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

OCTOBER 26, 27, 1972

WASHINGTON, D.C.

1972

**ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS**

**Rowland F. Kirks
Director**

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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.

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Report of the Proceedings of the Judicial Conference of the United States

OCTOBER 26-27, 1972

The Judicial Conference of the United States convened on October 26, 1972, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. 331. The Conference continued in session on October 27. The Chief Justice presided and the following members of the Conference were present:

District of Columbia Circuit:

Chief Judge David L. Bazelon
Chief Judge John J. Sirica, District of Columbia*

First Circuit:

Chief Judge Frank M. Coffin
Judge Edward T. Gignoux, District of Maine

Second Circuit:

Chief Judge Henry J. Friendly
Chief Judge David N. Edelstein, Southern District of New York

Third Circuit:

Chief Judge Collins J. Seitz
Chief Judge Michael H. Sheridan, Middle District of Pennsylvania

Fourth Circuit:

Chief Judge Clement F. Haynsworth, Jr.
Judge Oren R. Lewis, Eastern District of Virginia

Fifth Circuit:

Chief Judge John R. Brown
Judge E. Gordon West, Middle District of Louisiana

Sixth Circuit:

Chief Judge Harry Phillips
Judge Robert L. Taylor, Eastern District of Tennessee

Seventh Circuit:

Chief Judge Luther M. Swygert
Judge James E. Doyle, Western District of Wisconsin

*On designation of the Chief Justice, Judge George L. Hart, Jr., attended the first session of the Conference and Judge Oliver Gasch the second session in place of Chief Judge Sirica who was unable to attend.

Eighth Circuit :

Chief Judge M. C. Matthes**

Chief Judge Oren Harris, Western District of Arkansas

Ninth Circuit :

Chief Judge Richard H. Chambers

Judge Jesse W. Curtis, Central District of California

Tenth Circuit :

Chief Judge David T. Lewis

Judge Olin Hatfield Chilson, District of Colorado

Court of Claims :

Chief Judge Wilson Cowen

Court of Customs and Patent Appeals :

Chief Judge Howard T. Markey

Senior Circuit Judges Albert B. Maris and Elbert P. Tuttle; Circuit Judges Robert A. Ainsworth, Jr., Irving R. Kaufman, Edward A. Tamm and Francis L. Van Dusen; Senior District Judges Roy W. Harper and Roszel C. Thomsen; and District Judges Edward J. Devitt, Charles M. Metzner, Edward Weinfeld, Carl A. Weinman and Alfonso J. Zirpoli attended all or some of the sessions of the Conference.

The Honorable Richard G. Kleindienst, Attorney General of the United States, and the Honorable Erwin N. Griswold, Solicitor General of the United States, addressed the Conference at the opening of the first session on matters relating to the activities of the Department of Justice and the federal judiciary.

The Honorable Alfred P. Murrah, Director of the Federal Judicial Center and Chairman of the Panel on Multidistrict Litigation, presented the reports on behalf of the Board of the Center and of the Panel.

Mark Cannon, Administrative Assistant to the Chief Justice, Rowland F. Kirks, Director of the Administrative Office of the United States Courts, and William E. Foley, Deputy Director, attended all of the sessions of the Conference.

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

The Director of the Administrative Office, Mr. Kirks, presented his annual report and was authorized by the Conference to release the preliminary edition immediately in mimeograph form and to revise and supplement the final printed edition.

**On designation of the Chief Justice, Judge Pat Mehaffy attended the Conference for Chief Judge Matthes who was unable to be present.

In his report Mr. Kirks pointed out that the upward trend in the workload of the courts of appeals and the district courts continued throughout fiscal year 1972. In the courts of appeals case filings rose 13.7 percent over the prior year and in the district courts civil case filings were up three percent and criminal case filings were up 13.7 percent. Despite these increases in filings, Mr. Kirks reported that the federal courts have made substantial gains in the disposition of cases. In the courts of appeals the judges terminated 11.8 percent more cases in 1972 than in 1971. In the district courts the civil case terminations rose ten percent and criminal case terminations were 21.5 percent higher than in 1971.

Utilization of petit jurors improved over the rate of the previous year. Although there was a 9.2 percent rise in the number of juror days served, there was a decrease of 3.1 percent in petit juror days not used. As a result, total petit juror payments declined 2.7 percent. It is estimated that in the Southern District of New York alone, the dollar savings in improved juror utilization was approximately \$278,000.

Mr. Kirks reported that in the first full year of operation of the federal magistrates system some 237,522 separate items of business were disposed of by the magistrates. This included the disposition of 72,082 minor offenses in addition to the discharging of several other functions assigned to the magistrates.

In the bankruptcy area, case filings decreased substantially, by 9.2 percent. In the probation system the continual increases noted over the past several years again characterized 1972, with presentence investigation reports up 17.4 percent and the number of persons received for supervision increasing by 16.3 percent.

Mr. Kirks advised the Conference that fiscal year 1972 marked the inauguration of the circuit executive program. He said that the Board of Certification, after several meetings and a most diligent screening process, certified 52 nominees. At the close of the year eight circuits had selected circuit executives.

COMMITTEE ON THE BUDGET

The report of the Committee on the Budget was presented by the Chairman, Chief Judge Carl Weinman.

The budget report had earlier been circulated to the members of the Conference and approved by vote slip because of the statutory necessity of submitting the budget to the Office of Management and

Budget prior to October 15. In addition to the budget originally approved, the Conference voted to include a request for 340 additional probation officers. Judge Weinman advised the Conference that in 1972 the sum available from appropriations for the operation of the courts, the Administrative Office and the Federal Judicial Center aggregated \$171,264,000. The annual appropriation for fiscal year 1973 which was authorized just prior to the convening of the Conference totalled \$182,783,000.

Included in the 1973 appropriation is funding for 168 additional probation officers as well as 84 clerk-stenographer positions for the probation service. Also included are funds for 27 secretaries for those circuits which specifically requested secretarial pools. Special provision was also made for the employment of additional personnel by the Court of Appeals for the Fifth Circuit to be allocated by the Chief Judge and the Director of the Administrative Office to take care of the temporary situation which the Appropriations Committee found to exist in that circuit. The sum of \$14,500,000 was appropriated for the appointment of counsel and the operation of defender organizations under the Criminal Justice Act. For salaries of referees \$6,991,000 was appropriated, thus permitting increases in the salaries of full-time referees from \$30,000 to \$31,650. Congress also approved a supplemental appropriation for fiscal year 1973 to permit increases in the salaries of 87 full-time magistrates from \$22,500 to \$30,000, one full-time magistrate from \$14,000 to \$16,000 and 37 part-time magistrates from \$11,000 to \$12,000.

Judge Weinman advised that the 1973 Appropriation Act provided a limitation of \$1,000,000 for the fees and expenses of counsel appointed under the Criminal Justice Act by the District of Columbia Court of Appeals and the Superior Court of the District of Columbia. As a result thereof and in view of the fact that the House Appropriations Committee had originally denied any funds under the Criminal Justice Act for these two courts, Judge Weinman proposed that in the future the Director of the Administrative Office confer with the appropriate court officials of the District of Columbia government so that appropriations for the appointment of counsel in these local courts be requested through the District of Columbia appropriations.

COMMITTEE ON COURT ADMINISTRATION

Judge Robert A. Ainsworth, Jr., Chairman of the Committee on Court Administration, presented the committee's report.

PLACES OF HOLDING COURT

The Conference approved a recommendation of the committee and reaffirmed its position that no new places of holding court shall be approved in the absence of a showing of a strong and compelling need; further, when a Congressional or other request is received and before referral to a committee of the Conference, the Administrative Office shall first seek the views of the chief judge of the district involved and of the judicial council of the circuit as to the merits of the proposal. Only if the proposal meets with the approval of both and supporting data are provided shall the proposal be referred to the committee of the Conference.

The Conference disapproved H.R. 5595 to add Pineville as a place of holding court in the Eastern District of Kentucky and S. 3006, adding Bennington as a place of holding court in the District of Vermont.

COURT OF APPEALS OPINIONS

The Conference approved the recommendation of the committee directing the Administrative Office to confer with the West Publishing Company so as to show on each published court of appeals opinion the date of argument and the date of the opinion.

The Conference approved the circulation to all circuit judges of the detailed recommendation of the Board of the Federal Judicial Center concerning the publication of opinions of the courts of appeals. It requested each circuit to develop an opinion publication plan by January 1, 1973. These plans are to be submitted to the Committee on Court Administration for consideration and report back to the Conference at the April 1973 meeting.

NATIONAL INSTITUTE OF JUSTICE

The Conference approved the concept of a National Institute of Justice as contained in S. 3612, 92nd Congress. The Conference deferred consideration or comment as to the implementation of the proposal inasmuch as the American Bar Association is currently undertaking a feasibility study in connection with the proposal.

TERRITORIAL JUDGES

The Conference considered and disapproved H.R. 14169, a bill which provides a formula under the terms of which the total per annum rate of salary or proportion of salary payable to a judge of a territory or possession of the United States under 28 U.S.C. 373 shall be increased periodically by one percent, plus the present percent rise in the consumer price index. The Conference was of the view that if the proposal is meritorious it should also apply to a justice or judge who resigns under the provisions of Section 371(a) of Title 28. The Conference also noted that under the proposed legislation a territorial judge who would resign and then receive a cost of living increase shortly thereafter would be receiving retirement benefits greater than the salary of an active judge.

ADDITIONAL JUDGESHIPS

Judge Ainsworth advised the Conference that the committee had made a thorough study of the report of its Subcommittee on Judicial Statistics based on the completion of the quadrennial survey of the need for additional district judges in the federal court system. Based on this careful analysis of statistical data, the Conference approved recommendations for additional judgeships in the district courts as follows:

	<i>Additional Judgeships</i>
Alabama :	
Northern District.....	1
Middle District.....	1
Southern District.....	1
Arizona	1
California :	
Northern District.....	2
Eastern District.....	2
Central District.....	2
Southern District.....	2
Florida :	
Middle District.....	2
Southern District.....	2
Georgia :	
Northern District.....	2

Indiana :	
Northern District.....	1
Southern District.....	1
Kansas	1
Louisiana :	
Eastern District.....	2
Massachusetts	4
Minnesota	1
Missouri :	
Western District.....	1
New Jersey.....	1
New York :	
Northern District.....	1
Eastern District.....	2
North Carolina :	
Eastern District.....	(¹)
Oklahoma :	
Northern District.....	^a 1
Oregon	1
Tennessee :	
Eastern District.....	1
Texas :	
Northern District.....	3
Eastern District.....	1
Southern District.....	4
Western District.....	2
Virginia :	
Eastern District.....	2
Western District.....	1
Washington :	
Western District.....	1
Wisconsin :	
Western District.....	1

¹ Temporary judgeship to be made permanent.

^a With the proviso that when any vacancy occurs among the judgeships assigned to more than one district in Oklahoma the successor appointed to such a vacancy shall be named to the Western District of Oklahoma only.

The Conference further reiterated its support of a bill endorsed at the October 1971 session of the Conference (Conf. Rept., p. 81) for the establishment of ten additional circuit judgeships. The Conference noted also that since the quadrennial survey of the needs of the courts of appeals had been conducted the case filings in the

Court of Appeals for the Sixth Circuit have risen markedly and agreed that one additional circuit judgeship should be created in the Sixth Circuit. Thus, the Conference agreed to recommend to the Congress the establishment of the following circuit judgeships:

Circuit :	<i>Number</i>
First -----	1
Second -----	¹ 2
Third -----	1
Fourth -----	2
Fifth -----	0
Sixth -----	1
Seventh -----	1
Eighth -----	0
Ninth -----	2
Tenth -----	1
District of Columbia -----	0
Total -----	11

¹ Conditional upon certification of need by the Judicial Conference.

SUPPORTING PERSONNEL

SENIOR ADMINISTRATIVE SECRETARY TO A CHIEF JUDGE

The Conference disapproved a request for the establishment of a position of senior administrative secretary to the chief judge of any large district or circuit court. In so doing, it noted that the position of circuit executive has now been established and it is fair to assume that the circuit executive will take many of the administrative burdens of the chief judge of the circuit.

COURTROOM DEPUTY CLERKS FOR SENIOR DISTRICT JUDGES

The Conference agreed with the recommendation of the committee that there is no need to establish a position of courtroom deputy clerk for a senior district judge. Any senior district judge is entitled to courtroom deputy services in all courtroom proceedings and the furnishing of such assistance is the responsibility of the clerk's office. For this reason, a specific position need not be established since this is clearly a responsibility which every clerk's office must provide.

ADDITIONAL MANAGERIAL/SUPERVISOR GRADES IN CLERKS' OFFICES

The Conference authorized the following managerial/supervisor grades from among existing clerks' offices in the courts of appeals, subject to availability of funds and with allocation control in the Administrative Office, as follows:

Second Circuit.....	2.....	JSP 9
Third Circuit.....	1.....	JSP 8
Fourth Circuit.....	1.....	JSP 8
Fifth Circuit.....	3.....	JSP 9
Ninth Circuit.....	3.....	JSP 9

SECRETARY TO THE CIRCUIT EXECUTIVE

The Conference approved qualification standards for the position of secretary to the circuit executive.

COURT REPORTERS

The Conference noted that the Board of the Federal Judicial Center has recommended the adoption of a policy to the effect that efficient management of court reporting takes precedence over the exclusive assignment of one reporter for each judge; that procedures for supervising and assigning reporters in multidistrict courts be established and completed with a view to equalizing distribution of the workload; and that the Conference undertake to establish improved qualification and production standards, as well as standards for the expected number of hours per day which should be spent reporting court proceedings. After a study of these recommendations and the committee's further recommendations, the Conference adopted an integrated policy aimed at improving court reporter services in the federal judicial system; specifically, a certification process for all reporter personnel, production standards and a plan for the supervision, assignment and accountability of reporters, the details of which are to be defined by the Director of the Administrative Office after consultation with the district court and with the approval of the circuit council.

The Conference approved an increase in the number of court reporters assigned to the Southern District of New York from 28 to 31.

INTERPRETER

The Conference approved the position of interpreter for the United States District Court for the Southern District of Texas at Brownsville.

LEGISLATION

The Conference considered five bills which it determined involved primarily matters of legislative policy on which the Conference should make no comment:

1. H.R. 15396 which would set up regional small contract claims divisions within the Board of Contract Appeals to handle claims in amounts not exceeding \$50,000;
2. H.R. 14612 which would provide that claims for damage or injury caused by members of the Army or Air National Guard shall be allowed under 32 U.S.C. 715;
3. S. 1177 which would establish a council of consumer advisors—but the impact of this bill on the judiciary should be brought out at legislative hearings;
4. H.R. 15539 which would make the United States liable for court costs and attorneys' fees to persons who prevail in actions arising out of administrative actions of agencies of the Executive Branch;
5. H.R. 14726 which would amend 41 U.S.C. 321 to provide for full adjudication of rights of government contractors in courts of law.

The Conference approved H.R. 13645 to authorize the district courts to order the service of documents and taking of depositions in foreign countries upon application of administrative tribunals.

The Conference approved S. 3653, a bill to amend the requirement for a three-judge court. In so doing, the Conference noted that this bill differs from the original recommendation of the Conference (Conf. Rept., October 1970, p. 78) in that it contains no special provision giving the Attorney General of the state or of the United States the option of appealing to the appropriate court of appeals or directly to the Supreme Court.

The Conference approved a draft bill submitted by the Office of Management and Budget to provide that applications to review final orders of the Civil Service Commission shall be filed in the Court of Claims or the appropriate court of appeals as provided in Chapters 91 and 158 of Title 28, United States Code. Approval of

this proposal was conditioned upon certain amendments being made as follows:

Page 1:

Line 15.—delete “the Court of Claims or”

Line 16.—substitute “chapter 158” for “chapters 91 and”

Line 17.—insert between “petition” and “may” the following “under this chapter”

Page 2:

Line 2.—delete “, the Court of Claims or”

Page 3:

Line 11.—Add as a SEC. 6 the following: “Nothing in this act shall be construed as affecting or changing in any manner the jurisdiction or procedure of the Court of Claims as provided in chapters 91 and 165 of title 28, United States Code.”

LAND CONDEMNATION

The Conference noted that the committee had for some time been studying the matter raised by the Division of Land and Natural Resources of the Department of Justice concerning the requirement of some district courts that separate condemnation proceedings be filed for each tract, economic unit or ownership of land in federal projects. The Conference was advised that the Department of Justice regards the requirement of separate filings as violating both the letter and spirit of Rule 71(A)(b) of the Federal Rules of Civil Procedure. The Conference approved seven guidelines to be used for a two-year trial period by approximately six or more district courts on a volunteer basis. The results of the experiment are to be reviewed by the Committee on Court Administration for recommendations of appropriate action in the light of that experience. In essence, the guidelines provide:

(1) for each tract, economic unit or ownership for which the just compensation is required to be separately determined in a total lump sum, there shall be a separate civil action file opened by the clerk, which shall be given a serial number, as are given to other civil actions. A separate JS 5 card and a separate JS 6 card shall be prepared on each such action;

(2) The file in the civil action containing the first complaint filed in a single declaration of taking shall be designated as the Master File for all the civil actions based upon the single declaration of taking. The numerical designation as the Master File shall be shown by adding as a suffix to the civil action serial number the symbol MF—. (In the blank shall be inserted a code number or numbers

designating the project or projects and the number assigned the declaration of taking with which the property concerned is connected). The single declaration of taking shall be filed in the Master File only;

(3) for the civil action designated as the Master File there shall be a separate complaint;

(4) a standard form of complaint may be used. In the body of the complaint it shall not be necessary to designate the owner or owners of the property concerned or other parties affected or to describe the property concerned. These factors may be set forth in an exhibit incorporated by reference in the standard form of complaint and attached thereto;

(5) in any notice or process required or permitted by law or by rule the condemnor, at its option, may combine in a single notice or process, notice or process in as many separate civil actions as it may choose in the interests of economy and efficiency;

(6) a district court shall adopt a local rule or general order that the filing of a declaration of taking in the Master File constitutes a filing of the same in each of the actions to which it relates;

(7) a district court may adopt a local rule or order that, unless otherwise ordered, all issues of just compensation involved in a single declaration of taking shall be consolidated for a joint hearing and trial.

NOTICE COSTS IN CLASS ACTION CASES

The Conference was advised that the Administrative Office had referred to the committee the problem of payment of costs of notices ordered by courts in class action cases pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Conference agreed to seven general recommendations, two of which concern recommendations to the Advisory Committee on Civil Rules in connection with its comprehensive reevaluation of Rule 23. The Conference agreed that the fiscal questions which precipitated the committee inquiry are an integral part of larger judicial problems in the application of Rule 23. The other recommendations approved provide:

(1) that reimbursement to the Postal Service for the use of penalty covers in sending out class action notices be accomplished through payment into the respective clerk's deposit fund account and reimbursements therefrom to the Administrative Office through

its suspense account for payment periodically to the Postal Service as against accruing penalty cover charges;

(2) that penalty covers for court use be ordered solely through the Administrative Office; that the printing of penalty covers by authorization of individual courts be discontinued; that all penalty covers, including those for use of the courts, bear the statutory penalty language; that if penalty covers are to be utilized for class action purposes involving more than 500 for an individual notice without prepayment or security for postage costs, it is required that report of this fact, the quantity of mail to be involved, and any provision for reimbursement be made in advance to the Administrative Office, and that the Administrative Office endeavor to develop among the courts and with the Postal Service a more satisfactory and accurate reporting and accounting system for penalty mailings and in the Congress appropriations responsive to any essential unreimbursed use by the courts of penalty coverage;

(3) that pursuant to 28 U.S.C. 1914(b) the regular postage rates for any penalty covers utilized under orders of court for the mailing of class action notices shall be among the additional fees to be collected by clerks of court;

(4) that district courts be reminded that under subsection (c) of the same statute they may require by rule or order the advance payment of notice expenses; and

(5) that class management problems and notice costs within the availability of authorized funds, accounting regulation of the Administrative Office, and any interim guidelines to be approved by the Conference, shall be left to further development by the various district and circuit courts on a case by case basis pending a comprehensive reexamination and reevaluation of Rule 23 by the Advisory Committee on Civil Rules of Civil Procedure.

REVIEW COMMITTEE

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

Upon examination of the reports filed for the six-month period ending June 30, 1972, Judge Tamm reported that fourteen circuit and district judges did not file reports for that period. In accordance

with Conference resolution at its March 1971 session (Conf. Rept., p. 24) Judge Tamm reported that these judges are:

Second Circuit:

*Edmund L. Palmieri
U.S. District Judge
Sylvester J. Ryan
U.S. District Judge
*Edward Weinfeld
U.S. District Judge
*Inzer B. Wyatt
U.S. District Judge

Ninth Circuit:

*William M. Byrne
U.S. Senior District Judge
*Walter Early Craig
U.S. District Judge
*Walter Ely
U.S. Circuit Judge

*Warren J. Ferguson
U.S. District Judge
*Peirson M. Hall
U.S. Senior Circuit Judge
*Oliver D. Hamlin, Jr.
U.S. Senior Circuit Judge
*William D. Murray
U.S. Senior District Judge
Harry Pregerson
U.S. District Judge
*Manuel L. Real
U.S. District Judge

Tenth Circuit:

Stephen S. Chandler, Jr.
U.S. District Judge

*Judges heretofore declining to file "as a matter of principle."

The Conference noted the expression by the Committee that care should be exercised by all judges serving in either family or non-family trusts or estates and with or without compensation that the time consumed by these assignments does not interfere with the performance of judicial duties. A similar observation was made as to the small number of judges who serve as teachers or who have received income from lectures.

The committee reiterated that whenever it is forced to make further inquiry based on reports filed, such inquiry does not in any way suggest that the Review Committee questions, approves or disapproves the particular affiliation or other matter concerning which inquiry is made.

On recommendation of the committee the Conference approved the resolution requiring that all full-time United States magistrates and all full-time referees in bankruptcy be required to file with the committee, with the chief judge of the circuit involved and the clerk of the district court from which they operate a semiannual report of extrajudicial income in the same form and at the same time as is now required of federal judges.

INTERIM ADVISORY COMMITTEE ON JUDICIAL ACTIVITIES

Judge Elbert P. Tuttle presented the report of the Interim Advisory Committee on Judicial Activities of which he is chairman.

Judge Tuttle pointed out that two formal opinions of the committee have been rendered since the last session of the Conference (Opinions Nos. 24 and 25) and that these have been circulated to all federal judges.

The Conference agreed that all full-time magistrates were subject to the 1963 resolution of the Judicial Conference (Conf. Rept., p. 62) which provides that no justice or judge shall serve in the capacity of an officer, director or employee of a corporation organized for profit.

INTERCIRCUIT ASSIGNMENTS

Judge Roy W. Harper, Chairman, presented the report of the Committee on Intercircuit Assignments covering the period from February 15 to September 15, 1972.

During the period in question the Committee recommended 53 assignments to be undertaken by 38 judges. Of this number one is a circuit judge in active status, 11 are senior circuit judges, four are district judges in active status and 16 are senior district judges. One retired Supreme Court Justice, one active and two senior judges of the Court of Claims and one active and one senior judge of the Customs Court participated in 13 assignments.

There were 25 assignments to the circuit courts of appeals during this period. Fourteen senior circuit judges, three senior district judges, one retired Supreme Court Justice and two senior judges of the Court of Claims assisted in carrying out these assignments. There was one assignment to the Court of Customs and Patent Appeals carried out by a retired Supreme Court Justice and 27 assignments to the district courts, of which 17 were carried out by 14 senior district judges, one by a retired Supreme Court Justice and three by a senior judge of the Customs Court.

COMMITTEE ON COURT FACILITIES AND DESIGN

The report of the Committee on Court Facilities and Design was presented by the committee chairman, Chief Judge Edward J. Devitt.

At the October 1971 session of the Conference it was agreed that the committee should continue in existence to work further with General Services Administration on the design of auxiliary courtroom facilities (Conf. Rept., p. 65). Judge Devitt advised that the committee had proceeded on the basis of this mandate and now recommended to the Conference (1) that each judge be allocated up to 1,600 square feet of space for himself, secretary and law clerks, to be allocated to chambers, library, office or conference room as his individual needs may require, and (2) that each courtroom be allocated up to 1,300 square feet of space for adjunct facilities, including approximately 330 square feet for a jury deliberation room, approximately 125 square feet for a holding cell for defendants in custody and approximately 200 square feet as a witness room; and that the remaining approximately 645 square feet be allocated in the discretion of the judge as the needs of the district may require for conference or robing room, attorneys' conference room, minute clerk's office, court reporters' room, exhibit and storage area or for other court use.

Judge Devitt advised that the General Services Administration had prepared charts available to all judges in the planning of facilities for new court construction and urged that the judges give careful consideration to the suggested functional arrangements of these facilities which, in the opinion of General Services Administration, represent the best possible interarrangement of activity areas for traffic flow, communication, convenience, privacy and security. The latest security proposals being developed by the Office of the United States Marshals will be embodied in this construction.

The Conference noted that both of these recommendations are substantially larger than the minimum dimensions adopted in 1949 and, after discussion, voted its approval of both the recommendations.

Judge Devitt reiterated the support of his committee for the recommendation made in October 1971 that a standard courtroom in the size of 28 x 40 feet was most practical, based on lack of need for large audience space, development of air conditioning, adaptability when new judges are appointed and in conformance with the national trend in the state courts. The committee also presented for Conference consideration an intermediate size courtroom of 34 x 44 feet with a 12 foot ceiling. After discussing these proposals relating to new courthouse construction, the Conference

Resolved, that it is the sense of the Conference that courtrooms in courthouses hereafter constructed for United States district courts should range from 1,120 square feet, 28' x 40', to 1,496 square feet, 34' x 44', and that in the planning of future construction the judicial councils of the circuits shall fix the number of each such courtroom after consultation with the district judges. Where need is demonstrated on the basis of projected caseloads, one or more large courtrooms of 2,400 square feet, 40' x 60', for unusual purposes, such as multiparty cases, including, where needed, one ceremonial courtroom.

It was further resolved to be the sense of the Judicial Conference that, in adapting present space to courtroom use, General Services Administration should apply practical standards on a case by case basis.

On the adoption of these resolutions, Judge Devitt moved that his ad hoc committee be relieved and dismissed. The Conference, however, was of the view that the committee should be retained in existence to handle such special problems relating to courtroom space as may arise from time to time.

RULES OF PRACTICE AND PROCEDURE

Judge Albert B. Maris, Chairman, presented the report of the Committee on Rules of Practice and Procedure.

CIVIL RULES

Judge Maris stated that the Advisory Committee on Civil Rules was giving extended consideration to Rule 23 relating to class actions and had directed its reporter to prepare alternative drafts of possible amendments to that rule for consideration at its next meeting.

APPELLATE RULES

The Conference was advised that the committee had deferred submitting to the Conference proposed amendments to Appellate Rules 9(d) and 10(b) which had been submitted to the committee at the suggestion of the Conference Committee on the Administration of the Criminal Law. The suggestion was, in substance, to deny release on bail pending appeal to a defendant who has not made satisfactory arrangements with the court reporter for procuring a transcript of the testimony and who has not been granted leave to appeal *in forma pauperis*. The suggestion, further, was that such failure should also be grounds for dismissal of the appeal.

Judge Maris stated that his committee thought that the problems involved other aspects of appellate procedure and should be considered along with many other ways in which the courts of

appeals are now seeking to meet the problem of delay by the Advisory Committee on Appellate Rules when it is reconstituted. Accordingly, no recommendation was made for action by the Conference on these two proposed amendments at this time.

BANKRUPTCY RULES

The Conference approved for transmittal to the Supreme Court proposed rules and official forms under Chapters I-VII of the Bankruptcy Act (ordinary bankruptcy) and under Chapter XIII of the Bankruptcy Act. The Conference also approved the committee recommendation that if the Supreme Court adopts these rules, it would be proposed that they take effect on July 1, 1973.

In submitting the bankruptcy rules, Judge Maris pointed out that ever since full rule-making authority under the Bankruptcy Act was conferred upon the Supreme Court by Congress in 1964, the Advisory Committee on Bankruptcy Rules has been engaged in the large task of preparing a comprehensive study of rules and official forms not only for Chapters I-VII and Chapter XIII but also under Section 77 relating to railroad reorganization, Chapter IX, local taxing agency compositions, Chapter X, corporate reorganizations, Chapter XI, arrangements and Chapter XII, non-corporate real property arrangements. Judge Maris said that preliminary drafts of rules under Chapters X and XI will be published to the bench and bar shortly and drafts of rules under the remaining chapters are in preparation.

It was further pointed out to the Conference that the statutory Commission on the Bankruptcy Laws is devoting itself solely to the substantive aspects of the law upon the theory that the proposed bankruptcy and Chapter XIII rules now approved for transmission to the Supreme Court will fully cover the procedural aspects.

CRIMINAL RULES

The Conference approved for transmittal to the Supreme Court proposed amendments to criminal rules 4(a), 9(a), 11, 12, 15, 16, 17(f), 20, 32(a), 32(c), 32(e), 43 and 50 and proposed new criminal rules 12.1, 12.2 and 29.1.

The Conference was advised that the standing Committee did not recommend approval at this time of the proposed new criminal rule 41.1 with respect to non-testimonial identification before and after arrest. This proposal which has been circulated to the bench

and bar has evoked a number of serious questions which require further study and the committee believes that before a procedural rule on this subject is recommended to the Supreme Court, the committees and the Conference should have the benefit of more experience with such procedure in the states and in the District of Columbia and of judicial consideration of the Constitutional questions involved. The committee was further of the view that such a procedure is one with which the federal courts would have little occasion to deal except in the District of Columbia where the crimes of violence involved are, under recent reorganization, tried in the local Superior Court rather than in the United States District Court. The committee was of the view that the Superior Court could establish procedures under its own rule-making authority, thus meeting the need in the District of Columbia.

CORRELATION WITH SENATE SUBCOMMITTEE ON CRIMINAL LAWS AND
PROCEDURES

The Conference authorized the standing Committee and advisory committees to cooperate with the Senate Subcommittee on Criminal Laws and Procedures now engaged in preparation of a revision of Title 18, United States Code, for the general purpose of implementing the recommendations of the National Commission on Reform of the Federal Criminal Laws. The Senate subcommittee, recognizing that Title 18 at present includes a large number of procedural provisions which are not included in the federal rules of criminal procedure, desires that such of these provisions as are not obsolete, as well as any new procedures which may be required to implement any changes proposed in the substantive law, be incorporated into the federal rules and thus subject directly to the rule-making authority of the Supreme Court. In order to synchronize this process, the subcommittee proposed that its draft bill include two titles—Title I, the Revised Federal Criminal Code of Substantive Law, and Title II, the Proposed Amendments and Additions to the Federal Rules of Criminal Procedure, including those amendments transferring the useful procedural provisions of Title 18. Although these rules amendments would be accomplished by statute, it is proposed to make it clear that their enactment in this way will not derogate from the rule-making power of the Supreme Court or affect its authority to deal with all the rules, including these amendments by way of further amendment or modification.

APPROPRIATION PROVISIO

The Conference was advised that from the inception of the rules study program the funds to carry on the program have come from the funds appropriated to the Administrative Office and for travel of judges and referees, subject to the express proviso that "not to exceed \$90,000 of the appropriation contained in this title shall be available for the study of rules of practice and procedure." There has been no increase in this limitation over the twelve years of the program despite the tremendous increase in costs of all kinds. Yet, the Conference was in agreement that the program has been carried out with distinguished results. There have, however, been great hardships resulting from inability to schedule committee meetings for lack of available travel money, inadequate compensation of reporters and frequent delays in publishing preliminary drafts. The Conference agreed that the public value of the rules program has been amply demonstrated and instructed the Budget Committee to request Congress to delete the limiting proviso from future judiciary appropriations.

COMMITTEE ON THE OPERATION OF THE JURY
SYSTEM

The report of the Committee on the Operation of the Jury System was presented by the Chairman, Judge Irving R. Kaufman.

AUTOMATION OF JURY SELECTION PROCESS

The Conference, noting that nine districts at the present time use automated jury selection techniques for the purpose of selecting juror names from voter lists to create master jury wheels, as well as to select qualified jurors from the master wheels and to address juror questionnaires, summonses and vouchers, approved a policy statement that (1) when the General Services Administration does not have facilities to aid district courts in automating juror selection, private computer firms should be favored if funds are available, and (2) the requirement of supervision by a court clerk or commissioner be maintained pursuant to 28 U.S.C. 1866.

JUROR UTILIZATION

The Conference approved for immediate distribution a report prepared by the Federal Judicial Center entitled "Guidelines for Improving Juror Utilization in the United States District Courts."

JURY WORKSHOPS

The Conference agreed that each district should be encouraged to have jury workshops and in so doing to utilize the staffs of the Administrative Office and the Federal Judicial Center. The Conference agreed that those districts which appear in the 1972 annual report of the Director of the Administrative Office as having a record lower than the national median for jury usage be encouraged to hold conferences or workshops for improving juror utilization for all district courts, preferably at a time not coinciding with the circuit conference. The Conference also agreed that districts within a circuit having similar problems might have joint conferences.

STUDY OF THE GRAND JURY

The Conference was advised that a communication had been received from the Chairman of the Judiciary Committee of the House of Representatives suggesting that a study be undertaken under the auspices of the Conference of the operation of the grand jury in the federal court system. The Conference authorized the Chief Justice to refer this matter to the appropriate committee or committees of the Conference for consideration.

COMMITTEE ON THE ADMINISTRATION OF THE CRIMINAL LAW

Judge Alfonso J. Zirpoli, Chairman, presented the committee's report to the Conference.

CRIMINAL ARREST RECORDS

The Conference considered on reference from the Congress H.R. 13315, a bill which would amend Title 28 of the United States Code to provide for limited dissemination and use of criminal arrest

records in a manner that assures their security and privacy. The Conference agreed that if such legislation is enacted it should be so amended as to require recourse to and exhaustion of appropriate administrative procedures before relief may be sought in a United States district court. The Conference agreed, however, that a determination as to whether such legislation should be enacted is a matter involving a legislative policy to be determined by the Congress.

NULLIFICATION OF CERTAIN CRIMINAL RECORDS

The Conference next considered S. 2732, providing for the nullification of certain criminal records. The Conference adopted the views of the committee that while it did not disagree with the sociological objectives of the proposed legislation, nevertheless, it disapproved the bill because the standards provided are vague, the procedures are cumbersome and unworkable and would render interminable the processing of many criminal cases.

PRETRIAL DETENTION IN METROPOLITAN AREAS

Because the detention of persons accused of federal crimes and awaiting trial in many metropolitan districts presents serious housing, security, travel and other detention problems that are rapidly becoming acute, the Conference agreed to a committee-sponsored resolution urging the Bureau of Prisons to provide adequate federally operated detention centers in all metropolitan areas.

USE OF FIREARMS TO COMMIT CERTAIN FELONIES

The Conference disapproved H.R. 13788 which would make the use of a firearm to commit certain felonies a federal crime where such use violates state law. The Conference was in agreement that such legislation would constitute an unnecessary and excessive expansion of federal jurisdiction and furthermore would provide for substantial mandatory sentences, a practice which the Conference has consistently disapproved.

FEDERAL GRANTS TO PROMOTE PROMPT TRIAL IN STATE COURTS

The Conference considered, at the request of the Congress, S. 3669, a bill to amend the Omnibus Crime Control and Safe Streets

Act of 1968, to require the prompt trial of defendants in criminal cases and to provide grants to state and local governments for improving the administration of criminal justice. Inasmuch as this legislation affects only state and local prosecutions and involves funding considerations by the Congress, the Conference agreed that it should take no position on the legislation.

EXPUNGING CRIMINAL RECORDS

The Controlled Dangerous Substances Act (Public Law 91-513) provides for the expunging of criminal records of certain first offenders under age twenty-one charged only with possession of a controlled dangerous substance and placed on probation. In order that the clerks of court may adopt a uniform procedure in carrying out the provisions of Section 404 of this Act, the Conference at its meeting in March 1971 (Conf. Rept., p. 5), directed that the clerks of court should be instructed as follows:

Pursuant to an order under this section, the clerk shall first obliterate the name of the individual from all indexes, and shall withdraw the docket sheets and the file containing the papers of the case from the court records. He then shall notify the Administrative Office, the court reporter, the probation officer and the magistrate of the order instructing them to make a similar obliteration and withdrawal of the papers in the case and delivery of the papers to the clerk.

All the papers shall thereupon be expunged by being placed in the sealed records of the court to be opened only upon court order, and shall be physically destroyed after 10 years.

Judge Zirpoli advised that subsequently the Administrative Office brought to the attention of the Committee the regulations adopted by the Department of Justice to implement the procedures for expunging of criminal records under said Section 404 of the Controlled Dangerous Substances Act. These regulations would require the clerks of the United States district courts to turn over to the United States Attorney all of the official court records, including records of the probation officer, Administrative Office and United States magistrate. These regulations conflict with the above quoted instructions to the clerks adopted by the Judicial Conference. Following discussion of the matter, the Conference agreed with the committee recommendation to adhere to its previous position in respect to all papers constituting official court records.

COMMITTEE TO IMPLEMENT THE CRIMINAL JUSTICE ACT

The report of the committee was presented by the Chairman, Judge Roszel C. Thomsen.

APPOINTMENTS AND PAYMENTS

Judge Thomsen presented to the Conference the report of the Director of the Administrative Office for the six-month period ending June 30, 1972, which reflected that during the fiscal year ending June 30, 1972, there were approximately 50,000 persons represented under the Criminal Justice Act. Approximately 14 percent of these were assigned to defender organizations. A total of \$14,500,000 was appropriated for activities under the Criminal Justice Act during the fiscal year. The cost of operating the eight public defender offices approximated \$1,300,000. These offices were assigned a total of 5,614 cases and disposed of 4,243. Grants to the community defender organizations aggregated \$672,040, including an initial grant to the Federal Defenders of San Diego and sustaining grants to the defender organizations in Chicago, Detroit, Philadelphia and New York. The Conference authorized the Director of the Administrative Office to transmit the semiannual statistical report to all federal judges and the judges of the courts of the District of Columbia.

GUIDELINES

Noting the decision of the Supreme Court in *Argersinger v. Hamlin* (407 U.S. 25), which, in effect, requires the assignment of counsel in any petty offense case in which the defendant faces loss of liberty, the Conference authorized the following guideline:

PETTY OFFENSE CASES INVOLVING LOSS OF LIBERTY

Although the Criminal Justice Act of 1964 provides for representation of a person "charged with a felony or misdemeanor (other than a petty offense as defined in section 1 of this title)", the Act as amended in 1970 also provides for representation of a person "for whom the Sixth Amendment to the Constitution requires the appointment of counsel, or for whom, in a case in which he faces loss of liberty, any Federal law requires the appointment of counsel." In accordance with the decision in *Argersinger v. Hamlin*, decided June 12, 1972, 407 U.S. 25, counsel may be assigned in a petty offense case if, in the opinion of the judge or magistrate, the defendant faces the likelihood of a prison sentence if convicted. There are many petty offenses in which a prison sentence is rarely imposed.

Judges and magistrates should exercise discretion in assigning counsel in petty offense cases, in view of the potential budgetary implications as well as the impact on the private bar; on the other hand, the Supreme Court has held that "absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, unless he was represented by counsel at his trial." It is suggested that each court develop a form of waiver for use when appropriate.

Whenever a plan prepared pursuant to the Act does not incorporate the phrase "in a case where the defendant faces loss of liberty," or substantially similar language, as used in the revised Act, plans should be amended to include such language in accordance with *Argersinger v. Hamlin*.

Where appointments are made in such cases, the same limits of compensation shall be applicable as in misdemeanor cases.

Some public defender offices have requested guidance in the disposition of public records. On recommendation of the committee, the Conference approved the following guideline:

FEDERAL PUBLIC DEFENDERS—DISPOSITION OF RECORDS

The Federal Public Defender may transfer to the Federal Records Center the records of cases that have been closed for more than two years. Case records so transferred to the Federal Records Center may be marked for destruction at the end of fifteen years except in those instances in which the Federal Public Defender may indicate that the records should be held for a longer period of time.

USE OF LAW STUDENTS AND LEGAL INTERNS

Judge Thomsen advised the Conference that in some circuits arrangements have been made for the use of qualified law students to assist assigned counsel in the preparation of briefs and arguments on appeal. The Criminal Justice Act permits payments only to members of the bar but he advised that the committee saw no reason why, if a given court is satisfied with arrangements made with law schools for auxiliary services, such as qualified law students, such a plan could not be operated. Payment in such instances would be to the members of the faculty who were assigned as counsel and only for compensable time spent by the faculty members, plus allowable expenses. The committee reiterated that the primary purpose of special arrangements must always be to improve the service rendered to a defendant by counsel.

ANNUAL REPORTS

The Conference noted that pursuant to the statutory requirement all federal public defender organizations have submitted to

the Director of the Administrative Office reports of their activities and financial position and a proposed budget. The community defender organizations have likewise submitted annual reports, setting forth their activities, financial positions and anticipated case-loads and expenses for the forthcoming year.

CONTINUED APPOINTMENT OF SAME COUNSEL

At the April 1972 session (Conf. Rept., p. 21) the Conference resolved that the Administrative Office should determine on a quarterly basis the names of any attorneys appointed under the Act during that quarter who were paid more than \$1,000. Since the Administrative Office is geared to semiannual reporting and in view of the new maximum payments authorized by the amendments to the Criminal Justice Act, the Conference agreed to a modification of the action taken at the April session and resolved to require the Director of the Administrative Office to report on a semiannual basis to the chief judges of both the circuit and district courts involved the names of any attorneys who during the preceding six-month period have received more than \$6,000 as payment for services rendered pursuant to appointment under the Criminal Justice Act.

COLLATERAL PROCEEDINGS

Judge Thomsen advised that the committee had considered two requests relating to collateral proceedings. The first related to a number of "in-service" habeas corpus cases arising under 28 U.S.C. 2241(c)(1). He said that the committee had advised that such proceedings are not regarded as collateral to criminal proceedings and, therefore, are not covered by the provisions of subsection (g) of the Criminal Justice Act, as amended. The second question related to ancillary matters, such as appeals of bail matters under 28 U.S.C. 3147(b), petitions of writs of mandamus in connection with pending criminal matters, appeals by the government for orders granting motions to suppress and appeals from dismissals of indictments. Judge Thomsen stated that the committee had advised that all of these matters are within the purview of the Criminal Justice Act, although for reporting purposes they are not new cases.

APPROVAL OF GRANTS

The Conference was advised that for fiscal year 1973 sustaining grants have been approved as follows:

Federal Defender Program, Inc., Chicago, Ill.....	\$159, 000
Legal Aid and Defender Association of Detroit, Mich.....	121, 333
Defender Association of Philadelphia.....	155, 000
Federal Defender Services Unit of the Legal Aid Society of New York...	672, 000

In addition, an initial grant in the amount of \$1,495 and a sustaining grant in the amount of \$29,960 was approved for the Community Defender Organization of Minnesota. Supplemental grants were subsequently approved for the Federal Defender Program, Inc., for the Northern District of Illinois in the sum of \$24,000 on an annual basis and for the Federal Defender Office of Detroit in the sum of \$50,000 on an annual basis.

COMMITTEE ON THE ADMINISTRATION OF THE
BANKRUPTCY SYSTEM

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

SALARIES AND ARRANGEMENTS FOR REFEREES

The Conference was advised that the committee had considered recommendations contained in the survey report of the Director of the Administrative Office, dated June 21, 1972, as well as the recommendations of the circuit councils and district judges concerned, for the authorization for continuation of new six-year terms for nine referee positions to become vacant by expiration of term and for changes in arrangements for four referee positions.

The Conference approved the following recommendations for continuation of terms of office for referees and recommendations for changes in arrangements, all to be effective November 1, 1972, unless otherwise indicated and subject to the availability of funds.

SECOND CIRCUIT

Southern District of New York

- (1) Authorized the continuance of the full-time referee position at New York City to become vacant by expiration of term on January 13, 1973, for a term of six years, effective January 14, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Eastern District of New York

- (1) Approved the designation of Westbury as a place of holding court for the referees whose regular place of office is Westbury.

FIFTH CIRCUIT

Northern District of Alabama

- (1) Authorized the continuance of the part-time referee position at Decatur to become vacant by expiration of term on April 30, 1973, for a term of six years, effective May 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

SIXTH CIRCUIT

Western District of Michigan

- (1) Authorized the continuance of the full-time referee position at Grand Rapids to become vacant by expiration of term on April 14, 1973, for a term of six years, effective April 15, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.
- (2) Authorized the continuance of the full-time referee position at Grand Rapids to become vacant by expiration of term on December 31, 1972, for a term of six years, effective January 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Northern District of Ohio

- (1) Authorized the continuance of the full-time referee position at Cleveland to become vacant by expiration of term on May 31, 1973, for a term of six years, effective June 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.
- (2) Approved the discontinuance of Ashtabula as a place of holding court and approved the designation of Jefferson as a place of holding court for the referee whose regular place of office is Youngstown.

Southern District of Ohio

- (1) Authorized the continuance of the full-time referee position at Columbus to become vacant by expiration of term on January 2, 1973, for a term of six years, effective January 3, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

NINTH CIRCUIT

Central District of California

- (1) Authorized the continuance of the full-time referee position at Los Angeles to become vacant by expiration of term on February 27, 1973, for a term of six years, effective February 28, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

District of Montana

- (1) Authorized the continuance of the part-time referee position at Great Falls to become vacant by expiration of term on May 24, 1973, for a term of six years, effective May 25, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

District of Oregon

- (1) Authorized the continuance of the full-time referee position at Portland to become vacant by expiration of term on January 31, 1973, for a term of six years, effective February 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.
- (2) Approved the designation of Coos Bay as an additional place of holding court for the full-time referees of the district.

TENTH CIRCUIT

District of Wyoming

- (1) Approved the designation of Casper as an additional place of holding court for the part-time referee of the district.

LEGISLATION

The Conference noted that two laws affecting bankruptcy administration were enacted by the 92nd Congress—Public Law 92-251, extending the term of the Commission to Study the Bankruptcy Laws of the United States, and Public Law 92-310, eliminating the requirement that referees are to be bonded.

Several bills recommended by the Conference were approved by the Senate but did not reach action in the House of Representatives. One such bill, S. 1394, would eliminate from Section 40(b) of the Bankruptcy Act the proviso that no salary fixed under the provisions of the section for a full-time referee shall be changed more often than once in any two years or in an amount of less than \$250. The Conference voted to reaffirm its support of this legislation.

CHAPTER XIII CASES

In response to a request as to whether a common form of standing Chapter XIII Trustee's bond carrying a limitation of \$500 per case complied with the Judicial Conference guideline requiring a Trustee's bond of one and one-half times the trustee's average monthly balance, the Conference was advised that the committee was in agreement that bonds with a case limitation of \$500 were not in conflict with the prior Conference action.

SEMINARS FOR REFEREES

The Conference noted that the Eighth National Seminar for newly appointed referees in bankruptcy was held at the Federal Judicial Center during the week of October 2, 1972. A regional seminar was also held at Newport Beach, California, and three addi-

tional seminars were scheduled for calendar year 1972 at San Francisco, South Bend and New York City.

COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATES SYSTEM

Judge Charles M. Metzner, Chairman of the Committee on the Administration of the Magistrates System, presented the report of the committee.

SALARY INCREASES

Judge Metzner informed the Conference that on September 21, 1972, the President signed into law the bill increasing the statutory ceilings on salaries of full-time United States magistrates from \$22,500 per annum to three-fourths of the salary of a United States district judge, or \$30,000 per annum, and increasing the ceiling on the salaries of part-time United States magistrates from \$11,000 per annum to \$15,000 per annum. Thereafter, as recommended by the Magistrates Committee, the Executive Committee of the Conference on September 29 approved increases in the salaries of all full-time magistrate positions authorized at this present time from \$22,500 per annum to \$30,000, except that the salary of the full-time United States magistrate at Yosemite National Park was increased from \$14,000 to \$16,000 per annum; and approved salary increases for all part-time magistrates now receiving \$11,000 per annum from \$11,000 to \$12,000 per annum. These part-time magistrates did not receive the 5.5 percent salary increase authorized generally for part-time magistrates at the April 1972 session of the Conference (Conf. Rept., p. 14). A supplemental appropriation was subsequently obtained which will make it possible to put these salary increases into effect on December 1, 1972.

The salary increases approved by the Executive Committee are as follows:

District and location	Type of position	Present salary	New salary
District of Columbia Circuit:			
District of Columbia Washington . . .	Full-time	\$22, 500	\$30, 000
Do do do		22, 500	30, 000
Do do do		22, 500	30, 000
First Circuit:			
Massachusetts Boston	do	22, 500	30, 000
Do do	do	22, 500	30, 000
Puerto Rico San Juan	do	22, 500	30, 000

District and location	Type of position	Present salary	New salary
Second Circuit:			
Connecticut.....New Haven.....	Full-time.....	\$22, 500	\$30, 000
New York:			
Northern.....Albany.....	Part-time.....	11, 000	12, 000
Do.....Auburn.....	do.....	11, 000	12, 000
Eastern.....Brooklyn.....	Full-time.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Southern.....New York City.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Western.....Buffalo.....	do.....	22, 500	30, 000
Third Circuit:			
New Jersey:			
Do.....Newark.....	do.....	22, 500	30, 000
Do.....Trenton.....	do.....	22, 500	30, 000
Pennsylvania:			
Eastern.....Philadelphia.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Middle.....Wilkes-Barre.....	Part-time.....	11, 000	12, 000
Western.....Pittsburgh.....	Full-time.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Fourth Circuit:			
Maryland:			
Baltimore.....	do.....	22, 500	30, 000
Do.....	Part-time.....	11, 000	12, 000
Prince Georges Plaza..	Full-time.....	22, 500	30, 000
North Carolina:			
Eastern.....Raleigh.....	Part-time.....	11, 000	12, 000
Middle.....Greensboro.....	Full-time.....	22, 500	30, 000
Western.....Asheville.....	Part-time*.....	11, 000	12, 000
South Carolina.....Columbia.....	Full-time.....	22, 500	30, 000
Virginia:			
Eastern.....Alexandria.....	do.....	22, 500	30, 000
Do.....Norfolk.....	do.....	22, 500	30, 000
Do.....Richmond.....	Part-time.....	11, 000	12, 000
West Virginia:			
Northern.....Elkins.....	Full-time.....	22, 500	30, 000
Southern.....Charleston.....	do.....	22, 500	30, 000
Do.....Huntington.....	Part-time.....	11, 000	12, 000
Fifth Circuit:			
Alabama:			
Northern.....Birmingham.....	Full-time.....	22, 500	30, 000
Middle.....Montgomery.....	do.....	22, 500	30, 000
Southern.....Mobile.....	do.....	22, 500	30, 000

See footnotes at end of table.

District and location	Type of position	Present salary	New salary
Fifth Circuit—Continued			
Florida:			
Middle..... Jacksonville.....	Full-time.....	\$22, 500	\$30, 000
Do..... Tampa.....	do.....	22, 500	30, 000
Do..... Orlando.....	Part-time.....	11, 000	12, 000
Southern..... Miami.....	Full-time.....	22, 500	30, 000
Do..... do.....	do.....	22, 500	30, 000
Georgia:			
Northern..... Atlanta.....	do.....	22, 500	30, 000
Do..... do.....	do.....	22, 500	30, 000
Southern..... Savannah.....	Part-time.....	11, 000	12, 000
Louisiana:			
Eastern..... New Orleans.....	Full-time.....	22, 500	30, 000
Do..... do.....	do.....	22, 500	30, 000
Do..... do.....	do.....	22, 500	30, 000
Middle..... Baton Rouge.....	Part-time.....	11, 000	12, 000
Western..... Lafayette or Opelousas.....	do.....	11, 000	12, 000
Do..... Lake Charles.....	do.....	11, 000	12, 000
Do..... Shreveport.....	do.....	11, 000	12, 000
Mississippi:			
Northern..... Aberdeen.....	do.....	11, 000	12, 000
Do..... Greenville.....	do.....	11, 000	12, 000
Southern..... Jackson.....	do.....	11, 000	12, 000
Do..... Biloxi.....	do.....	11, 000	12, 000
Texas:			
Northern..... Dallas.....	Full-time.....	22, 500	30, 000
Do..... Dallas or Fort Worth.....	do.....	22, 500	30, 000
Do..... Lubbock.....	Part-time.....	11, 000	12, 000
Eastern..... Beaumont.....	do.....	11, 000	12, 000
Southern..... Houston.....	Full-time.....	22, 500	30, 000
Do..... do.....	do.....	22, 500	30, 000
Do..... Brownsville.....	do.....	22, 500	30, 000
Western..... San Antonio.....	do.....	22, 500	30, 000
Do..... El Paso.....	do.....	22, 500	30, 000
Do..... Del Rio.....	Part-time.....	11, 000	12, 000
Sixth Circuit:			
Kentucky:			
Eastern..... Lexington.....	Full-time.....	22, 500	30, 000
Western..... Louisville.....	do.....	22, 500	30, 000
Michigan:			
Eastern..... Detroit.....	do.....	22, 500	30, 000
Do..... do.....	do.....	22, 500	30, 000
Western..... Grand Rapids.....	Part-time.....	11, 000	12, 000
Ohio:			
Northern..... Cleveland.....	Full-time.....	22, 500	30, 000
Do..... do.....	do.....	22, 500	30, 000
Southern..... Cincinnati.....	do.....	22, 500	30, 000
Do..... Columbus.....	do.....	22, 500	30, 000

See footnotes at end of table.

District and location	Type of position	Present salary	New salary
Tennessee:			
Middle.....Nashville.....	Full-time.....	\$22, 500	\$30, 000
Western.....Memphis.....	do.....	22, 500	30, 000
Seventh Circuit:			
Illinois:			
Northern.....Chicago.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Indiana:			
Southern.....Indianapolis.....	do.....	22, 500	30, 000
Do.....do.....	Part-time.....	11, 000	12, 000
Wisconsin:			
Eastern.....Milwaukee.....	do.....	11, 000	12, 000
Western.....Madison.....	do.....	11, 000	12, 000
Eighth Circuit:			
Arkansas.....Little Rock.....	do.....	11, 000	12, 000
Minnesota:			
.....Minneapolis.....	do.....	11, 000	12, 000
.....St. Paul.....	do.....	11, 000	12, 000
Missouri:			
Eastern.....St. Louis.....	do*.....	7, 912	7, 912
Western.....Kansas City.....	Full-time.....	22, 500	30, 000
Do.....Springfield.....	do.....	22, 500	30, 000
Ninth Circuit:			
Arizona:			
.....Phoenix.....	do.....	22, 500	30, 000
.....Tucson.....	do.....	22, 500	30, 000
Grand Canyon.....National Park.....	Part-time.....	11, 000	12, 000
California:			
Northern.....San Francisco.....	Full-time.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....Monterey or Salinas.....	Part-time.....	11, 000	12, 000
Eastern.....Sacramento.....	Full-time.....	22, 500	30, 000
Do.....Yosemite National Park.....	do.....	14, 000	16, 000
Central.....Los Angeles.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....San Luis Obispo.....	Part-time.....	11, 000	12, 000
Southern Calif., San Diego.....	Full-time.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	do.....	22, 500	30, 000
Do.....do.....	Part-time.....	11, 000	12, 000
Do.....El Centro.....	do.....	11, 000	12, 000
Nevada.....Las Vegas.....	Full-time.....	22, 500	30, 000
Oregon.....Portland.....	do.....	22, 500	30, 000
Washington.....Western, Tacoma.....	do.....	22, 500	30, 000

See footnotes at end of table.

District and location	Type of position	Present salary	New salary
Tenth Circuit:			
Colorado.....Denver.....	Full-time.....	\$22, 500	\$30, 000
Kansas:			
Kansas City.....	do.....	22, 500	30, 000
Wichita.....	do.....	22, 500	30, 000
New Mexico:			
Albuquerque.....	do.....	22, 500	30, 000
Las Cruces.....	Part-time.....	11, 000	12, 000
Oklahoma:			
Northern.....Tulsa.....	Full-time.....	22, 500	30, 000
Eastern.....Muskogee.....	Part-time.....	11, 000	12, 000
Western.....Oklahoma City.....	Full-time.....	22, 500	30, 000
Utah.....Salt Lake City.....	Part-time.....	11, 000	12, 000
Wyoming..Yellowstone National Park..	do.....	11, 000	12, 000

*These positions were authorized as full-time at salaries of \$22,500 per annum at the April 1972 session (Conf. Rept., p. 15) subject to availability of funds. The salaries for full-time status were also increased to \$30,000 per annum, subject to the availability of funds.

The Conference expressed agreement with the action taken by the Executive Committee and further ratified Executive Committee action designating the magistrates at Baton Rouge, Louisiana, as magistrates for the new Middle District of Louisiana rather than the Eastern District.

MAGISTRATE POSITIONS

The Committee reported that it had considered various requests for the creation of additional magistrate positions, changes in salaries of magistrates, and changes in arrangements. These requests have also been considered by the judicial councils of the circuits. In accordance with the recommendations of the committee, the Conference approved the following changes in the numbers, locations, arrangements, and salaries of magistrates and directed that, unless otherwise noted, these changes be made effective at such time as appropriated funds are available.

FIRST CIRCUIT

District of Maine

- (1) Increased the salary of the part-time magistrate at Bangor from \$633 to \$1,582 per annum;
- (2) Authorized an additional part-time magistrate at Bangor at a salary of \$100 per annum.

District of New Hampshire

- (1) Authorized the clerk of court at Concord to perform the duties of a United States magistrate at an increase of \$600 per annum in salary and permitted him to perform these duties in the interim at no increase in salary until funds become available.

District of Rhode Island

- (1) Increased the salary of one of the part-time magistrate positions at Providence from \$527 to \$12,000 per annum.

SECOND CIRCUIT

Northern District of New York

- (1) Changed the official location of the part-time magistrate at Plattsburgh from Plattsburgh to either Plattsburgh or Champlain.

Eastern District of New York

- (1) Increased the salary of the part-time magistrate at Mineola from \$527 to \$791 per annum.

THIRD CIRCUIT

District of Delaware

- (1) Increased the salary of the part-time magistrate at Wilmington from \$1,582 to \$4,000 per annum ;
- (2) Increased the salary of the part-time magistrate at Dover from \$1,055 to \$2,400 per annum.

District of New Jersey

- (1) Changed the official location of the part-time magistrate at Asbury Park from Asbury Park to Rumson.

Middle District of Pennsylvania

- (1) Changed the part-time magistrate position at Wilkes-Barre from part-time to full-time ;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Wilkes-Barre.

FOURTH CIRCUIT

District of Maryland

- (1) Changed the part-time magistrate position at Baltimore from part-time to full-time ;
- (2) Fixed a salary of \$30,000 per annum for this new full-time magistrate position at Baltimore.

Eastern District of Virginia

- (1) Changed the official location of the part-time magistrate at Petersburg from Petersburg to Chesterfield Courthouse ;
- (2) Increased the salary of the part-time magistrate at Chesterfield Courthouse from \$5,802 to \$10,000 per annum ;
- (3) Authorized jurisdiction over the entire area of the John H. Kerr Reservoir for the magistrate at Chesterfield Courthouse, including those portions lying within the Eastern District of North Carolina and the Western District of Virginia.

Western District of Virginia

- (1) Increased the salary of the part-time magistrate at Roanoke from \$5,275 to \$7,000 per annum ;
- (2) Increased the salary of the part-time magistrate at Lynchburg from \$211 to \$1,200 per annum.

FIFTH CIRCUIT

Middle District of Alabama

- (1) Increased the salary of the part-time magistrate at Dothan from \$7,912 to \$12,000 per annum.

Northern District of Florida

- (1) Increased the salary of the part-time magistrate at Fort Walton Beach from \$1,055 to \$1,800 per annum.

Middle District of Georgia

- (1) Increased the additional salary payable to the deputy clerk-magistrate at Athens from \$1,371 to \$2,400 per annum;
- (2) Increased the salary of the part-time magistrate at Albany from \$1,899 to \$3,000 per annum.

Middle District of Louisiana

- (1) Changed the part-time magistrate position at Baton Rouge from a part-time position at \$12,000 per annum to full-time status;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Baton Rouge.

Western District of Louisiana

- (1) Increased the salary of the part-time magistrate at Alexandria from \$527 to \$6,000 per annum.

Eastern District of Texas

- (1) Changed the part-time magistrate position at Beaumont from part-time to full-time;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Beaumont;
- (3) Increased the salary of the part-time magistrate at Paris from \$422 to \$600 per annum.

Southern District of Texas

- (1) Changed the part-time magistrate position at Laredo from part-time to full-time;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Laredo;
- (3) Authorized an additional part-time magistrate position at Edinburg at a salary of \$6,000 per annum.

Western District of Texas

- (1) Increased the salary of the part-time magistrate at Eagle Pass from \$3,165 to \$7,912 per annum.

SIXTH CIRCUIT

Eastern District of Kentucky

- (1) Increased the salary of the part-time magistrate at Richmond from \$633 to \$1,000 per annum;
- (2) Increased the salary of the part-time magistrate at Pineville from \$1,899 to \$5,000 per annum;
- (3) Increased the salary of the part-time magistrate at Ashland from \$633 to \$1,800 per annum;
- (4) Increased the salary of the part-time magistrate at London from \$1,055 to \$1,500 per annum.

Western District of Kentucky

- (1) Increased the salary of the part-time magistrate at Bowling Green from \$1,899 to \$3,000 per annum;
- (2) Increased the salary of the part-time magistrate at Hopkinsville from \$1,899 to \$5,000 per annum.

Western District of Michigan

- (1) Changed the part-time magistrate position at Grand Rapids from part-time to full-time;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Grand Rapids.

Northern District of Ohio

- (1) Authorized an additional part-time magistrate position at Lima at a salary of \$200 per annum;
- (2) Increased the salary of the part-time magistrate at Toledo from \$2,637 to \$5,000 per annum.

Eastern District of Tennessee

- (1) Changed the part-time magistrate position at Knoxville from part-time to full-time;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Knoxville.

SEVENTH CIRCUIT

Northern District of Indiana

- (1) Increased the salary of the part-time magistrate at Hammond from \$3,165 to \$4,000 per annum;
- (2) Increased the salary of the part-time magistrate at South Bend from \$1,266 to \$2,400 per annum;
- (3) Increased the salary of the part-time magistrate at Fort Wayne from \$949 to \$1,200 per annum.

Southern District of Indiana

- (1) Changed the part-time magistrate position at Indianapolis from part-time to full-time;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Indianapolis.

Western District of Wisconsin

- (1) Changed the official location of the part-time magistrate at La Crosse from La Crosse to Tomah;
- (2) Authorized the clerk of court at Madison to perform the duties of a United States magistrate at no increase in salary.

EIGHTH CIRCUIT

Eastern District of Arkansas

- (1) Changed the part-time magistrate position at Little Rock from part-time to full-time;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Little Rock.

Northern District of Iowa

- (1) Increased the salary of the part-time magistrate at Dubuque from \$105 to \$250 per annum.

Southern District of Iowa

- (1) Increased the salary of the part-time magistrate at Iowa City from \$105 to \$400 per annum.

District of Minnesota

- (1) Changed the part-time magistrate position at Minneapolis from part-time to full-time;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Minneapolis;
- (3) Changed the part-time magistrate position at St. Paul from part-time to full-time;
- (4) Fixed a salary of \$30,000 per annum for the full-time magistrate at St. Paul.

District of South Dakota

- (1) Changed the official location of the part-time magistrate position at Deadwood from Deadwood to Rapid City;
- (2) Increased the salary of the part-time magistrate at Chamberlain from \$211 to \$422 per annum;
- (3) Increased the salary of the part-time magistrate at Pierre from \$211 to \$422 per annum.

NINTH CIRCUIT

District of Arizona

- (1) Authorized an additional part-time magistrate position at Page at a salary of \$600 per annum.

Northern District of California

- (1) Changed the part-time magistrate position at Monterey from part-time to full-time;
- (2) Fixed a salary of \$20,000 per annum for the full-time magistrate at Monterey.

Central District of California

- (1) Changed the official location of the part-time magistrate position at Santa Barbara/Oxnard to Santa Barbara only;
- (2) Increased the salary of the part-time magistrate at Santa Barbara from \$2,532 to \$4,000 per annum;
- (3) Authorized an additional part-time magistrate position at Ventura/Oxnard at a salary of \$2,000 per annum.

District of Montana

- (1) Increased the salary of the part-time magistrate at Kalispell from \$1,055 to \$3,165 per annum;
- (2) Increased the salary of the part-time magistrate at Great Falls from \$1,055 to \$1,500 per annum;
- (3) Increased the salary of the part-time magistrate at Hardin from \$527 to \$738 per annum;
- (4) Increased the salary of the part-time magistrate at Missoula from \$369 to \$633 per annum;
- (5) Increased the salary of the part-time magistrate at Butte from \$527 to \$2,220 per annum;
- (6) Increased the salary of the part-time magistrate at Billings from \$1,055 to \$1,500 per annum;
- (7) Authorized an additional part-time magistrate position at Bozeman at a salary of \$200 per annum.

Eastern District of Washington

- (1) Increased the salary of the part-time magistrate at Yakima from \$1,266 to \$3,000 per annum.

Western District of Washington

- (1) Changed the part-time magistrate position at Seattle from part-time to full-time;
- (2) Fixed a salary of \$30,000 per annum for the full-time magistrate at Seattle;
- (3) Abolished the clerk-magistrate position at Seattle.

TENTH CIRCUIT

District of Colorado

- (1) Increased the salary of the part-time magistrate at Grand Junction from \$422 to \$1,500 per annum;
- (2) Authorized an additional part-time magistrate position at Fort Collins at a salary of \$450 per annum;
- (3) Authorized an additional part-time magistrate position at Lamar at a salary of \$300 per annum;
- (4) Authorized an additional part-time magistrate position at Sterling at a salary of \$300 per annum;
- (5) Authorized an additional part-time magistrate position at Craig at a salary of \$400 per annum.

District of Kansas

- (1) Increased the salary of the part-time magistrate at Topeka from \$316 to \$12,000 per annum.

Northern District of Oklahoma

- (1) Increased the salary of the part-time magistrate at Miami from \$633 to \$3,000 per annum;
- (2) Authorized a deputy clerk at Tulsa to perform the duties of a United States magistrate at no increase in salary;
- (3) Abolished the clerk-magistrate position at Tulsa.

Eastern District of Oklahoma

- (1) Increased the salary of the part-time magistrate at Sulphur from \$844 to \$2,000 per annum.

Western District of Oklahoma

- (1) Increased the salary of the part-time magistrate at Lawton from \$6,330 to \$12,000 per annum.

CONFLICTS OF INTERESTS

Judge Metzner reported that during the hearings on the bill to increase the statutory limitations on salaries of full-time and part-time magistrates, the Judiciary Committees of the Congress made inquiry regarding potential conflicts of interest of part-time magistrates. While no instance of a conflict of interest was reported, nevertheless, concern was expressed about the possibility that part-time judicial officers might use their official positions or titles in a way that could be construed as advancing private business interests

and private law practices. Specific mention was made of a practice followed by a few part-time magistrates of including the title of United States Magistrate on general office letterhead.

In order that there be a standard rule against practices such as this, the committee recommended, and the Conference approved, the following conflict-of-interest rule to be added to the list of the seven rules previously approved by the Conference:

A part-time magistrate may not use his official position in any way to promote his private law practice. In this regard he may not use his official stationery in the conduct of his law practice nor include his official title on general office letterhead.

ADMINISTRATIVE REGULATIONS

The Conference, upon recommendation of the committee, approved a change in the regulations of the Director of the Administrative Office to permit part-time United States magistrates to requisition official stationery in the same manner that official forms are requisitioned.

TRANSCRIPTS OF PROCEEDINGS

Inquiry had been received by the Administrative Office concerning the availability of funds to pay for the preparation of transcripts of proceedings held before United States magistrates serving under appointment as special masters under Rule 53, Federal Rules of Civil Procedure, where petitioners were indigent. The costs of preparing transcripts of proceedings before special masters have traditionally been charged against the parties as an expense of litigation. There is no provision in law authorizing the government to pay these costs.

Upon recommendation of the committee, the Conference authorized the Director of the Administrative Office to prepare and transmit to the Congress appropriate amendments to the Judicial Code to permit payment of transcript costs on behalf of indigent litigants in these situations.

ADMINISTRATION OF THE PROBATION SYSTEM

Judge Francis L. Van Dusen, Chairman, presented the report of the Committee on the Administration of the Probation System.

LEGISLATION

The Conference was advised that its views had been requested by the Committee on the Judiciary of the House of Representatives on H.R. 13293, a bill designed to promote more effective operations and management of the federal corrections system by reorganizing certain functions and creating new organizations. After a study of this proposed bill, the Conference agreed with the recommendation of the committee that it disapprove Titles II and III of H.R. 13293 because of the drastic changes they would effect in sentencing procedures now followed by the federal judiciary, including delays in sentencing and in disposition of criminal cases. The Conference was further of the view that Title I should be implemented by broadening the membership of the Advisory Corrections Council provided for in 18 U.S.C. 5002. This is a reaffirmation of the position taken by the Conference at its October 1971 meeting (Conf. Rept., p. 47).

Judge Van Dusen advised the Conference of other legislative proposals under study by the committee which will be the subject of later report to the Conference. Specifically, the Conference approved a draft bill to provide for setting aside of conviction of adult probationers and directed the Administrative Office to submit the proposal to the 93rd Congress.

SENTENCING INSTITUTES

The Conference was advised that the First and Second Circuits Sentencing Institute, the agenda for which was approved at the April 1972 session (Conf. Rept., p. 12), will take place on January 11-13, 1973 at Crotonville, New York. The Conference was advised that plans are moving forward for the Joint Sentencing Institute for the Eighth and Tenth Circuits approved by the Conference at its April 1972 session (Conf. Rept., pp. 12, 13). The Conference also noted that plans are in the discussion stage for a Joint Fourth and Fifth Circuits Sentencing Institute to be held in the fall of 1974.

RESOLUTIONS

The Conference noted the retirement at the end of the 92nd Congress of three members whose careers have been closely associated with the work of the Judicial Conference and the federal judiciary

and, accordingly, approved the following resolutions to be transmitted to each member by the Chief Justice:

THE HONORABLE EMANUEL CELLER

The Judicial Conference of the United States, assembled at its annual 1972 fall session, takes note of the retirement at the close of the 92nd Congress of Honorable Emanuel Celler as a Representative from the State of New York in the House of Representatives of the United States Congress.

Mr. Celler's Congressional service spanned half a century, 1923-1972,—a record only once exceeded. In the last twenty-four years he has served as the distinguished Chairman of the Committee on the Judiciary of the House of Representatives, a position to which he brought prodigious energy and talent.

During his long career he has sponsored more amendments to the United States Constitution than any person in the history of the nation. He has authored important legislation in the fields of antitrust law and immigration law and has been a frequent sponsor of Judicial Conference-approved legislation, particularly those measures which were designed to improve the administration of justice throughout the federal judicial system.

Now, Therefore, Be It Resolved, That the Judicial Conference of the United States express to Congressman Emanuel Celler its sincere appreciation for his loyalty, friendship and interest in the federal judiciary and extend to him its best wishes for many active years of retirement.

THE HONORABLE WILLIAM M. McCULLOCH

Be It Resolved by the Judicial Conference of the United States, assembled at its semi-annual session on October 27, 1972, that notice be taken of the valuable contribution of Representative William M. McCulloch of Ohio to the Federal Judicial Branch as an outstanding member of the House Judiciary Committee and as a congressman since 1947, ranking minority leader of the House Judiciary Committee since 1959, and as a warm friend of the federal judges of this nation.

The Conference takes special note of the many innovations in the federal law that have been crafted by this dedicated congressman in his two and one-half decades of devoted service, of his legislative efforts on behalf of minorities, of his assistance to the President in studying the causes of civil disorder and violence, of his success in supporting and strengthening the manpower and procedures of the federal judiciary, and of his unflagging interest in helping the courts attain their goal of effective, fair and efficient administration of justice. The Conference recognizes that his presence as a real friend of the courts will be sorely missed after his impending retirement from the House of Representatives.

The Conference further resolves that sincere appreciation is expressed to Congressman McCulloch for his contribution to the federal judiciary and for his friendship, loyalty and interest and that best wishes are extended to him for many active years of good health and happiness in his well-earned retirement.

THE HONORABLE FRANK T. BOW

Be It Resolved by the Judicial Conference of the United States that notice be taken of the valuable contribution to the federal judiciary of Representative Frank T. Bow, who came to the House of Representatives in 1950, became a mem-

ber of the House Appropriations Committee in 1953 and has since served with great distinction as the ranking minority member, both of the full Committee on Appropriations and its Subcommittee on State, Justice, Commerce and the Judiciary, as well as in other committee assignments.

The Conference notes that Representative Bow has worked tirelessly and enthusiastically to strengthen the federal judiciary; he has devoted his time to finding out its needs and problems and has given his wise counsel to the task of providing revenues to support the judicial machinery over the last two decades. His presence as a friend of the courts will be missed.

The Conference further resolves that due notice of its great appreciation for his contribution to the federal judiciary and his government be conveyed to Representative Bow by the Chief Justice of the United States.

ELECTIONS

Upon nomination of the Executive Committee, the Judicial Conference by vote slip approved for membership on the Board of the Federal Judicial Center Judge Ruggero J. Aldisert of the United States Court of Appeals for the Third Circuit. Judge Aldisert will fill the unexpired term of Judge Frank M. Coffin who has become ineligible to serve as a Board member upon becoming a member of the Judicial Conference of the United States (28 U.S.C. 621 (a) (2)).

Upon nomination of the Executive Committee, the Judicial Conference by vote slip approved the nomination of Judge George E. MacKinnon of the United States Court of Appeals for the District of Columbia Circuit as a member of the Board of Certification for Circuit Executives in accordance with 28 U.S.C. 332(f). He replaces Judge Frank M. Johnson whose term has expired.

PRETERMISSION OF TERMS OF COURTS OF APPEALS

The Conference approved the pretermission of terms of courts of appeals, pursuant to 28 U.S.C. 48, for those sessions of the Court of Appeals for the Fifth Circuit to be held at places other than New Orleans during the court year 1972-1973; and those sessions of the Court of Appeals for the Eighth Circuit which might be held at places other than St. Louis, Missouri, and those sessions of the Court of Appeals for the Tenth Circuit which might be held at Oklahoma City, Oklahoma, prior to the next session of the Conference.

RELEASE OF CONFERENCE ACTION

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

WARREN E. BURGER,
Chief Justice of the United States.

DECEMBER 22, 1972

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