a case or proceeding for which a case filing fee has been paid, \$3.00. This fee is applicable to the filing of a petition to perpetuate testimony, Rule 27(a), Federal Rules of Civil Procedure, the filing of papers by trustees under 28 U.S.C. 754, and the filing of letters rogatory or letters of request, except that the fee for registering a judgment from another district pursuant to 28 U.S.C. 1963 shall be \$10.00.
2. For filing a requisition for and certifying the results of a search of the records of the court for judgments, decrees, other instruments, suits pending, and bankruptcy proceedings, \$2.00 for each name searched.
3. For certifying any document or paper, whether the certification is made directly on the document or by separate instrument, \$2.00.

4. For reproducing any record or paper, 50 cents per page. This fee does not include certification.
5. For comparing with the original thereof any copy of any transcript of record, entry, record or paper, when such copy is furnished by any person requesting certification, \$2.00 per page or fraction thereof. This fee is in addition to the fee for certification.
6. For reproduction of magnetic tape audio recordings, either cassette or reel-to-reel, \$2.00 plus the cost of materials, minimum charge \$5.00.
7. For admission of attorneys to practice, \$15.00 each, including a certificate of admission. For a duplicate certificate of admission or certificate of good standing, \$3.00.

No other fees for miscellaneous services than those prescribed by the Judicial Conference of the United States shall be charged or collected by any clerk of court.

*Judicial Conference Schedule of Additional Fees
for United States Bankruptcy Courts*

Services to be performed by clerks of the bankruptcy courts (except that no fees are to be charged for services rendered on behalf of the United States).

1. For reproducing any record or paper 50 cents per page. This fee does not include certification.
2. For certifying any document or paper, whether the certification is made directly on the document or by separate instrument, \$2.00.
2. For comparing with the original thereof any copy of any transcript of record, entry, record or paper, when such copy is furnished by any person requesting certification, \$2.00 per page or fraction thereof. This fee is in addition to the fee for certification.
4. For reproduction of magnetic tape audio recordings, either cassette or reel-to-reel; \$2.00 plus the cost of materials, minimum charge \$5.00.
5. For amendments to a debtor's schedules or lists of creditors after notice to creditors, \$10.00 for each amendment, provided the bankruptcy judge may, for good cause, waive the charge in any case.
6. For every search of the records of the bankruptcy court conducted by the clerk of the bankruptcy court or one of his deputies, \$2.00 per name or item searched.

7. For instituting any civil action, suit or proceeding in a controversy over which the bankruptcy court does not have exclusive jurisdiction, whether by original process, removal or otherwise, \$60.00; for filing a complaint in a controversy over which the court has exclusive jurisdiction, \$15.00.

If the United States, other than the United States Trustee acting as trustee in a case under Title II, is the plaintiff, no fee is required.

If the trustee in a case under Title II is the plaintiff, the fee shall be payable only from the estate and to the extent there is any estate.

8. For filing or indexing any paper not in a case or proceeding for which a filing fee has been paid, \$3.00, except that the fee for registering a judgment from another district shall be \$10.00.

OTHER FEES

At its April 1973 session (Conf. Rept., p. 4) the Conference approved in principle legislation which would place the fixing of fees in all proceedings in the courts of the United States under the control of the Judicial Conference in order to permit frequent review and greater flexibility. The Conference reaffirmed its approval in principle of this legislation and authorized the Director of the Administrative Office to prepare appropriate legislation to be transmitted to the Congress.

COST OF LIVING ALLOWANCES FOR JUDICIAL OFFICERS AND EMPLOYEES SERVING OUTSIDE THE CONTINENTAL UNITED STATES OR IN ALASKA

S. 3008, 95th Congress, would authorize an allowance based upon living costs for judicial officers and employees serving outside the continental United States or in Alaska. The bill would provide a non-taxable allowance to officers and employees serving in these courts similar to allowances given to officers and employees in the Executive Branch of Government. Judicial employees now receive a cost-of-living allowance which is taxable, but judicial officers do not receive any allowance.

The Committee recommended that, as a matter of equity, officers and employees in the Judicial Branch of Government should receive the same cost-of-living allowances provided in the Executive Branch to officers and employees serving outside the continental United States or in Alaska. This recommendation was approved by the Conference.

APPELLATE JURISDICTION OF THE SUPREME COURT

S. 3100, 95th Congress, would eliminate direct appeals to the Supreme Court from decisions of Federal courts invalidating Acts of Congress [28 U.S.C. 1252]; appeals from decisions of courts of appeals invalidating state statutes [28 U.S.C. 1254(a)]; appeals from decisions of state courts invalidating treaties or statutes of the United States [28 U.S.C. 1257(1)], or sustaining the validity of state statutes challenged on Federal constitutional or statutory grounds [28 U.S.C. 1257(2)]; and appeals from the Supreme Court of the Commonwealth of Puerto Rico [28 U.S.C. 1258]. The bill would also eliminate appeals under three other statutes: the Federal Election Campaign Act of 1971, [2 U.S.C. 437h]; Indian Claims, [28 U.S.C. 652]; and the Trans-Alaska Pipeline Authorization Act [43 U.S.C. 1652(d)]. Jurisdiction of these matters would continue in the Supreme Court on a writ of certiorari. Upon recommendation of the Committee, the Conference approved the bill.

AIR DISASTER LITIGATION

The Chairman of the House Judiciary Committee had requested the views of the Conference on H.R. 10917, 95th Congress, a bill to create a uniform body of law governing liability for "injury to or loss of property or any personal injury or death" arising out of aviation activity and to improve procedures for litigating controversies arising out of airline disasters.

The bill would require a common carrier to exercise "the highest degree of care for the safety of its passengers"; adopt the rule of comparative fault; provide a right of contribution; specify the rights of surviving spouses, children, parents, or

dependent relatives; permit the awarding of damages for pecuniary losses including "loss of care, comfort, and society sustained by those for whose benefit the right of action exists," but not "pain, suffering or disfigurement"; and require that actions arising under the bill be brought generally within a period of two years. The district courts would be given jurisdiction, concurrent with state courts, of civil actions involving "large," "high-performance," "public," or "common carrier aircraft," involving the United States, or resulting in the deaths of five or more persons. State courts would be given exclusive jurisdiction over all other actions involving aviation activity.

It was the view of the Committee that it is inappropriate for the judiciary to comment on the provisions of the bill relating to the duty of care to be imposed upon common carriers, the measure of damages and the appropriate statute of limitations. The Committee did note various provisions of the bill which concerned the Committee and others which require re-drafting.

Upon the recommendation of the Committee the Conference endorsed the two principal objectives of the bill to create a coherent body of aviation law and to provide a less cumbersome means of litigating cases arising out of a common airline disaster, but disapproved the provision of the bill authorizing the Judicial Panel on Multidistrict Litigation to transfer cases for trial purposes. The Committee was authorized to communicate its views regarding particular provisions of the bill to the appropriate Committees of the Congress and to work with Congressional Committees on the bill.

VIRGIN ISLANDS FEDERAL RELATIONS ACT

Anticipating a favorable vote on a new Constitution for the Peoples of the Virgin Islands, the Committee recommended that any bill defining the relationship between the local courts of the Virgin Islands and the federal courts include these provisions: (1) that the District Court of the Virgin Islands specifically be given jurisdiction in diversity of citizenship cases, as well as Federal question cases; (2) that its name be changed from the "District Court of the Virgin Islands" to the "United States District Court for the Virgin

Islands''; and (3) that decisions of the Supreme Court of the Virgin Islands be reviewed by the United States Court of Appeals for the Third Circuit rather than by the Supreme Court of the United States. The Conference approved the recommendations of the Committee.

TRANSFER OF CASES TO OTHER COURTS

In March 1978 (Conf. Rept., p. 11) the Conference approved a recommendation of the Committee that provision be made by statute for the transfer of a case from one Federal court to another, in the event the case was not properly filed in the first court, and authorized the Director of the Administrative Office to draft a suitable bill for transmittal to the Congress. Subsequently, H.R. 11276 was introduced in the 95th Congress which would provide only for the transfer of cases between a court of appeals and a district court. The Conference approved the Committee's recommendation that this proposal be amended to provide that a case improperly filed in any Federal court shall, in the interest of justice, be transferred to any other Federal court in which it could have been filed and that the case proceed in that court as though it had originally been filed there.

SALARY LIMITATIONS ON A JUDGE'S PERSONAL STAFF

The Committee submitted two resolutions pertaining to the statutorily imposed monetary limitation on the aggregate salaries of a judge's personal staff. The first resolution would limit the use of these funds to the purposes for which they were provided, and the second resolution would increase the limitation to permit an increase in salary for the second secretary to a chief judge of a district court having five or more judgeships. Both resolutions were returned to the Committee for further study in consultation with the Committee on the Budget and in the light of the discussions in the Conference.

REEMPLOYED ANNUITANTS

The Conference in March 1959 (Conf. Rept., p. 295) approved a policy generally limiting the appointment of a re-

employed annuitant to a period not to exceed one year. This limitation was later increased to a period of 18 months. It was brought to the attention of the Conference that this policy of imposing an administratively determined limitation on the hiring of reemployed annuitants may conflict with the Age Discrimination in Employment Act Amendments of 1978 which eliminated mandatory retirement at age 70 for all government employees. The Conference thereupon adopted the following resolution submitted by the Committee:

In view of the elimination of mandatory retirement at age 70 for Federal employees, the Conference resolves that all restrictions on the term of appointments of reemployed annuitants, except for employees covered under hazardous duty retirement, are removed and made consistent with prevailing laws and practices.

COURT REPORTERS

Judge Hunter informed the Conference that two provisions relating to qualification criteria for salary adjustments for court reporters appear too restrictive, since they recognize for purposes of salary adjustments only a certificate from the National Shorthand Reporters Association. In order to broaden the qualification criteria for salary adjustments, Judge Hunter recommended, and the Conference approved, the following amendments to the first two paragraphs of the criteria approved by the Conference in September 1977 (Conf. Rept., p. 55):

(a) An applicant for appointment, hereafter, as an official court reporter in a United States district court shall possess as a minimum requirement at least four years of prime court reporting experience in the free lance field of service or in other courts or a combination thereof, and have qualified by testing for listing on the registry of professional reporters of the National Shorthand Reporters Association or passed an equivalent qualifying examination.

(2) All official court reporters who have satisfactorily met the qualification requirements outlined in (1) above who, in addition, possess a Certificate of Merit from the National Shorthand Reporters Association or have passed an equivalent examination shall receive as a salary a starting salary for court

reporters set by the Judicial Conference, plus a five percent meritorious increase over that starting salary.

COMMITTEE ON THE BUDGET

The report of the Committee on the Budget was submitted by the Chairman of the Committee, Chief Judge Robert E. Maxwell.

SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR 1979

Judge Maxwell informed the Conference that requests for supplemental appropriations for the fiscal year 1979 to cover the general salary increase of 5.5 percent granted last October, and to cover increased costs resulting from new legislation, had been submitted to the Congress. The supplemental requests totalled \$44,385,000. The Congressional committees have been advised that if there is a delay in the appointment of judges under the Omnibus Judgeship Act, a reduction in the request for supplemental appropriations would be appropriate.

APPROPRIATIONS FOR THE FISCAL YEAR 1980

Judge Maxwell also informed the Conference that the budget estimates for the fiscal year 1980, approved by the Conference last September, had been amended to take into account the impact of new legislation. Upon the recommendation of the Committee, the Director of the Administrative Office was authorized to submit to the Congress either a budget amendment or a request for supplemental appropriations for the fiscal year 1980 required for the implementation of any action taken by the Conference, for any new legislation, or for any other reason he considers necessary and appropriate.

LIMITATIONS ON SALARIES OF A JUDGE'S PERSONAL STAFF

The budget request for the fiscal year 1980 included funds for the appointment of a third law clerk and a second secre-

tary by a circuit judge, the appointment of a second law clerk by a district judge in lieu of a crier or crier-law clerk, and the reclassification of a law clerk from grade JSP-12 to grade JSP-13, if qualification standards are met. As a result, changes will be required in the language of the Appropriations Act increasing the amount of the limitation on the aggregate salaries paid to the personal staff of a judge.

Judge Maxwell reported that these limitations were discussed at the recent congressional hearings and that the Committee had suggested that the limitation language be stricken from the Appropriations Act, since it applies only to circuit and district judges and not to other judges and judicial officers. If the limitation is removed, the Conference would prescribe the criteria and exercise control over the number of secretaries and law clerks to be employed by circuit and district judges, in addition to controlling classification and qualification standards.

The Conference endorsed the action taken by the Budget Committee in requesting deletion of the limitation language and authorized the Subcommittee on Supporting Personnel to consider the criteria for determining the number of law clerks and secretaries that may be employed by circuit and district judges, in addition to determining the classification and qualification standards to be applied under the Judiciary Salary Plan.

SPACE AND FACILITIES

At the request of Judge Maxwell, the Conference authorized the Budget Committee to take such action as may be appropriate to preclude the imposition of any moratorium or restriction on the acquisition of space for the courts, particularly with regard to the requirements of new judges, by the Office of Management and Budget or by the General Services Administration, on the basis that such control over expenditures by the Executive Branch of the Government constitutes a violation of the separation of powers doctrine.

PRINTING OF OPINIONS

The Director of the Administrative Office, upon recommendation of the Committee, was authorized to study and ex-

plore the feasibility and desirability of printing opinions for the courts of appeals under contract with less costly facilities within or outside the geographical boundaries of a court, if the printing and distribution of opinions can be accomplished on a timely basis.

JUDICIAL ETHICS COMMITTEE

Judge Edward A. Tamm, Chairman of the Judicial Ethics Committee, presented the report of the Committee.

APPOINTMENT OF THE COMMITTEE

The Ethics in Government Act of 1971, Public Law 95-521, approved October 26, 1978, established a government-wide financial disclosure reporting system applicable to officers and high-ranking executives serving in the Legislative, Executive and Judicial Branches of Government. The Act requires the appointment of a Judicial Ethics Committee in the Judicial Branch of Government to receive and review the financial disclosure reports required to be submitted under the Act and to perform other prescribed duties. Judge Tamm informed the Conference that subsequent to the passage of the Act, the Chief Justice, with Conference approval, had named the members of the former Review Committee of the Judicial Conference to serve initially as the new Judicial Ethics Committee.

The Act requires each justice and judge of the United States to file an annual financial disclosure report with the Judicial Ethics Committee and with the clerk of court. A similar report is required to be filed by "any employee of the Judicial Branch of Government who is authorized to perform adjudicatory functions with respect to the judicial branch or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule . . ." The annual report must be filed on or before May 15th of each year by an individual who served 60 days or more during the preceding calendar year. In addition to the annual report, a nominee to a judgeship position must file a report within five days of nomination, and a judicial employee must file a

report within 30 days of assuming a position that requires reporting. A report is also required to be filed within 30 days after termination of employment.

Each reporting individual is also required to include as part of his report certain financial information pertaining to the spouse and dependent children.

REPORTING FORM AND INSTRUCTIONS, RULES AND REGULATIONS

The Committee submitted to the Conference a draft Financial Disclosure Form and the Instructions, Rules and Regulations, devised by the Committee, for the annual report due on May 15th. Judge Tamm informed the Conference that in view of a perceived need for reporting individuals to have these materials available at an early date, the Committee had requested the Administrative Office to print and distribute the Committee-approved form and the Instructions, Rules and Regulations as soon as possible. The Conference ratified the action taken by the Committee and approved the reporting form and the accompanying Instructions, Rules and Regulations, with the understanding that a reporting individual may indicate a business address on the reporting form, rather than a home address.

FILING REGULATIONS

The Act requires that the original of the financial disclosure report be filed with the Judicial Ethics Committee and that a copy thereof be filed with the clerk of court in which the reporting individual serves. The reports are public documents. For administrative purposes the Committee is requiring that the original and one copy be filed with the Committee. Upon recommendation of the Committee, the Conference took the following action with respect to other filing requirements:

- (A) That officers and employees of the Administrative Office and the Federal Judicial Center file their reports only with the Committee and not with any clerk of court;
- (B) That bankruptcy judges file two copies of their reports with the Committee and one copy with the clerk of the district courts, until such time as clerks of bankruptcy

- courts are appointed under the new Bankruptcy Act; and
- (C) That part-time bankruptcy judges and part-time United States magistrates, who do not work in excess of 60 days, in the reporting calendar year and so certify in writing to the Committee, not be required to file financial disclosure reports.

METHODS OF VALUATION

The Act requires the Committee, with the approval of the Judicial Conference, to "promulgate a regulation establishing a method or methods for readily determining, without the necessity of expert appraisal, the fair market value of assets required to be disclosed . . ." Judge Tamm informed the Conference that the instructions for executing the reporting form set forth eight alternate methods of determining valuation. Upon recommendation of the Committee, the Conference approved these options as the regulations of the Committee for determining valuation.

EXTENSIONS OF TIME FOR FILING REPORTS

The Act provides that "reasonable extensions of time for filing any report may be granted under procedures prescribed by the Judicial Ethics Committee . . . but the total of such extensions shall not exceed 90 days." The Committee recommended that in circumstances other than extreme emergencies a request for an extension of time to file a report must be submitted at least 30 days prior to the date on which the report is due and that the request be submitted in writing addressed to the Chairman of the Judicial Ethics Committee. This procedure was approved by the Conference.

GIFTS OF BOOKS AND PERIODICALS

The Conference approved the recommendation of the Committee that gifts of books and periodicals received by judicial officers and judicial employees for official use, and so used for official purposes, not be reported as gifts.

INSPECTION OF REPORTS

The Act provides that a copy of the financial disclosure report filed with the clerk of court is a "public document." Judge Tamm informed the Conference that the Committee believes that each court should decide on its own how these reports are to be filed in the clerk's office and the manner in which they should be made available to the public for inspection and copying.

The Act also requires the Committee, within 15 days after any report is received, to "permit inspection by or furnish a copy of such report to any person requesting such inspection or copy." Judge Tamm reported that the Committee has developed an orderly procedure for handling requests to inspect or copy reports which involves the use of a request form. As a matter of policy the Committee will not notify a reporting individual that a request has been made to inspect his report unless requested to do so by the reporting individual and only with respect to requests previously made. At the request of the Committee these procedures were approved by the Conference.

The Conference also approved a fee of 25 cents per page to be charged by the Ethics Committee for furnishing a copy of a document. The discretion given to the Committee to waive the copy fee will be exercised by the Chairman.

RESOLUTIONS PERTAINING TO THE REVIEW COMMITTEE

Since the Conference-approved program of financial reporting and disclosure, adopted in March 1970, has now been superseded by the new Act, the Conference rescinded the following resolutions pertaining exclusively to the Review Committee:

1. The March 1970 resolution requiring financial reporting by all federal judges (Conf. Rept., p. 6).
2. The March 1971 resolution establishing a procedure for reporting the names of judges who failed to report (Conf. Rept., p. 24).
3. The October 1971 resolution authorizing the Review Committee to suggest to a reporting judge that he make inquiry to the Advisory Committee (Conf. Rept., p. 68).

4. The October 1972 resolution extending the reporting requirement to full-time magistrates and full-time referees in bankruptcy (Conf. Rept., p. 42).
5. The March 1977 resolution extending the reporting requirement to certain other officers and employees of the Federal Judiciary (Conf. Rept., p. 12).
6. The September 1977 resolution extending the reporting requirement to certain public defenders (Conf. Rept., p. 59).
7. The March 1978 resolution directing that the reasons for non-filing not be included in public reports (Conf. Rept. p. 14).

APPLICABILITY OF THE CODE OF JUDICIAL CONDUCT

The Committee perceived that situations may arise in which the provisions of the *Code of Judicial Conduct for United States Judges* may appear to vary from the standards established under the new Ethics in Government Act. The Conference agreed with the recommendation of the Committee, that, if this should occur, the stricter standard, whether in the Code or in the Act, should apply.

NOMINEES TO JUDICIAL OFFICE

To avoid the necessity of prescribing a separate form to be filed by judicial nominees, the Conference approved the use of the form prescribed by the Office of Government Ethics for nominees to positions in the Executive Branch of Government for the reports required of judicial nominees.

ADVISORY PANEL

The Conference authorized the Chief Justice to appoint an Advisory Panel of the Conference to respond to requests from reporting individuals for advice and assistance on problems relating to reporting under the Ethics in Government Act of 1978, so as to insure, insofar as possible, uniformity in reporting under the Act. The Director of the Administrative Office was authorized to provide support for the Advisory Panel and to incur obligations for this purpose.

Judge Tamm informed the Conference that the Judicial Ethics Committee would consider granting extensions of time, up to 90 days, to individuals who request such extensions pending action by the Advisory Panel on any request for an opinion or advice.

JOINT COMMITTEE ON THE CODE OF JUDICIAL CONDUCT

The report of the Joint Committee on the Code of Judicial Conduct, chaired by Judges Edward A. Tamm and William B. Jones, was presented by Judge Tamm.

INVESTITIVE, CEREMONIAL AND NATURALIZATION PROCEEDINGS

The Conference in September 1978 (Conf. Rept., p. 55) returned to the Committee for further study a proposal to amend Canon 3A(7) of the *Code of Judicial Conduct for United States Judges* to permit the "taking of still photographs" in connection with naturalization and other ceremonial proceedings in the circuit and district courts. Judge Tamm reported that the Committee had concluded that the Canon should continue to prohibit the broadcasting, televising, recording, or taking of photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, but that an exception should be authorized with respect to investitive, ceremonial, and naturalization proceedings. The Conference accordingly approved the recommendation of the Committee that Canon 3A(7) of the *Code of Judicial Conduct for United States Judges* be amended to read as follows:

7. A judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions except that a judge may authorize:
 - (a) the use of electronic or photographic means for the presentation of evidence, or for the perpetuation of a record; and
 - (b) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.

Upon recommendation of the Committee the Conference also amended the March 1962 resolution pertaining to courtroom photographs to read as follows:

RESOLVED, That the Judicial Conference of the United States condemns the taking of photographs in the courtroom or its environs in connection with any judicial proceedings, and the broadcasting of judicial proceedings by radio, television, or other means, and considers such practices to be inconsistent with fair judicial procedure and that they ought not be permitted in any federal court. A judge may, however, permit the broadcasting, televising, recording, or photographing of investigative, ceremonial, or naturalization proceedings.

CODES OF CONDUCT FOR CLERKS OF COURT AND PROBATION OFFICERS

The Conference in September 1978 (Conf. Rept., p. 54) authorized the Advisory Committee on Judicial Activities to render advisory opinions concerning the application and interpretation of the codes of conduct for clerks of court and probation officers only when requested by the chief judge of a circuit court, a chief judge of a district court, or by the Review Committee. Upon recommendation of the Committee, the Conference also authorized the Advisory Committee on Judicial Activities to render advisory opinions on the Code of Conduct for Clerks of Court when requested by the Chief Judge of the Court of Claims or the Chief Judge of the Court of Customs and Patent Appeals.

PARTICIPATION IN BUSINESS CORPORATIONS

The Conference in September 1963 (Conf. Rept., p. 62) adopted a resolution prohibiting a justice or judge from serving in the capacity of an officer, director, or employee of a corporation organized for profit. The Committee pointed out that the prohibition against a judicial officer serving in a business enterprise is now more comprehensively covered in Canon 5C(2) of the *Code of Judicial Conduct for United States Judges*. The Conference approved the Committee's suggestion that the 1963 resolution be rescinded as being obsolete in view of the provisions of the Code.

REMITTAL OF DISQUALIFICATION

The *Code of Judicial Conduct for United States Judges* does not authorize a waiver or remittal of disqualification in any situation, although a remittal of disqualification is authorized in certain situations by the disqualification statute, 28 U.S.C. 455, and by the Code of Judicial Conduct approved by the American Bar Association. Judge Tamm informed the Conference that the Committee was of the opinion that Canon 3 of the *Code of Judicial Conduct for United States Judges* should be made consistent with the disqualification statute. Accordingly, the Conference approved a recommendation that Canon 3 of the Code be amended by including therein a new Canon 3D to read as follows:

D. *Remittal of Disqualification*

A judge disqualified by the terms of Canon 3C(1), except in the circumstances specifically set out in subsections (a) through (e), may, instead of withdrawing from the proceeding, disclose on the record the basis of his disqualification. If, based on such disclosure, the parties and lawyers, independently of the Judge's participation, all agree in writing that the Judge's disqualification should be waived, the judge is no longer disqualified and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceeding.

ADVISORY COMMITTEE ON JUDICIAL ACTIVITIES

The report of the Advisory Committee on Judicial Activities, chaired by Judge William B. Jones, was made by Chief Judge Frank M. Coffin, a member of the Committee.

Judge Coffin reported that in the last six months 15 new inquiries were received by the Committee compared with 22 inquiries received during the previous six-month period and that the Committee had issued the following formal opinions:

Advisory Opinion No. 57—Disqualification in a case when a controlled subsidiary of a corporation in which a judge owns stock is a party.

Advisory Opinion No. 58—Disqualification in a case in which in which a relative is employed by a participating law firm.

In addition, the Committee is preparing three other formal opinions and is revising its Advisory Opinion No. 54 pertaining to the propriety of a judge writing a letter of approbation or recommendation to an appointing officer.

COMMITTEE ON THE ADMINISTRATION OF THE FEDERAL MAGISTRATES SYSTEM

The Report of the Committee on the Administration of the Federal Magistrates System was presented by the Chairman, Judge Charles M. Metzner.

CHANGES IN MAGISTRATE POSITIONS

After consideration of the report of the Committee and the recommendations of the Director of the Administrative Office, the district courts and the judicial councils of the circuits, the Conference approved the following changes in salaries and arrangements for full-time and part-time magistrates. Unless otherwise indicated, these changes are to become effective when appropriated funds are available. The salaries for full-time magistrate positions are to be determined in accordance with the Judicial Conference Salary Plan.

FIRST CIRCUIT

District of Massachusetts

- (1) Authorized a fourth full-time magistrate position at Boston.

District of Rhode Island

- (1) Authorized the payment of additional compensation to the clerk of court at Providence for services performed as a magistrate in an aggregate amount equivalent to the salary of a clerk of a large district court.

District of Puerto Rico

- (1) Authorized a third full-time magistrate position at San Juan.
- (2) Discontinued the combination clerk-magistrate position at San Juan, effective upon the appointment of the third full-time magistrate.

SECOND CIRCUIT

District of Connecticut

- (1) Converted the part-time magistrate position at Bridgeport to full-time status.

Southern District of New York

- (1) Continued the two full-time magistrate positions at New York City, which are due to expire on May 16, 1979, for additional eight-year terms.
- (2) Authorized a seventh full-time magistrate position at New York City.
- (3) Continued the part-time magistrate position at Poughkeepsie for an additional four-year term at the currently authorized salary of \$7,650 per annum.

FOURTH CIRCUIT

Eastern District of North Carolina

- (1) Converted the part-time magistrate position at New Bern to full-time status.
- (2) Increased the salary for the part-time magistrate position at Wilmington from \$3,400 to \$4,250 per annum.

Western District of Virginia

- (1) Continued the part-time magistrate positions at Shenandoah National Park, Lynchburg, and Danville for additional four-year terms at the currently authorized salaries of \$5,950, \$4,250, and \$2,550 per annum, respectively.
- (2) Discontinued the part-time magistrate position at Staunton upon the expiration of the incumbent's current term of office.

Southern District of West Virginia

- (1) Continued the full-time magistrate position at Charleston for an additional eight-year term of office.
- (2) Continued the part-time magistrate positions at Logan and Lewisburg for additional four-year terms at the currently authorized salaries of \$1,700 and \$850 per annum, respectively.

FIFTH CIRCUIT

Northern District of Alabama

- (1) Authorized a third full-time magistrate position at Birmingham.

- (2) Discontinued the part-time magistrate positions at "Huntsville or Decatur" and Florence effective upon the appointment of the new full-time magistrate.
- (3) Authorized a new part-time magistrate position at "Decatur or Huntsville" at a salary of \$4,250 per annum.

Northern District of Florida

- (1) Continued the part-time magistrate position at Tallahassee for an additional four-year term at the currently authorized salary of \$5,950 per annum.
- (2) Continued the part-time magistrate position at Panama City for an additional four-year term.
- (3) Increased the salary of the part-time magistrate position at Panama City from \$1,700 to \$4,250 per annum.

Middle District of Georgia

- (1) Continued the part-time magistrate position at Columbus for an additional four-year term at the currently authorized salary of \$14,450 per annum.

SIXTH CIRCUIT

Eastern District of Kentucky

- (1) Continued the full-time magistrate position at Lexington for an additional eight-year term.
- (2) Continued the part-time magistrate position at Covington for an additional four-year term at the currently authorized salary of \$5,950 per annum.

Western District of Kentucky

- (1) Converted the part-time magistrate position at Paducah to full-time status.
- (2) Authorized the chief deputy clerk at Louisville to perform the duties of a part-time magistrate without additional compensation.

Northern District of Ohio

- (1) Continued the full-time magistrate position at Cleveland, which is due to expire on July 14, 1979.

SEVENTH CIRCUIT

Central District of Illinois

- (1) Designated the existing full-time magistrate position at Spring-

field, the part-time magistrate position at Rock Island, the part-time magistrate position at Peoria, the combination clerk-magistrate position at Peoria, and the combination referee-magistrate position at Danville, to serve in the new Central District of Illinois.

Southern District of Illinois

- (1) Designated the existing full-time magistrate position at Benton and the part-time magistrate position at Belleville to serve in the new Southern District of Illinois.

Eastern District of Wisconsin

- (1) Authorized the clerk of court at Milwaukee to perform the duties of a part-time magistrate for an additional four-year term without additional compensation.

EIGHTH CIRCUIT

Western District of Arkansas

- (1) Converted the part-time magistrate position at Fort Smith to full-time status.

District of North Dakota

- (1) Continued the part-time magistrate position at Fargo for an additional four-year term at the currently authorized salary of \$4,250 per annum.
- (2) Increased the salary of the part-time magistrate position at Bismarck from \$2,550 to \$5,950 per annum.
- (3) Increased the salary of the part-time magistrate position at "Devils Lake or Minnewaukan" from \$1,700 to \$2,550 per annum.

District of South Dakota

- (1) Continued the part-time magistrate positions at Pierre and Aberdeen for additional four-year terms at the currently authorized salaries of \$12,750 and \$1,700 per annum, respectively.
- (2) Continued the part-time magistrate position at Rapid City for an additional four-year term.
- (3) Increased the salary for the part-time magistrate position at Rapid City from \$9,350 to \$12,750 per annum.
- (4) Discontinued the part-time magistrate positions at Mobridge and Winner.

NINTH CIRCUIT

District of Arizona

- (1) Authorized a third full-time magistrate position at Phoenix.

Central District of California

- (1) Continued the part-time magistrate position at Twentynine Palms for an additional four-year term at the currently authorized salary of \$4,250 per annum.

Southern District of California

- (1) Continued the part-time magistrate position at El Centro for an additional four-year term at the currently authorized salary of \$24,200 per annum.

District of Idaho

- (1) Continued the part-time magistrate position at Boise for an additional four-year term.
- (2) Increased the salary for the part-time magistrate position at Boise from \$3,400 to \$14,450 per annum.

Eastern District of Washington

- (1) Increased the salary of the part-time magistrate position at Yakima from \$7,650 to \$14,450 per annum.

TENTH CIRCUIT

District of New Mexico

- (1) Increased the salary for the part-time magistrate position at Albuquerque from \$14,450 to \$24,200 per annum.

District of Wyoming

- (1) Authorized a part-time magistrate position at Rawlins at a salary of \$850 per annum.

COMMITTEE ON THE ADMINISTRATION
OF THE BANKRUPTCY SYSTEM

The report of the Committee on the Administration of the Bankruptcy System was presented by the Chairman, Judge Edward Weinfeld.

SALARIES AND ARRANGEMENTS FOR REFEREES

The Conference considered the Committee report, together with the recommendations of the Director of the Administrative Office, the judicial councils of the circuits, and the district courts concerned, and took the following action relating to referee positions and changes in salaries and arrangements. The Conference directed that, subject to the availability of funds, these actions become effective on April 1, 1979, unless otherwise indicated.

SECOND CIRCUIT

Northern and Southern Districts of New York

- (1) Authorized the full-time referee at Poughkeepsie in the Southern District of New York to exercise concurrent jurisdiction with the referees of the Northern District of New York in the Counties of Columbia, Greene, and Ulster.
- (2) Designated Kingston as a regular place of holding bankruptcy court for the referee at Poughkeepsie.
- (3) Directed that the above changes become effective 180 days following the date of enactment of Public Law 95-408.

SEVENTH CIRCUIT

Northern, Central and Southern Districts of Illinois

- (1) Designated the part-time referee position at Danville in the former Eastern District of Illinois as a part-time referee position for the new Central District of Illinois, provided that during the period from April 1 through April 30, 1979 the part-time referee at Danville shall have jurisdiction over bankruptcy cases in Kankakee County.
- (2) Designated the full-time referee position at Peoria as a full-time position for the new Central District of Illinois.
- (3) Designated the full-time referee position at Springfield as a full-time referee position for the new Central District of Illinois.
- (4) Authorized concurrent district-wide jurisdiction for all referees in the new Central District of Illinois; designated Peoria, Springfield, Danville, Quincy, Decatur, Bloomington, Galesburg, Rock Island, Kankakee, and Mattoon as places of holding bankruptcy court for the new Central District of Illinois; and directed that headquarters offices of referees remain as at present.

- (5) Designated the full-time referee position at East St. Louis as a full-time position for the new Southern District of Illinois with East St. Louis, Cairo, Benton, and Alton as designated places of holding bankruptcy court with the headquarters office to remain as at present.
- (6) Directed that these changes become effective on April 1, 1979.

EIGHTH CIRCUIT

District of South Dakota

- (1) Converted the part-time referee position at Sioux Falls to full-time status as soon as appropriated funds are available to pay the increased salary authorized by the Congress for a full-time referee.
- (2) Designated Sioux Falls, Pierre, Aberdeen, Deadwood, and Rapid City as places of holding bankruptcy court for the full-time referee and authorized district-wide jurisdiction for the full-time position.

NINTH CIRCUIT

District of Oregon

- (1) Designated Salem and Lincoln City as places of holding bankruptcy court for the referees in the district in addition to Portland, Eugene, Pendleton, Roseburg, Medford, Klamath Falls, Bend, Astoria, Tillamook, The Dalles, Coos Bay, and La Grande.

REPORTING OF PROCEEDINGS IN THE BANKRUPTCY COURT

The Act to establish a uniform law on the subject of bankruptcies, Public Law 95-598, amended the Judicial Code, 28 U.S.C. 773, to require that a record be made in bankruptcy court, whenever practicable, of all proceedings conducted in open court. The Judicial Conference has been authorized to prescribe whether the record is to be made by electronic sound recording, by a court reporter appointed or employed by the bankruptcy court to take a verbatim record by shorthand or mechanical means, or by an employee of the court designated by the court to take a verbatim record.

The Conference, upon recommendation of the Committee, approved a general policy that (1) electronic sound recording equipment be used to record the first meeting of creditors;

(2) that live reporters be used for all judicial proceedings; and (3) that when the volume of business does not warrant the services of a full-time court reporter, contract reporters be used. The Conference directed the Administrative Office not to authorize full-time court reporters until the need for their services is fully justified, and further directed that, until such need is established, contract reporters be authorized.

COMMITTEE ON THE ADMINISTRATION OF THE PROBATION SYSTEM

The report of the Committee on the Administration of the Probation System was presented by the Chairman, Judge Gerald B. Tjoflat.

SENTENCING INSTITUTES

The Committee had previously submitted to the Conference a plan for a Joint Institute on Sentencing for the judges of the First, Fourth, and District of Columbia Circuits to be held at Raleigh, North Carolina, April 19-21, 1979 (Conf. Rept., Sept. 1978, p. 73). Judge Tjoflat informed the Conference that the tentative agenda for the institute, previously approved by the Conference, has been amended in the light of the experience gained at institutes on sentencing for the judges of the Ninth, and the Eighth and Tenth Circuits held in the fall of 1978. A revised agenda for this institute was submitted for the information of the Conference.

The Committee also submitted a plan for an Institute on Sentencing for the judges of the Fifth Circuit to be held at Dallas, Texas, October 3-5, 1979. The program would include one day at a nearby Federal correctional institution. The Conference upon the Committee's recommendation approved the time, place, participants and tentative agenda for this sentencing institute.

PROTECTION OF PROBATION OFFICERS

The Conference on several occasions has recommended legislation to amend Section 1114 of Title 18, United States

Code, to make it a Federal crime to kill a United States probation officer while engaged in the performance of his official duties. See Conf. Repts. Mar. 1970, p. 28; Mar. 1971, p. 48; and Sept. 1974, p. 64. The Committee pointed out that the shooting of two probation officers while in the performance of their duties—one in Memphis in May 1973 and the other in the District of Columbia in June 1974—previously demonstrated the need for the legislation. Last December a probation officer in Laredo, Texas, was killed from ambush as he approached the Federal building. The Committee asked that the Conference resolution be renewed.

It was the view of the Conference, however, that bankruptcy judges and United States magistrates were equally in need of any protection that may be offered by their inclusion in this statute. The Conference thereupon approved the draft legislation submitted by the Committee with an amendment to include bankruptcy judges and United States magistrates.

PRETRIAL SERVICES AGENCIES

The Pretrial Services Agencies, established by the Director of the Administrative Office on a demonstration basis in ten representative district courts pursuant to Title II of the Speedy Trial Act of 1974, have now been in operation an average of 34 months. During this period the Administrative Office has been compiling statistical information on the operation of these agencies and is now preparing to submit to the Congress a comprehensive report containing the Director's views and recommendations pertaining to the administration and operation of the pretrial services agencies established pursuant to the Act. The report is due on or before July 1, 1979.

Judge Tjoflat informed the Conference that the Committee had reviewed a preliminary draft of a report based on the statistical information collected to date. Further examination of the data is necessary before final conclusions can be drawn and recommendations presented. Since the Conference is not expected to meet again before the due date of the report, the Conference authorized the Committee to exercise continued oversight of the completion of the Director's report, approve the final recommendations to be included in the report, and

authorize, on behalf of the Conference, the release of the Director's report to the Congress.

MANDATORY RETIREMENT

In September 1977 (Conf. Rept., p. 73) the Conference, on recommendation of the Committee, approved guidelines to assist the Director of the Administrative Office in exercising his authority to exempt a probation officer from the mandatory separation required by law. Judge Tjoflat informed the Conference that the Committee has been contacted by several chief judges who have expressed their concern that the Director has denied exemptions despite their recommendations. The District Judges Association of the Fourth Circuit has asked the Conference to amend the guidelines to authorize an exemption "if the district judges of the district are unanimous in the desire for the exemption."

Judge Tjoflat reported that the Committee had reviewed the first year's experience under the mandatory separation provisions of the Civil Service Retirement Act and had reviewed a memorandum from the Civil Service Commission concerning the appointment of a mandatorily separated law enforcement officer as a reemployed annuitant and an opinion of the General Counsel of the Administrative Office holding that the Director is the "head of the agency" when implementing the national retirement program. Based on its review the Committee concluded that the Director of the Administrative Office has properly discharged his responsibilities under the law and that there is no need for an amendment of the Conference-approved guidelines. The Conference agreed with the Committee's conclusion.

COMMITTEE ON THE ADMINISTRATION OF THE CRIMINAL LAW

The report of the Committee on the Administration of the Criminal Law was presented by the Chairman, Judge Alexander Harvey II.

USE OF THE SPANISH LANGUAGE IN THE UNITED
STATES DISTRICT COURT FOR THE DISTRICT OF
PUERTO RICO

H.R. 13950, 95th Congress, would authorize the use of the Spanish language as the official language for the conduct of proceedings in criminal cases in the District Court for the District of Puerto Rico. The Committee recommended that the Conference oppose the enactment of this legislation in the form proposed by H.R. 13950. After full discussion the Conference adopted the following resolution:

RESOLVED: The Conference takes no position concerning the policy implications of proposed legislation which would authorize the use of Spanish in the United States District Court for the District of Puerto Rico. However, the Conference opposes the enactment by Congress of a bill similar to H.R. 13950, introduced in the 95th Congress, unless proper consideration is given to the following practical effects of this legislation which would have an adverse impact on the administration of justice, both as to trials in the United States District Court of Puerto Rico and as to appeals from such court to the First Circuit:

1. The problem of adapting an English-speaking Federal court system based on interpretations of cases and statutes written in the English language to cases involving Spanish-speaking defendants;
2. Greatly increased expenses, including costs required for additional equipment, space and personnel;
3. Delays in both trials and appeals;
4. Difficulties in obtaining Spanish-speaking reporters, translators and other necessary personnel; and
5. Difficulties arising from delays in the immediate review by the court of appeals of stays and emergency orders.

TRANSPORTATION EXPENSES FOR DEFENDANTS IN
CRIMINAL CASES

A recent amendment to the Criminal Code authorizes the payment of the transportation expenses of a defendant in a criminal proceeding to the place of holding court without the necessity of traveling in the custody of a law enforcement officer. Payment of transportation expenses may be made in the discretion of the district court.

It was brought to the attention of the Committee, however, that the new legislation provides only for the transportation expenses of a defendant to the place of holding court for the purpose of participating in a proceeding, but does not provide for the payment of return transportation expenses. The Conference, upon recommendation of the Committee, approved a proposal to amend the statute to authorize the payment of the travel expenses of a defendant for the return of the individual from the place of holding court to the place of arrest, or the defendant's home, whichever is closest to the place of release. The Director of the Administrative Office was authorized to draft suitable legislation and to transmit it to the Congress for its consideration.

COMMITTEE TO IMPLEMENT THE CRIMINAL JUSTICE ACT

The report of the Committee to Implement the Criminal Justice Act was presented by a member of the Committee, Judge Oliver Gasch, in the absence of the Chairman, Judge Dudley B. Bonsal.

APPOINTMENTS AND PAYMENTS

The Conference authorized the Director of the Administrative Office to distribute copies of the report on appointments and payments under the Criminal Justice Act for the fiscal year 1978 to all chief judges, all federal defender organizations and to others who may request copies. The report indicated that the sum of \$24,000,000 was appropriated by Congress for the administration of the Act during the fiscal year 1978, including \$350,000 for the liquidation of obligations carried forward from the previous year. During the year approximately 45,000 persons were represented under the Act, a decrease of about 2.3 percent from the fiscal year 1977, but an increase of about 1.8 percent over the comparable period in 1976. Federal public defenders represented 13,725 persons during the year and the community defenders represented 6,396 persons. Collectively, these offices accounted for 45 percent of all representations.

The average cost of representation under the Criminal Justice Act, including appeal, was \$454 per case for private panel attorneys, \$464 per case for community defender organizations, and \$524 per case for Federal public defender offices.

GRANT REQUESTS—COMMUNITY DEFENDER ORGANIZATIONS

The Conference considered grant requests from seven community defender organizations and approved sustaining grants for the fiscal year ending September 30, 1980 as follows:

Federal Defenders of San Diego, Inc.	\$738,000
Federal Defender Program, Inc.— Atlanta, Georgia	231,000
Federal Defender Program, Inc. Chicago, Illinois	464,000
Legal Aid and Defender Association of Detroit, Michigan, Federal Defender Division	566,000
Federal Defender Services Unit of the Legal Aid Society of New York	1,089,000
Federal Defender, Inc. Portland, Oregon	241,000
Federal Court Division of the Defender Association of Philadelphia	373,000

COMMUNITY DEFENDERS—CONDITIONS OF A GRANT

In September 1978 (Conf. Rept., p. 83) the Conference was informed that the Administrative Office had been directed to draft an agreement to be executed annually by community defender organizations and forwarded with each request for a grant. A draft of a proposed agreement was circulated to all community defender organizations for comment, and then considered by the Committee.

After study the Committee determined to recommend that each sustaining grant to a community defender organization, approved by the Conference, be made subject to certain terms and conditions. The Committee submitted a draft of "conditions of grant" and recommended that each year, commencing with grants for the fiscal year 1980, each community defender organization be required to accept these conditions

prior to the receipt of any payments under the grant. The recommendation of the Committee was approved by the Conference.

AMENDMENTS TO CRIMINAL JUSTICE ACT GUIDELINES

Judge Gasch, on behalf of the Committee, submitted proposed amendments to the Guidelines for the Administration of the Criminal Justice Act to accomplish the following:

1. Permit all defender organizations to incur expenses for investigative, expert and other services without reference to limitations contained in 18 U.S.C. 3006A(e)(2) and (3), provided that the total expenditures for these services do not exceed the budget or grant authorizations for these categories of expenses;
2. Provide for interim payments of compensation to counsel and others when considered necessary in a special case;
3. Clarify the guidelines pertaining to the allocation between the Department of Justice and the Administrative Office of the costs and fees for the services of psychiatrists and other experts;
4. Clarify the guidelines relating to the payment by the Department of Justice of fees and expenses of fact witnesses in habeas corpus actions brought in the Federal courts; and
5. Clarify the types of items and services of a personal nature which are not reimbursable under the Criminal Justice Act.

The amendments to the guidelines were approved by the Conference as submitted.

AMENDMENTS TO THE CRIMINAL JUSTICE ACT

The Conference in September 1977 (Conf. Rept., p. 88) authorized the transmission to Congress of proposed amendments to the Criminal Justice Act which would conform the Act to the provisions of the Juvenile Delinquency Act and the Parole Commission and Reform Act, provide counsel for grand jury witnesses who are putative defendants, and authorize expert services necessary for adequate representation. At the request of Judge Gasch, the Conference reaffirmed its previous action and authorized the resubmission to the Congress of these proposed amendments to the Criminal Justice Act.

ASSISTANT FEDERAL PUBLIC DEFENDERS—NAME CHECKS

The Committee recommended that the Conference rescind its requirement that prospective assistant Federal public defenders be subject to name checks by the Federal Bureau of Investigation prior to their appointment (Mar. 1976 Conf. Rept., p. 24), leaving the question of background investigations and name checks to the discretion of the public defenders. Employees of community defender organizations are not subject to the name check requirement. Recently, Federal public defenders have been experiencing difficulty in recruiting qualified assistants in view of the delay being encountered in obtaining name checks. The recommendation was approved by the Conference.

COMMITTEE ON THE OPERATION OF THE JURY SYSTEM

Chief Judge C. Clyde Atkins, Chairman of the Committee on the Operation of the Jury System, presented the report of the Committee.

PUBLIC DRAWING OF JUROR NAMES

Judge Atkins informed the Conference that the Jury System Improvements Act of 1978, 28 U.S.C. 1869(k), authorizes the Judicial Conference to adopt regulations governing the manner of drawing juror names from the jury wheels when such drawing is made by electronic data processing. To implement this provision of law, the Committee submitted the following resolution which was adopted by the Conference:

The Judicial Conference of the United States adopts this regulation under the authority vested in it by section 1869(k) of title 28, United States Code, in respect to the public drawing of juror names from the master and qualified jury wheels as required by 28 U.S.C. 1864 and 1866.

1. The term "reasonable public notice" shall mean the posting of a written announcement as to the scheduled drawing on a bulletin board or at another public place within the courthouse at the place of holding court at which jurors being selected in the drawing will serve. Other methods of communica-

tion may also be employed at the discretion of each United States district court. This posting or other announcement shall take place at such reasonable time in advance of the drawing as the district court shall in its discretion determine.

2. In those judicial districts utilizing automated data processing equipment in their jury selection processes, the public drawing requirement shall apply only to the selection of a starting number and interval ("quotient") which shall govern the selection of juror names from the original source lists. It shall not be deemed to require any public observance of the actual computer operations.

3. In order to ensure the exercise of proper supervision and management over the automated aspects of jury selection and its accordance with statutory requirements, the district courts described in paragraph 2 shall comply with the following procedures:

A. The court shall issue to the operator of the computer facilities written instructions describing the operations which shall be performed by the computer equipment. Such instructions for random selection of grand and petit jurors by data processing methods may be referred to in the district court's plan for random selection of grand and petit jurors and shall be available for inspection by the public.

B. Upon the completion of the data processing work required of the computer facilities, the court shall require the execution of an affidavit by the agency providing the computer service. Such affidavit shall state under penalty of perjury that the procedures set down by the court governing the selection of its jurors have been fully met in the automated phase of the selection process.

C. The clerk or jury commission shall then receive into the permanent records of the court the selection instructions to the computer facility and the affidavit by the representative of the computer facility certifying compliance with the same.

APPOINTMENT OF COUNSEL FOR JURORS

The Jury System Improvements Act of 1978, 28 U.S.C. 1875, imposes a duty upon employers to refrain from interfering with the performance of Federal jury service by a permanent employee and subjects the employer to civil liability for violating this duty. The Act also authorizes a district court to appoint counsel to represent an aggrieved juror in any court action necessary to the resolution of a juror's claim

against the employer and authorizes the payment of compensation and necessary expenses to the extent provided under the Criminal Justice Act. The scope of the district court's discretion in appointing counsel is not defined nor is it stated whether an appointment must be contingent upon the juror's inability to afford retained counsel.

The Committee submitted a draft of a bill amending the Jury System Improvements Act of 1978 to provide that a juror's attorney fees may be taxed as costs against an employer if such fees have been expended from government funds, as well as when the juror has retained and paid for his own counsel. The Conference approved the draft bill and authorized its submission to the Congress.

Upon the recommendation of the Committee, the Conference also adopted the following guideline:

In authorizing the appointment of counsel to represent a juror claiming the violation by his employer of his right to perform jury service, 28 U.S.C. 1875(d), does not require a showing by the juror of financial need as a prerequisite to such appointment or to the compensation of appointed counsel from appropriated funds available to the courts. It is recommended, however, that a district court confronted with a request by a juror for the appointment of counsel first advise the juror that he may retain counsel and be awarded attorney's fees as costs if he prevails in the action.

JURIES IN BANKRUPTCY CASES

The new Bankruptcy Act, Public Law 95-598, is expected to increase the number of jury trials conducted by bankruptcy judges when it becomes effective on October 1, 1979. It was the view of the Committee that the selection of juries for bankruptcy cases should be governed by chapter 121 of title 28, United States Code, which sets forth the manner of jury selection in the district courts. The Committee also believes it advisable for the bankruptcy court to select its juries under the same jury selection plan and from the same master and qualified jury wheels which are employed by the district court for that judicial district. Upon recommendation of the Committee, the Conference adopted the following policy for application in the impaneling of juries by the bankruptcy courts:

1. All courts of the United States conducting jury trials shall adhere to the policies prescribed for Federal jury selection by the Congress in the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. 1861 *et seq.*

2. The plans for random selection of grand and petit jurors adopted by each United States district court with the approval of its reviewing panel under 28 U.S.C. 1863 shall be deemed to govern jury selection by the bankruptcy court for that judicial district as well.

3. The clerk or jury commission of each United States district court shall upon request by the clerk of the bankruptcy court for that district supply to the bankruptcy court a sufficient number of jurors for use in its scheduled jury trials. Such jurors may continue to be utilized by the district court if not selected or when not serving in the bankruptcy court.

4. Each bankruptcy court shall cooperate with the district court clerk in the implementation of those jury utilization techniques which are employed by the district court in the interest of efficient and economical usage of jurors, including jury pooling, multiple voir dire, staggered trial starts, and any other procedures regularly followed by the clerk or jury commission of the district court at the direction of its judges.

JUROR QUALIFICATION FORM

Judge Atkins called attention to a situation in the Eastern District of Pennsylvania in which a new trial was required because a juror who had served in the case was later found to be disqualified from jury service on account of a prior conviction for a state crime. Upon investigation it was discovered that the juror had given an incorrect answer to the question on the qualification form regarding prior criminal records because of a misunderstanding as to its meaning. The Conference thereupon approved a change in the wording of this question on the form to clarify that the statutory disqualification from federal jury service applies to persons convicted, upon their guilty plea or at trial, of a crime which may be punished by imprisonment for more than one year, regardless of the fact that a lesser penalty may have actually been imposed.

INJURIES TO JURORS

The Conference in March 1974 (Conf. Rept., p. 20) approved a draft bill to bring Federal grand and petit jurors within the coverage of the Federal Employees Compensation Act by adding a new section to chapter 81 of title 5, United States Code. Upon recommendation of the Committee, the Conference again approved a draft of a similar bill and authorized its resubmission to the Congress.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

The written report of the Committee on Intercircuit Assignments, submitted by the Chairman, Judge George L. Hart, Jr., was received by the Conference.

The report indicated that during the period from August 16, 1978 through February 15, 1979, the Committee had recommended 71 intercircuit assignments to be undertaken by 51 judges. Of this number, five were senior circuit judges, three were active circuit judges, 13 were district judges in active status and 25 were senior district judges. Fourteen assignments involved one active judge of the Court of Claims, two active judges of the Court of Customs and Patent Appeals, and two active judges of the Customs Court.

Five senior circuit judges and 13 senior district judges carried out 22 of the 34 assignments to the courts of appeals which were recommended during this period. Three active circuit judges, one active district judge, two active judges of the Court of Customs and Patent Appeals and one active judge of the Customs Court participated in the other 12 assignments to the courts of appeals.

Of the 37 assignments to the district courts, 15 senior district judges participated in 15 assignments and the remaining 22 assignments were carried out by 12 active district judges, one active judge of the Court of Customs and Patent Appeals and two active judges of the Customs Court.

AD HOC COMMITTEE ON THE DISPOSITION OF COURT RECORDS

The report of the Ad Hoc Committee on the Disposition of Court Records, chaired by Judge Walter J. Cummings, was presented by Judge Robert L. Kunzig, a member of the Committee.

Judge Kunzig reported that the Committee had approved a draft schedule for the disposition of the records of the United States district courts, including territorial district courts. The draft schedules limit the types of district court records which are to be maintained permanently to indices, judgment and order books, certain recorded documents, domestic relations records, certain sealed records, and docket sheets, except those of United States commissioners and magistrates in petty offense cases which are to be retained for five years only. All other records are to be considered temporary. The draft schedule assigns retention periods up to 23 years for criminal case files.

At the request of Judge Kunzig the Conference authorized the circulation of the Committee's report, including the draft disposition schedule and program, to judges and other interested officers in the district courts with the request that comments thereon be submitted to the Committee.

Judge Kunzig informed the Conference that, upon completion of its work on the records of the district courts, the Committee would consider disposition schedules for the records of the courts of appeals and other federal courts.

MEMORIAL RESOLUTIONS

Noting the recent death of Judge Carl A. Weinman, a former member of the Conference and Chairman of the Budget Committee, the Conference adopted the following resolution:

HONORABLE CARL A. WEINMAN

With deep sorrow, the Judicial Conference of the United States pays tribute to a respected colleague, Carl A. Weinman, who died on February 5, 1979.

After serving as a Judge of the Court of Common Pleas with Jefferson County, Ohio, for twelve years, Judge Weinman was appointed a United States District Judge for the Southern District of Ohio on September 8, 1959, becoming Chief Judge in 1961 and taking senior status on March 1, 1973.

Throughout his years on the federal bench he provided invaluable service to the Judicial Conference, both as a Conference member from 1969 to 1972, and as a Committee member. He began his tour with the Committee on the Budget in 1960, and continued with that Committee until 1978, serving as Chairman from 1971 to 1978. But for his able assistance and his ability to present explanations of the needs of the judiciary, while maintaining his sense of responsibility to the Congress and the public, we would be without many of the great strides which have been made over the past years in the improvement of justice.

In the words of Judge Carl B. Rubin, who succeeded him on the District Court, "The passing of Judge Carl A. Weinman brings to an end almost twenty years of dedicated judicial service for this community. His unerring understanding of human nature, together with his stature as a legal scholar, combined to provide a jurist of rare ability and talent. We were richer for his presence. We are poorer for his loss."

The Judicial Conference mourns his passing and directs that a copy of this resolution be transmitted to his widow.

Noting also the recent death of Warren Olney III, a former distinguished Director of the Administrative Office of the United States Courts, the Conference adopted the following resolution:

WARREN OLNEY III

The Judicial Conference of the United States sadly notes the passing of Warren Olney III, former Director of the Administrative Office of the United States Courts, on December 20, 1978.

Warren Olney's illustrious career in public service spanned a period of almost forty years, beginning in California as a County Deputy District Attorney. Between periods of private practice he served the State of California as Assistant Attorney General in charge of the Criminal Division, and as Chief Counsel to the Special Crime Study Commission on Organized Crime in California. His reputation for and dedication to excellence

next led to an appointment as Assistant Attorney General of the United States in the Criminal Division, Department of Justice, under Attorney General Herbert Brownell.

In 1958, less than a year after leaving the Department of Justice, at the urging of Chief Justice Warren, he accepted the challenge of succeeding Henry P. Chandler, the first Director of the Administrative Office of the United States Courts, upon whose shoulders had fallen the responsibility for the initial development of the organization established by the Administrative Office Act of 1939.

Over the next ten years, Warren Olney was responsible for a wide range of new concepts in judicial administration. To him must go much of the credit for the creation of the Federal Judicial Center, recognizing that the function of research and development should be separated from that of operations.

As a man of great legal ability and professional integrity, he was dedicated to excellence in all that he did, a dedication which, through the years, earned the deep respect and admiration of us all.

The Judicial Conference mourns his passing and directs that a copy of this resolution be transmitted to his widow.

ELECTIONS

The Conference, pursuant to 28 U.S.C. 621(a)(2), elected Circuit Judge William H. Mulligan of the Second Circuit to membership on the Board of the Federal Judicial Center for a term of four years, succeeding Circuit Judge Ruggero J. Aldisert whose term expires on March 28, 1979. The Conference also elected Chief Judge Otto R. Skopil, Jr., of the District of Oregon to membership on the Board of the Federal Judicial Center for a term of four years, succeeding District Judge Robert N. Schnacke whose term of office also expires on March 28, 1979.

The Conference, pursuant to 28 U.S.C. 332(f), reelected Chief Judge Howard T. Markey of the Court of Customs and Patent Appeals to an additional three year term as a member of the Board of Certification for Circuit Executives. Judge Markey's current term expires on July 1, 1979.

PRETERMISSION OF TERMS OF THE COURTS
OF APPEALS

The Conference, pursuant to 28 U.S.C. 48, approved the pretermission of a June 1979 term of the United States Court of Appeals for the Fourth Circuit at Asheville, North Carolina, and approved the pretermission of terms of the Courts of Appeals for the Fifth, Eighth and Tenth Circuits during the calendar year 1979 as follows: in the Fifth Circuit, at all places except New Orleans, in the Eighth Circuit, at all places except St. Louis and St. Paul; and in the Tenth Circuit, at all places except Denver.

RELEASE OF CONFERENCE ACTION

The Conference authorized the immediate release of matters considered at this session where necessary for legislative or administrative action.

Warren E. Burger
Chief Justice of the United States

May 16, 1979

INDEX

	<i>Page</i>
Administrative Office of the United States Courts:	
Report of the Director	2
Air Disaster Litigation	13
Amendments to the Criminal Justice Act	40
Amendments to Criminal Justice Act Guidelines	40
Annuitants, Reemployed	15
Appellate Jurisdiction of the Supreme Court	13
Appointments and Payments under the Criminal Justice Act	38
Appropriations:	
Fiscal Year 1979, Supplemental	17
Fiscal Year 1980	17
Bankruptcy System:	
Committee on, Report of	31
Reporting of Proceedings in Bankruptcy Court	33
Salaries and Arrangements for Referees	32
Budget:	
Appropriations for Fiscal Year 1980	17
Committee on, Report of	17
Limitations on Salaries of a Judge's Personnel Staff	17
Printing of Opinions	18
Space and Facilities	18
Supplemental Appropriations for Fiscal 1979	17
Circuit Councils:	
Cost of Living Allowances for Judicial Officers and Employees Living Outside the Continental United States or in Alaska	12
Circuit Executives:	
Election to the Board of Certification	48
Clerks of Court:	
Code of Conduct	25
Community Defender Organizations:	
Conditions of a Grant	39
Grant Requests	39

Conference:	
Call of	1
Release of Action	49
Court Administration:	
Air Disaster Litigation	13
Appellate Jurisdiction of the Supreme Court	13
Association of District Judges	8
Committee on. Report of.	4
Cost of Living Allowances for Judicial Officers and Employees Serving Outside the Continental United States or in Alaska	12
Court Reporters	16
Judicial Conference Schedule of Additional Fees for Bankruptcy Courts	11
Judicial Conference Schedule of Additional Fees for the United States District Courts	10
Judicial Conference Schedule of Fees for United States Courts of Appeals	9
Judicial Tenure	4
Libraries	7
Membership of District Judges on Circuit Councils	6
Other Fees	12
Reemployed Annuitants	15
Salary Limitations on Judge's Personal Staff	15
Schedule of Fees in Federal Courts	9
Transfer of Cases to Other Courts	15
Uniform Rules of Disciplinary Enforcement	7
Virgin Islands Federal Relations Act	14
Court Records:	
Committee on. Report of	46
Court Reporters:	
Amendments to Qualification Criteria	16
Courts:	
Disposition of Records	46
Libraries	7
Other Fees	12
Schedule of Fees in Federal	9
Space and Facilities	18
Transfer of Cases	15
Virgin Islands Federal Relations Act	14
Bankruptcy Courts:	
Judicial Conference Schedule of Additional Fees	11
Policy in Impaneling Juries	43
Reporting of Proceedings	33

Bankruptcy Court (cont'd)

Statistics	3
Juries	43
Courts of Appeals:	
Judicial Conference Schedule of Fees	9
Statistics	3
Pretermission of Terms	49
District Courts:	
Judicial Conference Schedule of Additional Fees	10
Statistics	3
Use of Spanish Language in Puerto Rico	37
Criminal Code:	
Amendment to	37
Criminal Justice Act:	
Amendments to the Criminal Justice Act	40
Amendments to the Criminal Justice Act Guidelines	40
Appointments and Payments	38
Assistant Federal Public Defenders—Name Checks	41
Committee on. Report of	38
Community Defenders—Conditions of a Grant	39
Grant Requests—Community Defender Organizations	39
Criminal Law:	
Committee on. Report of	36
Transportation Expenses for Defendants in Criminal Cases	37
Use of Spanish Language in the United States	
District Court for the District of Puerto Rico	37
Federal Judicial Center:	
Elections to the Board	48
Report	3
Federal Public Defenders, Assistant	
Name Checks, Rescinding of	41
Fees:	
Judicial Conference Schedule of Additional Fees for	
United States Bankruptcy Courts	11
Judicial Conference Schedule of Additional Fees for	
the United States District Courts	10
Judicial Conference Schedule of Fees for United	
States Courts of Appeals	9
Other Fees	12
Schedule of Fees in Federal Courts	9
Filing Regulations for Financial Disclosure	20
Financial Disclosure:	
Advisory Panel	23

Financial Disclosure (cont'd)

Applicability of the Code of Judicial Conduct	23
Extensions of Time for Filing Reports	21
Filing Regulations	20
Forms, Instructions, Rules and Regulations	20
Gifts of Books and Periodicals	21
Inspection of Reports	22
Methods of Evaluation	21
Nominees to Judicial Office	23
Guidelines:	
Amendments to Criminal Justice Act	40
Authorizing Appointment of Counsel for Jurors	42
Intercircuit Assignments:	
Committee on. Report of	45
Judges:	
Amendment of Canon 3 of the Code of Judicial Conduct	26
Associations of District Judges	8
Cost of Living Allowance Outside the Continental United States or in Alaska	12
Membership of District Judges on Circuit Councils	6
Nominees to Judicial Office	23
Rescinding of 1963 Resolutions Relating to Participation in Business Corporations	25
Salary Limitation on Personal Staff	15, 17
Judicial Activities:	
Advisory Opinion No. 57—Disqualification when a Controlled Subsidiary of the Corporation in which a Judge holds Stock is a Party	26
Advisory Opinion No. 58—Disqualification when a Relative is Employed by a Participating Law Firm	26
Committee on. Report of	26
Judicial Conduct:	
Codes of Conduct for Clerks of Court and Probation Officers	25
Committee on. Report of	24
Investitive, Ceremonial and Naturalization Proceedings	24
Participation in Business Corporations	25
Remittal of Disqualification	26
Judicial Conduct, Code of:	
Amendment of	24

Judicial Conduct, Code of (cont'd)

Amendment of Canon 3D	26
Clerks of Court and Probation Officers.....	25
Judicial Ethics:	
Advisory Panel	23
Applicability of the Code of Judicial Conduct	23
Appointment of the Committee	19
Committee on, Report of.....	19
Extensions of Time for Filing Reports.....	21
Filing Regulations	20
Gifts of Books and Periodicals	21
Inspection of Reports.....	22
Methods of Valuation	21
Nominees to Judicial Office.....	23
Reporting Form and Instructions, Rules and Regulations	20
Resolutions Pertaining to the Review Committee.....	22
Judicial Panel on Multidistrict Litigation	4
Judicial Tenure.....	4
Jurisdiction:	
Appellate, of the Supreme Court	13
Jurors:	
Appointment of Counsel for	42
Clarification of Qualification Form	44
Injuries.....	45
Jury Systems Improvements Act of 1978.....	41, 42
Public Drawing of Names	41
Jury System:	
Appointment of Counsel for Jurors	42
Committee on, Report of.....	41
Injuries to Jurors	45
Juror Qualification Form.....	44
Jurors in Bankruptcy Cases.....	43
Public Drawing of Juror Names	41
Legislation:	
S. 3008—Authorize an Allowance for Judicial Officers and Employees Serving Outside the Continental United States or in Alaska.....	12
S. 3100—Appellate Jurisdiction of the Supreme Court	13
H.R. 10917—Air Disaster Litigation.....	13
H.R. 11276—Transfer of Cases from Court to Court	15
H.R. 13950—Authorize Use of the Spanish Language	

Legislation (cont'd)

in the District Court for Puerto Rico.....	37
Proposed Draft Legislation to Amend Criminal Code re Transportation Expenses for Defendants in Criminal Cases.....	37
Proposed Draft Legislation to Amend the Jury System Improvements Act of 1978 to Provide that a Juror's Attorney Fees may be Taxed as Costs against an Employer if such Fees have been Expended from Government Funds.....	43
Proposed Draft Legislation to bring Federal Grand and Petit Jurors within the Coverage of the Federal Employees Compensation Act.....	45
Libraries.....	7
Magistrates:	
Changes in Positions.....	27
Magistrates System:	
Changes in Magistrate Positions.....	27
Committee on, Report of.....	27
Markey, Honorable Howard T.—Reelection to the Board of Certification for Circuit Executives.....	48
Memorial Resolutions:	
Olney, Warren III.....	47
Weinman, Carl A.....	46
Mulligan, Honorable William H.—Election to the Board of the Federal Judicial Center.....	48
Olney, Warren III, Former Director of the Administrative Office of the United States Courts, Resolution on the Death of.....	47
Opinions:	
Advisory, of the Judicial Activities Committee.....	26
Printing of.....	18
Photographs in the Courtroom:.....	24
Resolution.....	25
Pretermission of Terms of the Courts of Appeals.....	49
Pretrial Services Agencies.....	35
Probation Officers:	
Code of Conduct.....	25
Mandatory Retirement.....	36
Protection of.....	34
Probation System:	
Committee on, Report of.....	34
Mandatory Retirement.....	36

Probation System (cont'd)

Pretrial Services Agencies	35
Protection of Probation Officers.....	34
Sentencing Institutes	34
Puerto Rico. Use of the Spanish Language in the United States District Court	37
Referees:	
Salaries and Arrangements for	32
Reporting Forms for Financial Disclosure	20
Resolutions:	
Adequate Library Facilities.....	8
Disciplinary Enforcement, Uniform Rules of.....	7
Honorable Warren Olney III, Memorial on the Death of.....	47
Honorable Carl A. Weinman, Memorial on the Death of.....	46
Judicial Conduct.....	5
Membership of District Judges on Circuit Councils.....	6
Photographs in the Courtroom	25
Public Drawing of Juror Names	41
Reemployed Annuitants.....	15
Rescinding of Review Committee Resolutions	22
Use of the Spanish Language in the United States District Court for the District of Puerto Rico.....	37
Rescinding of 1963 Resolutions Relating to Participation in Business Corporations by Judges	25
Review Committee:	
Rescinding of 1963 Resolutions	22
Rules of Disciplinary Enforcement, Uniform:	
Rule XI—Periodic Assessment of Attorneys; Registration Statements.....	7
Rule XII—Payment of Fees and Costs	7
Salaries:	
Court Reporters	16
Limitation on Judge's Personal Staff.....	15, 17
Sentencing Institutes	34
Skopil, Honorable Otto R.—Election to the Board of the Federal Judicial Center.....	48
Speedy Trial Act of 1974:	
Pretrial Services Agencies	35
Statistics:	
Bankruptcy Cases.....	3
Courts of Appeals.....	3

Statistics (cont'd)

Criminal Justice Act	38
District Courts	3
Intercircuit Assignments	45
Pretrial Services Agencies	35
Supreme Court:	
Appellate Jurisdiction of	13
Transportation Expenses for Defendants in Criminal Cases	37
Virgin Islands Federal Relations Act	14
Weinman, Carl A., Senior United States District Judge for the Southern District of Ohio and Former Member of the Conference and Chairman of the Budget Committee	46