REPORT
OF THE PROCEEDINGS
OF THE
REGULAR ANNUAL MEETING
OF THE
JUDICIAL CONFERENCE OF THE
UNITED STATES

*

SEPTEMBER 27-29, 1948
WASHINGTON, D. C.

TITLE 28, UNITED STATES CODE, SECTION 331.

§ 331. Judicial Conference of the United States.

The Chief Justice of the United States shall summon annually the chief judges of the judicial circuits 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.

If the chief judge of any circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the conference and advise as to the needs of his circuit 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 Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

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

TABLE OF CONTENTS

	Page
Adjournment-Recess, of the Conference	43
Administrative Agencies, Review of Orders of	40
Administrative Office of the United States Courts:	
Court Reporters, Report of to be filed with	27
Resurveys specified under Bankruptcy Act to be conducted by	33
Report of the Director of	14
Salary, Director and Assistant Director, Increase in	19
Staff, new member to be appointed	37
Advisory Committee of the Conference	43
Agriculture, Secretary of, Review of Orders of	40
Anti-Trust Cases, expediting court, Committee on	43
Appeals, Courts of—use of original papers on appeal	37
Appeals, Courts of—use of Appendix Rule	37
Appropriations, Budget and Deficiency Estimates	42
Attorney General, Report of the	6
Automobile, allowance for use of privately owned	24
Bankruptcy Administration, Report of Committee on	28
Bankruptcy, Changes in territory, salary, etc., of Referees	28
Bankruptcy, Cases Dismissed, Refund of filing fees in	30
Bankruptcy, Charges in certain cases under chapter XI	31
Bankruptcy, Special Services, Referees Charges for	31
Bankruptcy, Amendments to Act, Proposed	32
Bankruptcy, Statistics, Report of	32
Bankruptcy, Resurveys of territory, etc., to be made	33
Bankruptcy Administration, Committee on, discharged	43
Code, Codification and Revision of Judicial, Final Report of Committee on	41
Clark, Hon. Tom C., Attorney General, Report of	6
Civil Service Status, Secretaries, Law Clerks, etc	21
Commission, Federal Communications, Review of Orders of	40
Commission, United States Maritime, Review of Orders of	40
Committees, Authorization for, etc	43
Conference, Call of	1
Courts—Criers, Salary, Classification, etc	22
Courts—Economies in Operation of	33
Courts—Elimination of Places of Holding	33
Courts—Sessions, number of where Judge is not a resident	35
Courts—Clerks' Offices, Discontinuance of Unnecessary Branches of, etc	34
Courts—Clerks' Offices, Economies in Operation of	36
Courts—Federal, State of the Dockets of	14
Court Reporting System—Report of Committee on	24
Court Reporters, Salaries, Transcript Rates, etc	24–26
Court Reporters, Outside Reporting work of	27
Court Reporters, Reports to the Administrative Office	27
Court Reporting System—Committee on, discharged	43
Court—Three judge expediting, anti-trust cases, Committee on	43
Courts—Committee on Ways and Means of Economies in Operation of, Discharged	43
Defenders, Public, Provisions for	38
Delinquency, Juvenile, Probation for, Report of Committee on	42

	Page
Delinquency, Juvenile, Probation for, Committee on discharged	43
Digests—Supreme Court Opinions, furnishing of	38
District of Columbia—Probation Office under Administrative Office	22
District of Columbia—Register of Wills, under Administrative Office	22
Districts, Judicial, Consolidation of, etc	35
Dockets, State of the Federal Court	14
Evans, Judge Evan A., Memorial to	3
Expense Allowances—Travel—Judges	23
Expense Allowances—Travel—Personnel other than judges	23
Expense Allowances—Travel—Referees in Bankruptcy	32
Expense Allowances—Automobile, use of privately owned	24
Federal Communications Commission, Review of Orders of	40
Felony, Statutory Definition of, Report of Committee on	42
Garrecht, Judge Francis A., Memorial to	4
Groner, Chief Justice D. Lawrence, Resolution concerning	4
Hughes, Chief Justice Charles Evans, Memorial to	2
Indigent Litigants, Protection of rights in Federal Courts	38
Interstate Commerce Commission, Review of Orders of	40
Insane Persons—Treatment of in Federal Courts	41
Judgeships—Additional	17
Judges—Expense Allowance—Travel	23
Judges—Secretaries, Law Clerks, employment of, salaries	19
Judicial Code, Codification and Revision of, Final Report of Committee	41
Judicial Statistics, Report of Committee on	42
Jury Administration, Economies in	35
Jury System, Federal, Report of Committee on	41
Juvenile Delinquency, Report of Committee on	42
Law Clerks to District Judges, salaries, employment, etc	19
Law Clerks to Federal Justices and Judges, Civil Service Status	21
Maritime Commission, United States, Review of Orders of	40
Marshals United States, special appointment of for service of process	37
Mileage Allowance, use of privately owned automobiles	24
Minor Offenses, Trial of by Commissioners, Committee on discharged	43
Personnel of the Courts, Report of Committee on	19
Pre-trial Procedure, suggestions and recommendations regarding use	36
Pre-trial Procedure, Report of Committee on	42
Probation Office—District of Columbia	22
Process, Service of—Special Appointment of Marshals for	37
Referees in Bankruptcy, Travel Allowance, etc	32
Referees in Bankruptcy, Salaries, Territories, Charges, etc	28
Register of Wills—District of Columbia	22
Reporters, Court, Report of Committee on	24
Salaries—Director and Assistant Director Administration Office	19
Salaries—Secretaries, Law Clerks to Judges, etc	19
Salaries—Court Criers	22
Salaries—Court Reporters	28
Salaries—Referees in Bankruptcy	24
Secretaries to Judges, salaries, employment of, etc	19
Secretaries to Federal Justices and Judges, Civil Service status for	21
Sibley, Judge Samuel H.—Resolution concerning	5
Transcript Rates—Increase in Charges for	26
Travel Allowance—Judges and Other Personnel of Court	23
Travel Allowance—Referees in Bankruptcy, etc	32

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

The Judicial Conference of the United States convened, pursuant to the provisions of Title 28, U. S. Code, § 331, upon the call of the Chief Justice, on Monday, September 27, 1948. The following were present:

The Chief Justice, presiding.

Circuit:

District of Columbia....	Chief Judge Harold M. Stephens.
First.....	Chief Judge Calvert Magruder.
Second.....	Chief Judge Learned Hand.
Third.....	Chief Judge John Biggs, Jr.
Fourth.....	Chief Judge John J. Parker.
Fifth	Chief Judge Joseph C. Hutcheson.
Sixth	Chief Judge Xenophon Hicks.
Seventh.....	Circuit Judge Otto Kerner.*
Eighth.....	Chief Judge Archibald K. Gardner.
Ninth	Chief Judge William Denman.
Tenth	Chief Judge Orie L. Phillips.

*Chief Judge William M. Sparks of the Seventh Judicial Circuit was unable to attend; Circuit Judge Otto Kerner attended in his stead.

Circuit Judge Albert B. Maris, Third Judicial Circuit, and District Judges, Harold M. Kennedy, Brooklyn, N. Y., Paul J. McCormick, Los Angeles, Calif., and Harry E. Watkins, Fairmont, W. Va., attended various sessions of the Conference and participated in some of its discussions.

The Attorney General met with the Conference on the morning of the third day of its meeting, Wednesday, September 29.

The Solicitor General attended the opening session of the Conference and presented the Report of The Attorney General to the Conference.

Henry P. Chandler, Director, Elmore Whitehurst, Assistant Director, Will Shafroth, Chief, Division of Procedural Studies and Statistics; Edwin L. Covey, Chief, Bankruptcy Division; R. A. Chappell, Chief, Probation Division, and members of their respective staffs, all of the Administrative Office of the United States Courts, were in attendance throughout the meeting.

Paul L. Kelley, Executive Secretary to the Chief Justice, served as Secretary of the meeting.

The Conference welcomed the following new members: Chief Judge Harold M. Stephens, Chief Judge Joseph C. Hutcheson, and Chief Judge William Denman, of the District of Columbia, the Fifth and Ninth Judicial Circuits, respectively.

The Chief Justice made the following announcements:

The death of the Honorable Charles Evans Hughes, retired Chief Justice of the United States, and a former Chairman of the Conference, on Friday, August 27, 1948.

The death of the Honorable Evan A. Evans, Senior Circuit Judge of the Seventh Judicial Circuit, and a member of the Conference, on Wednesday, August 11, 1948:

The death of the Honorable Francis A. Garrecht, Senior Circuit Judge of the Ninth Judicial Circuit, and a member of the Conference, on Wednesday, August 11, 1948;

Whereupon the Conference adopted the following resolutions:

RESOLUTION

MEMORIAL TO CHIEF JUSTICE CHARLES EVANS HUGHES

The Judicial Conference of the United States notes with profound regret and deep sorrow the passing of Chief Justice Hughes, who presided over its sessions from 1930 to 1940. Seldom does it fall to the lot of any man to render distinguished service in so many different fields as did Chief Justice Hughes. As a practicing lawyer, as Governor of the State of New York, Associate Justice of the Supreme Court, nominee of his party for the Presidency, Secretary of State of the United States, member of the World Court and finally Chief Justice of the United States, he made a record as a lawyer, a statesman, and a judge which is unique in our country's history. By common consent he is accorded a place among the greatest jurists of the English speaking peoples.

One of the great services of Chief Justice Hughes to the cause of justice was that which he rendered as Chairman of this Judicial Conference, which had been created during the Chief Justiceship of his predecessor, Chief Justice Taft. It was during his Chairmanship that the Administrative Office Act was passed. Under that act the federal judiciary was freed from dependence upon an executive department of the government with respect to fiscal and administrative matters in the federal courts and was given adequate power of self-regulation and supervision. It was he who set up the Administrative Office and assured its success by bringing to its support his own splendid powers of administration, and it was he who, in the administration of the Rules of Procedure Act, secured for the country a modernized and efficient system of legal

procedure in keeping with modern conditions which has revolutionized the practice of the federal courts.

As a jurist, Chief Justice Hughes will rank with Marshall and Taney. As an administrator, he has never been surpassed by any man who has held judicial office in this country. The members of the Conference will always be grateful for the opportunity which was theirs to come in touch with his vibrant and forceful personality; and the judiciary of the country will ever be indebted to him for the service that he rendered in infusing the processes of justice with efficiency and order. He wrought mightily in his generation and has left a record of achievement which will be an inspiration for years to come to those who are engaged in the administration of justice.

Resolution

MEMORIAL TO JUDGE EVAN A. EVANS

Evan Alfred Evans was born on a farm near the small town of Spring Green, Wisconsin, March 19, 1876. His father, a Welshman by birth, came to this country early in life and served with distinction in the Union Army. His mother, also of Welsh stock, was a native of the State of Pennsylvania. (It seems noteworthy that twice in the year 1948, Americans have paused to honor the memory of judges with a lineage reaching back to the hills of Wales, Charles Evans Hughes and Evan A. Evans.)

Good parentage, the give and take of living in a large family of brothers and sisters, farm life and small town life endowed Evan A. Evans with a down-to-earth knowledge and love of people and their daily concerns. (It is noteworthy also, as honors came to him later in life, he held to the community in which he was born and maintained a home at nearby Baraboo until his death.)

This knowledge and love of people was accompanied by a gentle humor and a balanced view of life which was never to desert him, even through the exciting years which were to carry him to first honors in the Colleges of Liberal Arts and Law at his own University of Wisconsin.

His scholastic honors, and his interest and success at the University in debate and public speaking forecast his successful career as a lawyer; a career in which he was so successful that in the short period of sixteen years, and from a practice centering around the small town of Baraboo, he was to argue nearly a hundred cases before the Supreme Court of his state.

From such eminence as a lawyer he made the transition, without intervening office-holding, to the Federal Circuit

bench for the Seventh Judicial Circuit in the year 1916, where he was to sit until removed by death on July 7, 1948. He became the Senior Judge in point of service in 1934.

His work on the bench is a matter of public record; but the zest which he brought to it may not be. In a talk before a Judicial Conference in the Sixth Circuit, he once remarked that never had he left the bench after hearing an argument that he did not wish to write the opinion therein. And we are told that the cases in which he sat as a Circuit Judge numbered over four thousand.

His attainments inside and outside his profession were great; his interests were broad; and his virtues many. But his associates of this Conference will probably remember him longest for his essential humanity—for his "plain and simple mental and moral excellencies" as a life-long friend once put it. His was a life of simplicity and straight thinking; of kindliness and humor—which was suffused with an innate, if informal, personal dignity. Even among judges, Evan A. Evans will probably be remembered longest as a man.

Resolution

MEMORIAL TO JUDGE FRANCIS A. GARRECHT

The members of The Judicial Conference of the United States with deep regret feel the absence from our meetings of the late Francis A. Garrecht.

He brought to us the wisdom of the experience of his wide practice, beginning in the vanishing frontier of eastern Washington, in his helpfulness to and understanding of its Indian people, his vigorous service as a United States Attorney, and his long years on the Court of Appeals.

We will miss the wholesome advice of his wide experience, his kindly personality, and his cheerful nature. We all unite in sending to the members of his family, our sympathy in the loss of their father and our friend.

The retirement of the Honorable D. Lawrence Groner, Chief Justice of the United States Court of Appeals for the District of Columbia, who for many years participated as a member of the Conference, was announced by the Chief Justice. The Conference thereupon adopted the following resolution:

Resolution

The Judicial Conference of the United States notes with sincere regret the retirement from active judicial service of

Honorable D. Lawrence Groner, Chief Justice of the United States Court of Appeals for the District of Columbia, who was for many years one of the ablest and most useful members of the Conference.

Chief Justice Groner brought to his duties as a member of the Conference a wealth of experience gleaned from long service in the Judiciary of the United States and prior to that as Referee in Bankruptcy and as United States Attorney. As District Judge of the United States for the Eastern District of Virginia his record was outstanding. As a Justice of the United States Court of Appeals of the District of Columbia, and later as Chief Justice of that Court, he rendered distinguished service and succeeded in having that tribunal accorded its proper place as one of the most important courts of the United States. As a member of the Conference he was active in its labors and in the work of its committees in solving the many problems confronting the judiciary of our country. No one has done more than he to bring about the present efficient organization of the federal courts and the proper recognition by the people of the country of the importance of the business in which they are engaged. His wisdom was a source of strength to the Conference and his knowledge of men and affairs of inestimable value in dealing with other branches of government.

Chief Justice Groner greatly endeared himself personally to all the members of the Conference. His wisdom and sound judgment, his breadth of view and profound learning, made him a leader in all of our undertakings, but it was his kindness of heart, his innate courtesy and courtliness and his unfailing sympathy and understanding which endeared him to us as a companion and a friend. We shall miss him in our meetings, and we tender him upon his retirement this expression of our affection and esteem with the fervent hope that we may continue to have the benefit of his wise counsel for many years to come, and that the evening of his life may be happy, and rich with the fruits of the many years spent in the faithful service of his country and the cause of justice and right.

The Chief Justice stated that, pursuant to the provisions of the United States Code (Title 28 U. S. Code § 45 (c)) and upon the certification of Senior Circuit Judge Samuel H. Sibley of the Fifth Judicial Circuit, Judge Sibley had been relieved of his duties as Chief Judge; and that, because of this action, Judge Sibley also withdrew as a member of the Judicial Conference of the United

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States. The following resolution was thereupon adopted by the Conference:

RESOLUTION

Whereas Honorable Samuel H. Sibley, Judge of the United States Court of Appeals for the Fifth Circuit, who has for many years rendered a judicial service of high order, and who is justly recognized as one of the ablest members of the federal judiciary, was a member of this Judicial Conference from 1942 to 1947,

And whereas since the last convening of this Judicial Conference, he has relinquished his powers and duties as Senior Circuit Judge in respect of administrative matters and his place in the Conference,

And whereas Judge Sibley has exercised such powers and performed such duties with great wisdom, with a constant eye to the effective administration of justice in our Courts, and in such a capable, fair, and impartial manner that he has earned the love, respect and esteem of every member of this Conference; and by his wise judgment and from his wealth of experience he has made many worthwhile contributions to the work of the Conference and to the solution of the difficult problems that came before us:

Now, therefore, be it resolved, that this Conference does hereby express its appreciation for the distinguished manner in which Judge Sibley has executed the administrative responsibilities lately relinquished by him, that we miss his valued counsel, his warm hand of friendship and his genial personality, that we convey to him our felicitations and best wishes, and that we hereby extend to him our sincere hope that he will continue many years to come to serve in his judicial capacity.

REPORT OF THE ATTORNEY GENERAL

The Report of the Attorney General of the United States (Honorable Tom C. Clark) to the Judicial Conference was presented by the Solicitor General, Honorable Philip B. Perlman. The report is as follows:

MR. CHIEF JUSTICE, MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES, HONORED GUESTS:

Once again it is my privilege and pleasure to appear before the annual meeting of the Judicial Conference of the United States. In my opinion, the work of these conferences constitutes one of the most important single elements in the administration of justice in the federal courts. For out of these conferences come the suggestions designed to make the litigation process in the federal courts speedier, less complicated, less

burdensome, and less expensive. In some cases, legislation is necessary to accomplish the desired purpose; in others, you gentlemen are able to do this by means within your own power. But however the beneficial result is ultimately achieved, the point is that it is here that the ideas are born, discussed, and developed in an impartial spirit of cooperation. Without a process of this sort, the development and improvement of the machinery for the efficient administration of justice would be hampered. Again let me say that I consider it a distinct privilege to be a part, however small, of this process.

Mr. Chandler, the Director of the Administrative Office, was kind enough to make his annual report to the Conference available to me. What I considered as one of the most important parts of that report disturbed me a great deal. At several points in the report, Mr. Chandler referred to the high incidence throughout the country of disability of federal judges on account of illness. He pointed out that, during the last year, at least 20 circuit and district court judges were partially or totally incapacitated for long periods of time because of illness. These illnesses were in large measure attributable to overstrain in work. And many other judges, not actually incapacitated, were beginning to show signs of nervous exhaustion. This situation is alarming and is painful evidence of the tremendous volume of work borne by you gentlemen of the judiciary. It emphasizes all too well the necessity for speedy appointments to judicial vacancies as well as the need for more judges to cope with the increasing burden of litigation in the federal courts. As far as filling judicial vacancies is concerned, the President has endeavored to fill each vacancy as rapidly as possible consistently with the established policy of securing men eminently qualified for judicial office. As for the necessity of additional judges, I shall continue to recommend the enactment of legislation increasing the number of federal judges where needed, so that the work of the federal courts can be carried on with dispatch, at the same time permitting the judges the necessary time for reflection and deliberation in judgment. Without a reasonably adequate number of judges to handle the volume of increasingly difficult litigation in the federal courts, the judicial system of the United States cannot properly perform its function, no matter how many times the court rules are revised or the statutes codified.

And speaking of codifications, I should like to refer only briefly to the recent enactment by the Congress of the revisions of the Criminal and Judicial Codes. A more detailed reference to those enactments before this group would indeed be presumptuous on my part. However, I should like to point out that these codifications are truly significant advances. The fact that these codes make relatively few substantive changes in the law should not lead us to underestimate their importance

in the administration of justice in the federal courts. In the first place, the Criminal and Judicial Codes, having been enacted by the Congress, are now the law and not merely prima facie evidence of it. Both the bench and the bar will now be spared the time-consuming and unpleasant task of going to the Statutes at Large in order to ascertain the precise language of a particular law. I should imagine that only a very small percentage of the Nation's lawyers have easy access to sets of the United States Statutes at Large. More important still, these codifications substitute plain language for awkward phrases, reconcile conflicting statutes, omit superseded sections, and consolidate similar and related provisions. The difficult task of tracing the provisions of a statute through all its amendments will in large measure now be eliminated.

It is indeed a pleasure for a lawyer to pick up the new Criminal Code and read in Section 1, in plain and simple language, that "Any offense punishable by death or imprisonment for a term exceeding one year is a felony," that "Any other offense is a misdemeanor" and that "Any misdemeanor, the penalty for which does not exceed imprisonment for a period of 6 months or a fine of not more than $500, or both, is a petty offense." You gentlemen are aware of the difficult problems that had arisen concerning the interpretation of these terms prior to this enactment.

I should like to mention just one significant substantive change made in the Criminal Code. That change appears in Section 371 which increases the penalty for conspiracy to commit an offense against or to defraud the United States from 2 to 5 years. If, however, the offense, the commission of which is the object of the conspiracy, is only a misdemeanor, the maximum punishment for such conspiracy cannot exceed the maximum punishment for commission of the misdemeanor. This Section 371 remedies a well-known inadequacy in the old conspiracy statute, and recognizes the injustice of permitting a felony punishment for conspiracy to commit a misdemeanor.

As you know, the Judicial Code was enacted as Section 1 of Public Law 773 of the 80th Congress. Public Law 773, however, is a statute composed of 38 sections. The importance of the Judicial Code itself and the publicity in legal circles attached to its enactment may cause us to overlook some of the provisions contained in those other sections. I should like to mention just one—Section 36. That section amends Section 1141 (a) of the Internal Revenue Code dealing with review in the Courts of Appeals of decisions of the Tax Court of the United States. The amendment now provides that the Courts of Appeals shall have jurisdiction to review decisions of the Tax Court of the United States, "in the same manner and to the same extent as decisions of dis-

trict courts in civil actions tried without a jury." I need scarcely tell you that, following the decision in *Dobson* v. *Commissioner*, 320 U. S. 489, almost every case in the Courts of Appeals coming from the Tax Court contained some problem respecting the proper scope of review to be exercised by the Courts of Appeals. Conflicting views concerning the precise meaning of the *Dobson* decision proved to be a major and recurring source of controversy. In enacting Section 36, the Congress made it clear that the rule of the *Dobson* decision was intended to be repealed. Difficult questions of judicial review were, of course, never limited or confined to cases coming from the Tax Court, and will still persist under Section 36. The problem in Tax Court cases, however, will now be the same as in civil cases coming from district courts where trial was had without a jury.

The report of the Director of the Administrative Office discusses a subject which is of particular interest to my Department. That is the probation system. As you know, a federal prisoner, when released on parole, is in the legal custody and under control of the Attorney General. By statute, each probation officer appointed by the federal district courts to supervise probationers is required, in addition, to perform such duties with respect to persons on parole as the Attorney General shall request. And as the report of the Director of the Administrative Office points out, during the fiscal year 1948 about 6,000 parolees were supervised by probation officers. The efficiency of the probation system is, therefore, of vital concern to me. I am interested in an efficient probation system not merely because of the invaluable assistance that service has given me in connection with my duties with respect to parolees. I am more interested in an efficient probation service from the point of view of what it can do for the probationer. He is, in general, the less confirmed type of offender who has not been exposed to the contaminating influences of prison. The chances of rehabilitation are generally good. And, as Mr. Chandler points out, an efficient probation service, if adequately supported, is the most promising means of rehabilitation. An efficient probation service can help prevent the probationer from ever becoming a parolee. I agree with Mr. Chandler that an average case load per probation officer of 114 persons under supervision, in addition to 106 investigations, is much too heavy a load to permit a really constructive job to be achieved. I agree that additional probation officers should be appointed. I feel sure that money so spent will prove in the long run to be an economy. Every case of a probationer rehabilitated who never has to see the inside of a prison constitutes a money savings to the United States. The benefits to society at large are so great and so obvious that nothing need to be said here in that regard.

When I spoke to you last year, I suggested the advisability of the adoption at an early date of uniform rules for all the Courts of Appeals, particularly with reference to the preparation and contents of records and briefs on appeal. I was glad to read in the Report of the Conference for last year that the Conference directed the material and data which I submitted to you to be circulated to the members of the Conference. However, I was disappointed to find that uniformity has not been accomplished. Further and diverse changes in the rules of individual courts have accentuated the problem. I consider it appropriate, therefore, to call your attention to this problem once again. The adoption of uniform rules would contribute to a more efficient and economical dispatch of the Government's business, for it is the Government which would be the principal beneficiary, appearing, as it does, in all the Courts of Appeals.

I would like at this time to say a few words concerning the experience of the Department of Justice in the trial of antitrust cases. Antitrust cases are usually of great complexity and in the past have required the argument of numerous motions before they actually came on for trial. These motions have related to discovery of documents, interrogatories, bills of particulars, jurisdiction over defendants, and many other preliminary matters. When such a case is pending in a court composed of many judges and having a large volume of business, the various motions necessary from time to time have come on for hearing before the judge who happens to be assigned to the motion calendar at the time the motion is made. This has resulted in the need on the part of each judge to familiarize himself with comprehensive and highly involved pleadings and issues, as well as the course of prior proceedings in the case. This requires a great deal of time on the part of all the attorneys and necessitates each judge to master all the facts which have already been mastered by another judge. This procedure is burdensome, and I think that it can in large measure be alleviated.

In a case filed in the Southern District of New York on October 30, 1947 (*United States* v. *Henry S. Morgan, et al.*), the defendants named were 131 individual partners, 10 copartnerships, 7 corporations, and 1 association engaged in the investment banking business. The complaint charged the defendants, who are the principal investment bankers in the country, with a conspiracy to monopolize and restrain the security business of the country. Nine large New York law firms entered appearances for the defendants. Motions for extensions of time within which to move or answer, and for an order for the taking of a deposition, were filed and argued before Judge Bright.

In anticipation that a large number of motions would be

filed and that complex and intricate pretrial proceedings would be undertaken, the Government filed a motion for an order designating one judge to hear all motions and other matters preliminary to trial, to conduct all pretrial procedure, and to preside at the trial. In support of this motion, the Government argued that, in a case of this magnitude and complexity, much time would be wasted in acquainting various judges with the factual background necessary to rule intelligently on the motions and other matters of substance and procedure.

The Senior Judge in the Southern District of New York, Honorable John C. Knox, granted this motion in the following words:

"The procedure that the Government suggests be followed with respect to the within entitled litigation is not entirely without precedent in the District Courts of the United States. A somewhat similar practice prevails, I understand, in the Southern District of California, the Northern District of Illinois, and the Eastern District of Michigan. Furthermore, in this court, it is customary for a judge who first has occasion to deal with a reorganization proceeding under Section 1 of the Bankruptcy Act to retain jurisdiction thereof until the same is concluded.

"From what was said at the time this motion came on for hearing, it appears that this suit involves a complicated and intricate state of facts, and one which presents numerous questions of law. If a particular judge be assigned to handle the case, he will be able to familiarize himself with all its details and thus, as the litigation proceeds, bring about an economy of time and effort on the part of the court that otherwise would not be possible. For this reason, the motion will be granted, and the case assigned to the Honorable Harold R. Medina."

Nearly a score of separate answers were filed by the defendants, and interrogatories were propounded by a number of the defendants. Objections were made thereto, briefs filed, and arguments heard thereon. Requests were made by the Government for admissions as to matters of fact and as to authenticity of documents, and the Government filed notices for the taking of depositions. Objections were made to the requests for admissions, and application was made by the defendants for a ruling prohibiting the Government from taking further depositions. These matters were also argued before the Court. Following the hearing on these various matters, the Court issued a comprehensive order interpreting the complaint, setting forth the positions of the plaintiff and the defendants with respect to many portions thereof, establishing a "committee" to represent all of the various attorneys in dealing with plaintiff's demand for admissions, and outlining

a procedure to be followed by the plaintiff in making such demands and by the defendants in replying thereto. A procedure was established to be followed in securing agreement, or at least in defining or limiting the areas of disagreement, of the parties as to accuracy of statistical tabulations and charts, providing for the marking and tabulation of documents and the exchange thereof between plaintiff and defendants, providing for taking of depositions, and specifying those portions of the defendants' interrogatories which the plaintiff should answer and the method to be followed in answering.

As a result of the assignment of one judge to the case who became familiar with the various contentions and tactics of the attorneys for defendants and for the plaintiff, and who was able by reason of his knowledge of the case to interpret and narrow areas of disagreement, an expeditious method was established which effectively disposed of the necessity for many motions and arguments thereon. The preparation for the trial of this complex and important case is much further advanced and the issues which will remain for trial will be much more limited, than any of the parties thought would be possible. If a single judge had not been assigned, it is probable that pretrial discovery and procedure would have consumed as much as two or three years. The assignment of Judge Medina, and the procedure adopted by him, will probably result in the trial and disposition of this case within a few months.

A similar procedure was followed in another case pending in the Southern District of New York (*United States* v. *Imperial Chemical Industries, Ltd.*). In that case, Judge Knox entered an order assigning the case to Judge Sylvester J. Ryan.

It is believed that all parties to this type of litigation are finding this method of developing a case highly desirable. It is hoped that all the district courts will look with favor upon suggestions made by the Government in future antitrust cases that they be assigned to one judge to hear all matters in connection therewith.

Mr. Chandler has mentioned a problem to me that is not discussed in his report to this Conference. That is the cost of service of process in civil cases on parties located at a considerable distance from the United States Marshal. Mr. Chandler referred to one situation where the case involved something like $114 and the Marshal's cost for travel and subsistence was some $50 or $60. While this, of course, is not the typical situation, I do think, however, that something can be done to reduce the cost of service of process in many cases.

Rule 4 (c) of the Federal Rules of Civil Procedures provides that "service of all process shall be made by a United States Marshal, by his deputy, or by some person specially appointed by the court for that purpose * * *." The rule continues

that "special appointments to serve processes shall be made freely when substantial savings in travel fees will result." I think that in general the routine has developed of the clerk delivering summonses to the Marshal's office which then serves them without too much regard to the location of the parties to be served. I believe that something can be done to effectuate a savings in this regard. It seems to me that a recommendation of this Conference calling this matter to the attention of the district judges, together with a circular from my office to the United States Marshals can do the job. I shall be glad to have a member of my staff cooperate with anyone appointed by this Conference in working out a suitable procedure for calling to the attention of the courts and the marshals the desirability and necessity for special appointments for service of process in appropriate cases.

When I addressed the Conference last year I stated that during the fiscal year 1947, 675 cases had been filed under the Federal Tort Claims Act. I predicted that a much larger number would be filed this year. The report of the Director of your Administrative Office shows that during the fiscal year 1948 in excess of 1,500 cases arising under the Tort Claims Act were filed. You can well appreciate the burden that this increase in litigation has cast upon the Department. But we will continue to try our best to process these cases as expeditiously as possible. Last year I indicated some of the interesting problems involved in this tort claims litigation. Other problems of equal interest and importance have arisen this year. In general, the litigation, insofar as the strictly legal questions are involved, has paralleled to a large extent the litigation arising out of the Tucker Act. Undoubtedly many of these problems will reach the Courts of Appeals during the coming year.

I was disappointed, as I know you were, because of the failure of enactment of the bill to provide for the care and custody of insane persons charged with or convicted of offenses against the United States. The Department of Justice has worked in close harmony with Judge Magruder and other members of his committee in behalf of this much needed legislation. The bill was actually passed by the Senate on June 10, 1948, and was referred to the Judiciary Committee of the House on the following day. It made no further progress toward enactment, however. Recommendations should be renewed at the next session of Congress for the speedy enactment of this bill.

When the Congress adjourned on August 7, 1948, there was pending before the Judiciary Committee of the House the bill recommended by this Conference to raise from $10 to $15 a day the limit on subsistence expenses allowed to Federal judges while traveling on official duties away from their headquarters.

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The limitation of $10 a day as provided for in existing law has not been increased since it was authorized for circuit court judges in 1891 and for district court judges in 1911. I sincerely hope that this measure will be enacted into law during the coming session of the Congress. As Mr. Chandler has pointed out, the present limitation has proved to be a serious handicap in the effort to find judges available for assignment outside of their districts.

I was glad to see that the Congress has enacted the legislation to increase the fees and expense allowances of jurors. I was also glad to note that section 1861 of the new Judicial Code now establishes uniform qualifications for jurors throughout the Federal court system.

I wish to say in conclusion, as I did last year, that we of the Department of Justice share with the courts a real sense of responsibility for the proper operation of our laws. We feel that we are much more than the principal litigant before you. We consider it our duty and privilege to answer your call for assistance and cooperation in any matter which involves the machinery of the federal judicial system. We welcome the opportunity to assist this Conference in any way we can. As I stated before, the work of this Conference is to me one of the most important single elements in the administration of federal justice.

Administration of the United States Courts

Report of the Director of the Administrative Office of the United States Courts.[1]—The Director submitted his ninth annual report reviewing the activities of his office for the fiscal year ended June 30, 1948, including the report of the Division of Procedural Studies and Statistics. The Conference ordered the report received, and authorized its immediate release for publication. The Director was authorized to incorporate statistical data not now available, and to correct errors of a nonsubstantive nature, in the printed edition of the report to be issued later.

State of the Dockets of the Federal Courts—Courts of Appeals.—The declining trend in the number of cases filed annually in the courts of appeals, which was in evidence from 1940 to 1947, was arrested in the fiscal year 1948, which showed an increase of 5 percent, from 2,615 cases commenced in 1947 to 2,758 in 1948. The courts showing the largest proportionate increases were those of the District of Columbia Circuit with an increase of one-third, and of the Fifth and Tenth Circuits with increases of one-fifth each.

[1] For convenience, the Director of the Administrative Office of the United States Courts, and the Administrative Office of the United States Courts, are hereinafter referred to as the Director, and the Administrative Office, respectively.

Cases terminated were somewhat less in number than those commenced, with a resulting rise to 1,673 in the caseload pending at the end of the year. Most of the gain over 1947 in the number of cases commenced was in appeals from the district courts. The number of appeals from administrative agencies and particularly from the National Labor Relations Board was less than in the previous year.

Five hundred and ninety-seven petitions for review on writ of certiorari to the United States courts of appeals were filed in the Supreme Court in 1948, as compared with 614 in 1947. Twelve and seven-tenths percent of the petitions disposed of in 1948 were granted. In civil cases in which the United States was a party, 16.1 percent of the petitions were granted; in criminal cases, 14.2 percent; in private civil cases, 10.6 percent; and in administrative appeals, 7.9 percent.

The median time interval for all circuits from the date of the filing of the complete record to the time of disposition by the court was 6.3 months. For the period from hearing or submission to decision, the median period for all circuits was but 1.6 months and in no circuit did it exceed 2.7 months. From filing in the district court to decision in the appellate court, considering only cases heard or submitted in the courts of appeals, the median was 21.4 months.

District Courts.—In the district courts a substantial decrease occurred in the number of civil cases filed, but this was confined to cases in which the government was a party. The number of civil cases terminated slightly exceeded the number commenced but the reverse was true as to private cases, which constitute, for the judges, the most time-consuming part of the caseload. The trend is shown by the number of civil cases commenced and terminated annually for the past 10 years, giving separately the figures for all civil cases and for private civil cases:

Fiscal year	Total civil cases			Private civil cases		
	Commenced	Terminated	Pending	Commenced	Terminated	Pending
1939	33, 810	37, 753	32, 111	21, 598	23, 848	22, 514
1940	34, 734	37, 367	29, 478	21, 090	23, 364	20, 240
1941	38, 477	38, 561	29, 394	21, 931	23, 364	18, 807
1942	38, 140	38, 352	29, 182	21, 067	22, 488	17, 386
1943	36, 789	36, 044	29, 927	17, 717	20, 124	14, 979
1944	38, 499	37, 086	31, 340	17, 604	17, 446	15, 137
1945	60, 965	52, 300	40, 005	17, 855	16, 753	16, 239
1946	67, 835	61, 000	46, 840	22, 141	18, 438	19, 942
1947	58, 956	54, 515	51, 281	29, 122	23, 091	25, 973
1948	46, 725	48, 791	49, 215	30, 344	26, 418	29, 899

From this table it will be seen that the number of "all civil cases" commenced annually dropped sharply both in 1947 and 1948 after an abrupt rise in 1945 and a further increase in 1946. These fluctuations were caused mainly by changes in the number of actions brought each year by federal officials to enforce price control and rationing regulations. The number of cases of this kind filed in the last five years has been as follows:

Fiscal year:	*Price and rationing cases commenced*
1944	6,707
1945	28,653
1946	31,252
1947	15,203
1948	3,569

The effect of the war was to decrease all classes of civil litigation in the federal courts, both government and private, other than price and rationing cases. Since the termination of the war there has been a rapid rise in the volume of private civil cases. The result is that the total number of civil cases filed in 1948 was one-third greater than the 1938–41 average and the number of private cases was 40 percent larger.

The increase in the number of private cases pending is particularly significant in the light of a report by the Statistics Committee of the Conference that 11 district judges who kept time records over a 3-months period spent approximately three times as many hours in court and chambers in hearing and deciding private cases as they devoted to government cases. The 29,899 private cases that remained undisposed of on the dockets on June 30, 1948 were more than the number terminated during the entire previous year and were 39 percent more than the 1938–41 annual average of the pending private caseload at the end of the year.

The increase over the prewar average in the number of private cases filed has been principally in contract and tort cases brought under the diversity of citizenship jurisdiction of the courts. A rise in the numbers of other personal injury actions such as those by railroad employees under the Employers' Liability Act and by seamen under the Jones Act has been particularly responsible for an increase in cases between private parties arising out of federal statutory rights of action. There is a marked increase in private admiralty suits as compared with the prewar period as a result of shipping activity during and after the war.

The heavier burden on the courts during the past year is also reflected in the increased median time of 9.9 months in 1948 from

filing to disposition of civil cases (excluding land condemnation, forfeiture and habeas corpus cases) disposed of after trial in the 84 districts in the states compared with 9.0 months in 1947.

The number of criminal cases filed in the district courts in 1948 was 32,097, which was 4½ percent less than in 1947. After an increase during the war due to Selective Service Act cases and price and rationing prosecutions the number of proceedings commenced decreased and in 1948 reached the lowest point in 30 years with the exception of the year 1941. More cases were terminated than were commenced. Criminal cases receive precedence and the criminal dockets are in good condition. Of 7,851 cases pending at the end of the year, more than a quarter could not be tried because they involved fugitive defendants, leaving at the end of the year less than 6,000 pending criminal cases in which the defendants were available, or a little more than 9 weeks work at the current rate of disposition.

The number of bankruptcy cases filed in 1948 continued the increase begun in the previous year by rising from 13,170 to 18,510 as compared with a 45-year low of 10,196 cases begun in 1946. Cases terminated in 1948 numbered 10,742, with a resulting increase in the caseload at the end of the year of almost 8,000 cases, to a total of 25,064.

Additional Judgeships

General.—The Conference reviewed the state of the dockets, and the work of each of the district and circuit courts comprising the federal judiciary. Conditions relating to the courts within each particular circuit were discussed by the Chief Judge of that circuit, and the Conference informed of matters peculiar to such courts. Statistical data relating to the current and prospective business of the courts were presented by the Director. The attention of the Conference was also directed to factors which, because of their character, were impossible to weigh in these data, but which had a material and substantial effect upon the expeditious dispatch of the business of the courts. The prospects as to the availability of judges for assignments outside their own districts during the coming year were considered.

It was the sense of the Conference that the following action in respect of judgeships throughout the judiciary should be recommended; that such recommendations contemplated the absolute minimum increase in judgeships necessary to adequately man the

courts, and to provide for the continued efficient and orderly processing of the business of the courts.

COURTS OF APPEALS

Circuit:

District of Columbia.—The creation of two additional judgeships.

Third.—The creation of one additional judgeship, with the *proviso* that the first vacancy occurring on the Court shall remain unfilled.

Seventh.—The creation of one additional judgeship.

Tenth.—The creation of one additional judgeship.

DISTRICT COURTS

District:

Southern District of New York.—The creation of four additional judgeships—one of which will provide for the filling of the vacancy created upon the retirement of the late Judge Woolsey, the filling of which has heretofore been prevented by statute.

Eastern Pennsylvania.—The creation of two additional judgeships.

Western Pennsylvania.—The creation of two additional judgeships, with the *proviso* that the first two vacancies occurring within the district shall remain unfilled.

District of New Jersey.—The creation of one additional judgeship.

Northern Georgia.—The creation of one additional judgeship. This will provide two permanent judgeships for this district, and restore the district to the status existing before the retirement of Judge Underwood.

Northern and Southern Districts of Florida.—The creation of one additional judgeship for the two districts.

Southern Texas.—The creation of one additional judgeship, and providing that the official residence of the judge shall be in the southern one-half of the district.

Eastern and Western Districts of Missouri.—Making permanent the present judgeship which is now held by Judge Duncan.

Northern California.—The creation of two additional judgeships, and the filling of the existing vacancy in the district without further delay.

Southern California.—The creation of one additional judgeship.

District of Oregon.—The creation of one additional judgeship.

District of Kansas.—The creation of one additional judgeship.

The Director was instructed to present these recommendations to the Congress and to inform it that the prompt enactment of

legislation necessary to achieve the objectives sought thereby was, in the view of the Conference, a matter of extreme urgency and importance to the judiciary.

Supporting Personnel of the Courts

Chief Judge Biggs, Chairman of the Committee on Supporting Personnel of the United States Courts presented the report of the Committee.

Salaries—The Administrative Office of the United States Courts.—In its efforts to secure legislative authority for the increase in the annual compensation of the Director and Assistant Director, as recommended by the Conference, the Committee was confronted with a legislative situation which made impracticable any attempt to secure independent action upon this proposal. At the time, there was under consideration a Congressional program contemplating a complete revision of the government's salary and classification structure. In view of this and the fact that, as a matter of practical necessity, the officials involved must stand with like officers of the government in salary matters, the Committee concluded that the most feasible method of obtaining the ultimate objective was to have these positions included in the Congressional program, although the salaries provided thereunder would exceed in slight degree those recommended by the Conference. While the Committee was successful in having these positions incorporated within the program, efforts to secure passage of the legislation failed.

The Conference was of the view that the Committee, under the circumstances, had acted properly and wisely, and approved its action. It directed that efforts should be made to secure increases in the salaries of the Director and Assistant Director to the extent that their annual compensation will equal in amount that which is finally approved for officers of comparable rank in the other branches of the Government.

Salaries—Secretaries, Secretary-Law Clerks, and Law Clerks to Circuit and District Judges.—In 1943, the Conference adopted a plan of compensation and classification covering these employees. Under this plan, there was allocated, on a per annum basis, to each senior circuit judge, and to each senior district judge of courts of five or more district judges, the amount of $7,500, and to each of the other circuit and district judges the sum of $6,500, from which these employees would be paid. Due to lack of appropriations, the plan was not put into effect until the commencement of the fiscal

year 1946. It has now been in operation for 3 years and while, as a whole, it has worked very well, the need for some practical operating revisions has been clearly demonstrated.

(A) The additional allowance of $1,000 to the first group of judges was intended to enable them to procure additional assistance needed because of their additional duties. Under the present arrangement it is impossible for them to do this. This additional assistance is imperative at this time and, in order to enable these judges to employ a competent assistant secretary, as well as an experienced secretary and law clerk, the present allowance should be increased to $9,000.

The present allowance of $6,500 to the other judges does not enable them to employ a secretary and a law clerk both in the higher grades. In order to enable them to do this their allowance should be increased to $6,700 per year.

(B) One of the difficulties which has developed under the plan has been that if the salaries of a judge's secretary and law clerk have reached the limit of the individual allotments, these employees are precluded from further participation in the promotional plan, even though they are otherwise qualified to receive them. This has resulted in inequities and should be corrected by the elimination of the limitation on within-grade promotions involved under the plan.

(C) There have been a number of instances in which the work of some judges has been impeded by the fact that their allowances were insufficient to permit the securing of temporary assistance in an emergency due to illness or other causes necessitating the absence of their regular employees. This should be corrected through the deletion of this limitation from the plan.

As indicated, the plan was implemented by Congress by the Appropriation Act for the fiscal year 1946, viz., by congressional action in 1945. The Congress gave recognition to this plan by adopting as a proviso to the Appropriation Act of 1946 (practically in haec verba) the resolution adopted by the Conference in 1943.

The Committee proposed that the Conference recommend the elimination of this proviso from future Judiciary Appropriation Acts. It was pointed out that the proviso will no longer be properly a part of the Appropriation Act since positive law in § 604 (a) (5) of Title 28 of the new Judicial Code provides that, under the supervision and direction of the Judicial Conference, the Director shall fix the compensation, among other employees, of law clerks

and secretaries, and a resolution of the Conference will itself have the force of law as an implementation of the statute.

In order to carry into effect the changes in the present plan proposed by the Committee, *and to insure to each judge the continuation of the right to classify his own employees,* the Committee submitted the following resolution with recommendation that it be adopted by the Conference:

RESOLUTION

Resolved, That the compensation of secretaries and law clerks of circuit and district judges shall be fixed by the Director of the Administrative Office of the United States Courts without regard to the Classification Act of 1923, as amended, except that (exclusive of any additional compensation under the Federal Employees Pay Act of 1945 and any other acts of similar purport subsequently enacted) the salary of a secretary shall conform with that of the main (CAF–4), senior (CAF–5), or principal (CAF–6) clerical grade, or assistant (CAF–7), or associate (CAF–8) administrative grade, as the appointing judge shall determine, and the salary of a law clerk shall conform with that of the junior (P–1), assistant (P–2), associate (P–3), full (P–4), or senior (P–5) professional grade, as the appointing judge shall determine, subject to review by the judicial council of the circuit if requested by the Director, such determination by the judge otherwise to be final: *Provided,* That (exclusive of any additional compensation under the Federal Employees Pay Act of 1945 and any other acts of similar purport subsequently enacted, or within-grade promotional increases and of compensation paid for temporary assistance needed because of an emergency) the aggregate salaries paid to secretaries and law clerks appointed by one judge shall not exceed $6,700 per annum, except in the case of the chief judge of each circuit and chief judge of each district court having five or more district judges in which case the aggregate salaries shall not exceed $9,000.

The Conference adopted the following amendment to the resolution of the Committee:

Further Resolved, that this resolution shall take effect as of July 1, 1949, and shall from and after that date supersede the resolution upon the same subject matter passed by the Judicial Conference at the September Session, 1943.

The resolution, as amended, was thereupon approved by the Conference.

Civil Service Status—Secretaries, Secretary-Law Clerks, and Law Clerks.—Upon recommendation of the Committee, the Conference approved of efforts being made to secure legislation

which will permit a secretary, secretary-law clerk, or a law clerk, of any federal justice or judge who has served for four years and who has been separated from the service involuntarily and without prejudice, to acquire a classified civil service status for transfer purposes upon passing a noncompetitive civil service examination.

Salaries, Classification and Promotional Plan—Court Criers.—Upon recommendation of the Committee, the Conference approved the action of the Director in fixing the salaries of criers at a basic salary of $1,800, plus the increase granted to federal employees generally by the three Pay Acts, effective September 1, 1948, and directed that these employees be classified at grade CAF–4 and given the benefits of the promotional plan as of September 1, 1948, the first promotion to become effective after September 1, 1949.

Probation Office—District of Columbia.—Chief Judge Stephens submitted the recommendation of the Judicial Conference for the District of Columbia that legislation be enacted to bring the Probation Office of the District Court in the District of Columbia under the Administrative Office for administrative purposes, including appropriations.

It was pointed out that the result of such an enactment would assimilate the probation service for this district to the similar service in the other judicial districts.

The recommendation had the full concurrence of both the District Court and the Judicial Conference for the District of Columbia.

The Conference concurred in the recommendation and directed that efforts be made to secure the legislative action necessary to accomplish the result desired.

Register of Wills—District of Columbia.—Chief Judge Stephens presented the recommendation of the Judicial Conference for the District of Columbia that legislation be enacted to bring the Office of the Register of Wills in the District of Columbia under the Administrative Office for administrative purposes, including approprations therefor, and also that the appointment of the Register of Wills be made by the District Court instead of by the President of the United States.

The recommendation had the full concurrence of both the District Court and the Judicial Conference for the District of Columbia.

The Conference concurred in the recommendation and directed that efforts be made to secure the legislative action necessary to accomplish it.

TRAVEL AND SUBSISTENCE ALLOWANCES

General.—The Director reported that, pursuant to the directions of the Conference, efforts had been instituted during the last Congress to secure legislative action necessary to implement the recommendations of the Conference in respect of securing increases in the amounts available under existing statutory limitations for the reimbursement of allowable expenses incurred by judges and other personnel of the United States Courts while in an official "travel status." He stated that, although these endeavors were unsuccessful, some encouragement may be had from the fact that the Congress had been giving consideration to a proposal providing for an increase in travel allowance for employees of the Executive Branch of the government, and present indications were that some affirmative action would be taken thereon at the next session of the Congress. It was his view that, in the event of such action, similar consideration for the judiciary could be reasonably anticipated.

The Director advised that, since the last session of the Conference, additional studies of the experiences of personnel in travel status had been made and it was clearly indicated that, because of the constant increase in the costs of personal services (hotel accommodations, meals, etc.), the burden of having to absorb amounts necessarily expended in excess of the statutory allowances was becoming increasingly oppressive.

It was the sense of the Conference that the increase in costs of all "items of expense" normally incident to travel since the present statutory allowances were fixed, was sufficient justification for a reasonable increase in these allowances at this time; and that it was inequitable and unreasonable to require personnel while in an official travel status to assume a burdensome "out-of-pocket" loss in providing for their ordinary maintenance.

Whereupon the Conference took the following action:

Expense Allowance—Judges traveling on official business.—Recommended prompt enactment of legislation providing for an expense allowance in an amount not to exceed $15.00 per day for judges in an official "travel status" incident to the performance of their official duties.

Expense Allowance—Personnel of the Courts, other than Judges.—Recommended the prompt enactment of legislation providing for an increase in the present subsistence allowance ($6.00 per day) to either $8.00 per day or to an amount equal to that which may be granted to employees of the Executive Branch of

the government. It authorized and directed the Director to proceed in this respect in whatever manner may appear to him to be the most advisable.

Mileage Allowance—For use of Privately Owned Automobiles while traveling on official business.—Recommended the prompt enactment of legislation providing for an increase in the present mileage allowance (5 cents per mile) to either 7 cents per mile, or a rate per mile equal to that which may be established in the Executive Branch of the government. It authorized and directed the Director to proceed in this respect in whatever manner may appear to him to be the most advisable.

The Court Reporting System

Chief Judge John J. Parker, Chairman of the Committee on the Court Reporting System, presented the report of the Committee.

General Increase in Salaries of Reporters.—The Committee advised that, since its last report to the Conference (September 1947), hearings had been held with representatives of several court reporter organizations. With respect to the present salary and transcript-rate structures, the Committee stated it had made a full and complete review of the basis upon which these structures were originally established. The Conference was reminded that when these salaries and transcript rates were originally fixed, the following factors were taken into consideration:

1. The position is not a full-time job, but reporters were to be allowed to do outside work.
2. The salaries fixed should have reasonable relation to the salaries paid state reporters in the same territory.
3. The salaries should have reasonable relation to the time spent in court.
4. Account should be taken of the importance of having a competent reporter available when needed and the salary should be sufficient to attract such service.
5. Account should be taken of the fact that the reporter was given a regular income and a monopoly of the reporting of the court;

and the salaries of the reporters were fixed within the limits of the Congressional authorization at the following figures:

$3,000 per year, for rural districts where the reporter would be required to spend less than half his time in court.

$3,600 per year, for rural districts where the reporter would be required to spend half his time or more in court.

$4,000 per year, for urban districts where the reporter, while

spending half his time or more in court, is able to do substantial outside work.

$4,500 per year, for reporters in cities of medium size where the position is practically a full-time job and the reporter can do little outside work.

$5,000 per year, for reporters in large metropolitan cities, where the cost of living is high and where the reporters can do practically no outside work.

The Committee concluded that the foregoing classification was fair and reasonable and that the salaries for the classification were liberal when fixed, and were made so in view of the low transcript rates established. It was of the opinion that present conditions do not warrant a general increase in salaries when regard is had for the time actually spent in court, corresponding state salaries, earnings from charges for transcript, and other matters which should be given weight in any proper consideration of the problem.

Salary Increases in Specific Districts.—The Committee's analysis of the job content, the working conditions and the earnings of all of the reporters, and its study of all of the requests for salary increases brought before it, demonstrated that the following changes in classification and salary were warranted:

District of Puerto Rico.—Increase in the salary of the reporter from $4,000 to $4,300.

District of the Virgin Islands.—Increase in the salary of the the reporter who also serves as secretary to the judge from $3,600 to $4,000.

Northern District of Alabama.—Increase in the salaries of the two authorized reporters from $3,600 to $4,000.

Northern District of Texas.—Increase in the salaries of the three authorized reporters from $3,600 to $4,000.

Western District of Wisconsin.—Increase in the salary of the reporter from $3,000 to $3,600.

District of Kansas.—Increase in the salary of the reporter from $3,600 to $4,000.

Eastern District of Oklahoma.—Increase in the salary of the authorized reporter from $3,600 to $4,000.

Northern, Eastern and Western Districts of Oklahoma.—Increase in the salary of the reporter who serves the judge for all three districts from $3,600 to $4,000.

The Conference agreed with the Committee's conclusions and authorized the foregoing salary increases effective as soon as the state of the appropriations for the court reporting system will permit. The Director was instructed to seek the necessary appropriations from the Congress at the first favorable opportunity.

Transcript Rates.—The Committee recommended that because of the increase in typing costs, the cost of supplies, and the general high level of prices, the district judges should give consideration to the justification of an increase in transcript rates in their several districts; that the Conference give approval, if the district judge so determines, to an increase in transcript rates, to be made with due consideration of the rate prevailing in state courts, *provided,* that the rate shall in no case exceed 55 cents per page for original, and 25 cents per page for copy, of ordinary transcript; and, 90 cents per page for original and 30 cents per page for copy of daily transcript, and *further provided,* that the charge for daily or other expedited transcript shall be fixed by agreement of the parties subject to the approval of the judges, and, in lengthy cases, it should be fixed after the conclusion of the case with progress payments to the reporter, or deposits ordered by the court. Such transcript rate increases would become effective upon action by the district court and certification of the new rates to the Director without further submission to the Conference.

Statistical data, prepared by the Administrative Office, concerning the earnings of the reporters, their attendance in court, and the transcripts they prepared, were submitted for the consideration of the Conference.

The Conference concurred in the Committee's view that a general increase in the prevailing salary levels of the reporters was not justified at this time. It adopted the recommendations of the Committee in respect of an increase in transcript rates, and approved such increases being made, within the limits prescribed, upon compliance with the procedure outlined.

Changes in Court Reporting Arrangements.—Because of changes in the circumstances and conditions upon which the previous recommendations of the Committee, and action by the Conference, were predicated, the Committee recommended the following revision of the presently authorized official court reporting service for the:

Middle District of Georgia.—A new alternative position of reporter to act in that capacity alone at $3,600, if the judge of the district should find that preferable to the position presently authorized for a reporter who acts also as secretary to the judge at $5,000.

Southern District of Mississippi.—A new alternative position of reporter to act in that capacity alone at $3,600, if the judge of the district should find that this will serve the re-

porting needs of his district better than the position presently authorized for a reporter who acts also as secretary to the judge at $5,000.

Eastern and Western Districts of Missouri.—The position of secretary-reporter at $3,500 to be abolished, and a new position of reporter acting in that capacity alone at $4,500 to be authorized to serve the judgeship now held under Presidential interim appointment by Judge Harper, and to become effective as soon as appointment to that judgeship has been confirmed by the Senate; in the meantime, the reporting needs of the judgeship to be provided by appointment of temporary reporters at the rate of $4,500 per annum.

District of Idaho.—A new alternative position of reporter to act in that capacity alone at $3,600, if the judge of the district should find that preferable to the position presently authorized for a reporter who acts also as law clerk and secretary to the judge at $5,000.

District of Hawaii.—Two reporters each to receive a salary of $4,500.

Western District of Oklahoma.—A new position of reporter at $3,600 to serve Judge Chandler, in addition to the single position presently authorized for the district.

The Conference adopted the Committee's recommendations.

Outside Reporting Work.—The Conference was in accord with the opinion of the Committee that the question as to the extent to which official reporters should be permitted to engage in outside reporting work was ordinarily one to be determined by the particular courts concerned.

Reports to the Administrative Office.—Upon the Committee's recommendation, the Conference instructed the Director to inform the reporters that all earnings from reporting work of every kind should be included in their quarterly reports to the Administrative Office, and that, in reporting private earnings, income received from reporting arrangements through private partnerships or corporations, or from the employment by them of other reporters for outside reporting assignments, should be included; further, that consolidated reports of earnings in districts where there are more than one reporter should be used only when there is an actual pooling of earnings, in which case the percentage of earnings allocated to each reporter should be indicated.

The quarterly reports are of importance to the Conference and its Committee, and it is essential that they be filed with the Administrative Office promptly in accordance with the instructions for their use, and that they be carefully and accurately compiled.

Bankruptcy Administration

Chief Judge Orie L. Phillips, Chairman of the Conference Committee on Bankruptcy Administration, submitted the report of the Committee.

General.—A resumé of the first year of operation under the Referees' Salary System showed that there were 48 full-time, 112 part-time referee positions, and 133 full-time and 82 part-time clerical positions, authorized and filled during the year. The portion of monies received from the assessment of fees and charges during the year ear-marked for deposit in the referees' salary and expense funds, exceeded the amount expended from these funds in the amount of $36,313, denoting a healthful financial condition, and a self-sustaining basis, for the system. Case filings during the year totaled 18,510 cases as compared with 13,170 cases in 1947, and 10,196 in 1946. Estimates submitted by the Administrative Office indicated a continuation of the increase trend in filings, and for the year 1949 26,000 cases were expected to be filed, with 32,000 filings in 1950. Reports concerning the dispatch of the Referees' business were most satisfactory, and reflected a high level of efficiency in its management.

Changes in the number of referees, territories, salaries, places of holding court, regular place of office.—Pursuant to § 37b (1) of the Bankruptcy Act, as amended, and directions of the Judicial Conference of the United States, the Director, during the past year, conducted resurveys in districts wherein such action was deemed expedient.

The original surveys which covered the 10-and-5-year periods ending June 30, 1946, were extended to the date of the resurvey and took into account the number, size and type of pending cases rereferred to the referees upon the inauguration of the salary system; the number, size and character of new cases referred to the referees since July 1, 1947; the deposits in each district in the referees' salary and expense funds; the time necessarily spent by the referees in handling the cases referred to them; the time necessarily required in traveling to and from designated places of holding hearings; the proportion and character of cases arising away from the headquarters of the referees, and the number of large asset and arrangement cases handled by them. Each district in which changes were recommended was visited by the Chief of the Bankruptcy Division who conferred with the referees, the district judges and others interested in bankruptcy matters. Consideration was

also given to the salaries presently provided in other districts to the end that the increases recommended would not create disparities in comparable districts.

The information thus assembled was sent to the district judges and the circuit councils concerned. It was also considered by the Committee on Bankruptcy Administration, and the Conference had before it all of this data, together with such recommendations of the district judges and the circuit councils as had been received at the time of the Conference meeting. The recommendations of the Director and the Committee were considered separately in the light of the foregoing information along with any special factors affecting each case. Also, the Conference had before it additional data compiled as of the close of the fiscal year ending June 30, 1948, and in some instances through July and August, 1948.

The Conference thereupon took the following action:

District:

District of Columbia.—Authorized an increase in the salary of the part-time referee located at Washington, D. C., from $4,000 per annum, to $5,000 per annum, effective October 1, 1948.

New Hampshire.—Designated Manchester as the regular place of office of the part-time referee provided for the district.

New York—Eastern.—(1) Changed the territory of the full-time referees located at Brooklyn, from Kings and Richmond Counties, to the entire Eastern District of New York.

(2) Changed the territory of the full-time referee located at Jamaica, from Queens, Nassau, and Suffolk Counties, to the entire Eastern District of New York.

Delaware.—Authorized an increase in the salary of the part-time referee located at Wilmington, from $1,500 to $2,000 per annum, effective October 1, 1948.

Virginia—Western.—Authorized an increase in the salary of the part-time referee located at Lynchburg, from $2,000 to $3,000 per annum, effective October 1, 1948.

Alabama—Northern.—Authorized a change in the regular place of office of the part-time referee from Huntsville, to Decatur, and designated Decatur as an additional place of holding court.

Alabama—Middle.—Authorized an increase in the salary of the part-time referee located at Montgomery, from $3,500 to $4,000 per annum, effective October 1, 1948.

Florida—Northern.—Authorized an increase in the salary of the part-time referee located at Tallahassee, from $1,000 to $1,800 per annum, effective October 1, 1948.

Georgia—Middle.—Authorized an increase in the salary of the part-time referee located at Macon, from $3,000 to $4,000 per annum, effective October 1, 1948.

Texas—Northern.—The Conference, after careful consideration, made no change in the number, salaries, territories, or regular place of office, of the referees in this district.

Texas—Southern.—Authorized an increase in the salary of the part-time referee located at Houston, from $4,000 to $5,000 per annum, effective October 1, 1948.

Indiana—Southern.—Changed the part-time position at Indianapolis to a full-time position with an annual salary of $7,500, effective October 1, 1948.

Iowa—Northern.—Authorized an increase in the salary of the part-time referee located at Fort Dodge, from $1,500 to $2,500 per annum, effective October 1, 1948.

Minnesota.—Postponed the change in the refereeship at Minneapolis, from a part-time position at $5,000 per annum to a full-time position at $9,000 per annum, until July 1, 1949.

South Dakota.—Authorized the appointment of a part-time referee located at Sioux Falls, to fill an existing vacancy, at a salary of $2,000 per annum.

Arizona.—Authorized an increase in the salary of the part-time referee located at Phoenix, from $2,500 to $4,000 per annum, effective October 1, 1948.

California—Southern.—(1) Authorized an increase in the salary of the part-time referee located at San Diego, from $2,500 to $4,000 per annum, effective October 1, 1948.

(2) Authorized an increase in the salary of the part-time referee located at Fresno, from $2,500 to $5,000 per annum, effective October 1, 1948.

(3) Authorized an additional full-time position at $10,000 per annum for the Central Division of the district, with regular place of office at Los Angeles, effective October 1, 1948.

(4) Abolished the part-time position at San Bernardino as no longer needed, as of the close of business December 31, 1948, the territory now served by the referee at San Bernardino to be consolidated with the territory now served by the full-time referees at Los Angeles.

Dismissed cases—Refund of filing fee—Opinions of Administrative Office concerning collection of additional and special charges.—The Committee recommended, and the Conference adopted, the following resolution:

RESOLUTION

Resolved, It is the sense of the Conference that no part of the filing fee of $45.00 paid upon the filing of a bankruptcy proceeding is refundable upon the subsequent dismissal of the proceedings, and that opinions rendered by the Administrative Office relating to the collection of additional and special charges for the referees' salary and expense funds in dismissed cases should be distributed to all referees and clerks of courts for their information.

Charges in straight Bankruptcy and arrangement cases under Chapter XI administered without reference to Referees.—The Committee recommended the adoption of the following regulation:

> Additional charges for the referees' salary and expense funds promulgated by the Judicial Conference of the United States pursuant to Section 40c(2) of the Bankruptcy Act, as amended, shall be collected for such funds in all straight bankruptcy and arrangement cases under Chapter XI administered before a district court without reference to a referee in bankruptcy.

It was pointed out that such charges should be made in order that the costs of administration may be uniform and to provide the funds necessary to maintain the referees' salary and expense funds.

The Conference concurred in the Committee's views and recommendation, and directed that the foregoing regulation be promulgated immediately.

Charges for Special Services relating to or in connection with proceedings before Referees.—The Conference adopted the following resolution:

RESOLUTION

Be it resolved, That Paragraph No. 1 of the Charges for Special Services relating to or in connection with proceedings before referees, promulgated pursuant to Section 40c(3) of the Bankruptcy Act, as amended, be amended to read as follows:

"1. For the preparation and mailing of each set of notices in asset cases and in cases filed under the relief chapters of the Bankruptcy Act, as amended, in excess of 30 notices per set, 10 cents for each additional notice on the first 10,000, 5 cents per notice on the next 10,000 and 3 cents per notice on the balance, *provided,* That in no proceeding administered in straight bankruptcy shall the total charge for the referees' expense fund for special services exceed 25 percent of the net proceeds realized."

Legislative Proposals

The Conference renewed its recommendation that Sec. 57j of the Bankruptcy Act, as amended, be amended so as to stop the running of interest and penalties on tax claims at the time of the filing of the petition in bankruptcy, and directed that efforts be made to secure the necessary legislative action to so provide.

The Conference renewed its recommendation that Sec. 58d of the Bankruptcy Act, as amended, be amended so that the publication of the notice of the first meeting of creditors shall be discretionary, the same as provided for the publication of other notices.

The Committee proposed that Sec. 62b (1) of the Bankruptcy Act, as amended, be amended so that the referees will either receive a reasonable per diem allowance in lieu of subsistence while traveling in the performance of their official duties, or they be allowed their actual expenses, not exceeding $8.00 per day, payable upon their certificate. In this connection, it was pointed out that under existing regulations of the Comptroller General, all items of expense in excess of $1.00 must be supported by a signed receipt, and that this requirement has proved to be extremely burdensome to the referees, and, in many instances, because of the absence of these receipts, has resulted in a disallowance of their expenses. It was stated also that due to present-day costs the established maximum allowance of $7.00 per day is inadequate and a reasonable increase in the allowance is justified.

The Conference agreed with the Committee's proposal, and directed that efforts be made to secure the legislative action necessary to bring about the changes desired.

Miscellaneous Administrative Matters

The Committee recommended that, in the interest of economy, hereafter only Bankruptcy Statistical Tables Nos. F–1a, F–2, F–4, F–5, and F–12 be incorporated in the annual report of the Director.

The Conference approved the Committee's recommendation.

It was the sense of the Conference that, upon the expiration of the terms of referees, the approval of the Conference required by Sec. 43b of the Bankruptcy Act, as amended, for the making of new appointments could be sought by mail.

Pursuant to the provisions of Section 37b (1) of the Bankruptcy Act, as amended, the Director was authorized to conduct any resurveys which, in his opinion, were warranted during the ensuing year.

Ways and Means of Economy in the Operation of the Federal Courts

The report of the Committee on Ways and Means of Economy in the Operation of the Federal Courts was submitted by its Chairman, Chief Judge John J. Parker.

In February of this year, the Committee met and formulated a report of its progress concerning the activities and objectives of the Committee for the information of the various circuit councils and conferences, and to provide a suggested program of specific problems for the consideration of the committees appointed to undertake the study of possible operating economies in the several circuits.

Following the circulation of this report, committees on economy were appointed in all the circuits; reports covering the results of their efforts were submitted to, and made a matter of discussion by, their respective circuit conferences. Reports received from the circuit conferences indicated that an exhaustive and intensive study had been made and, as a result thereof, considerable improvement had already been achieved.

In order to coordinate and digest the views of the circuit conferences, a second meeting of the Committee was held in August. At this time the Committee, based upon analyses of the information, suggestions and recommendations received, determined, with respect to the following subject matters, that:

Elimination of Places of Holding Court.—It was clear that court is now required to be held in many places where such a service is entirely unnecessary. Although, in many instances, the situation has been recognized by the judges and remedial action recommended, the complete solution can be obtained only through legislative measures. In this connection, it is preferable to secure the enactment of general legislation, under which the district judges will be enabled to deal with these situations by rule of court, rather than to endeavor to secure independent legislation as individual cases arise.

It was the view of some of the district judges that the whole of this subject matter was one that should be left to their sole discretion. However, the Committee felt that the circuit judges com-

posing the judicial councils have responsibility as well as the district judges for the proper administration of justice within the district and should logically have a voice in the matter; and, that the requirement necessitating approval of the judicial council, before any change is made by rule of court (in what is now required by statute) would afford a broader point of view in the consideration of these problems.

The Committee recommended that Section 138 of the Revised Judicial Code (Title 28 U. S. Code 138) be amended to read as follows:

> § 138. Times, places and divisions for holding court subject to rule.
>
> (a) The times for holding regular terms of court at the places fixed by this chapter shall be determined by rule of the district court.
>
> (b) Notwithstanding the provisions of Sections 81 to 131, both inclusive, of this title, divisions of districts and places for holding regular terms of district court may be changed or abolished by rule of the district court upon a finding that the public interest so requires and approval by the judicial council of the circuit.

The Committee also recommended that, pending the enactment of this legislation, consideration be given by the district judges and the judicial councils to the exercise of the powers and discretion vested in them under §§ 138, 140 (a), and § 141 of the Revised Judicial Code. It was the opinion of the Committee, that these provisions provide a framework for substantial reductions in expenses, and that their use to accomplish such economies, consistent with the proper and efficient dispatch of the court business, is warranted.

The Conference agreed with the Committee's suggestions and recommendations, and directed that efforts be made as promptly as possible to secure the enactment of the proposed amendment to § 138 of Title 28 of the United States Code.

Discontinuance of Unnecessary Clerks' Offices.—There are numerous branch offices of the clerks of the courts that are superfluous, and considerable savings could be obtained immediately through the discontinuance of those offices falling within this category.

The Committee urged that the district judges make a careful survey of existing conditions in their respective districts, and where such situation is found to prevail necessary corrective measures be promptly instituted. It was pointed out that ample power for such

action is vested in the district judges under § 751 of the Revised Judicial Code.

Consolidation of Districts within States.—A general discussion was had with respect of the Committee's views concerning the possible economies in operation and increase in management efficiency that may eventually be obtained through the consolidation of districts lying within a single state. It was agreed that there were some multiple-district states in which such consolidations would not be desirable. Whereupon, the Conference adopted the following resolution:

RESOLUTION

> *Be it resolved,* That, henceforth, the Judicial Conference of the United States will definitely oppose the creation of any additional judicial district; and, where it is found that additional judicial service is necessary, it will recommend that such service be provided by the creation of additional judgeships within the then existing judicial districts.

Number of Sessions of Court Where Judge is not Resident.—There was general approval of the suggestion that, since the holding of court in divisions where no judge has his official residence entails many items of expense, each judge serving one of such outlying divisions should appraise carefully the docket for the division and endeavor to administer the business of the court with the least possible number of sessions.

Economies in Jury Administration.—Jury pools should be used in cities where two or more judges are sitting simultaneously, and in multiple-judge courts efforts should be made to synchronize the times when jury trials are held by the various judges so that as efficient use as possible can be made of jury pools.

Through the elimination of unnecessary sessions of court in outlying divisions, and restricting the size of jury panels so that they are no larger than the business of the session requires, a substantial saving could be made in the cost of jurors.

A more widespread employment of the practice of requiring each prospective juror to answer a questionnaire for the purpose of determining, before he is summoned to court, whether he possesses the required qualifications, would result in considerable savings in time and money for both the individual and the government.

The Committee urged that the district judges consider the adoption of a policy of selecting as jurors only those otherwise qualified persons who reside within a reasonable distance of the place where

the court sits in conformity with the provisions of Title 28 U. S. Code § 1865 (a).

The Committee recommended that the Chief Judge of each circuit appoint a committee to investigate the use of jurors in the various district courts within the circuit, and to make recommendations to increase the efficiency of that use and for the improvement of the administration of the jury system.

The Committee proposed that a survey be undertaken by the Administrative Office with respect to the use of jurors in courts of the metropolitan areas for the purpose of furnishing information to the Conference with regard to particular ways and means of promoting efficiency and economy in jury administration in those courts.

Pretrial Procedure.—The Committee urged the continued consideration and study of the use of pretrial methods by those judges who have not already adopted such a program, and the broadening of their use by those judges who have. It emphasized the fact that 10 years of experience in the federal courts has demonstrated beyond peradventure that pretrial procedures result not only in greater efficiency in the judicial processes, but in great economies in time and money for the courts, the litigants, and the public.

In this connection, attention was called to the value of the related provisions of Rules 26–36 of the Federal Rules of Civil Procedure dealing with depositions and discovery, and of Rule 56 providing for summary judgments, and the promotion of their use by the district judges was urged.

Economies in the Clerks' Offices.—The expense incident to the maintenance and operation of these offices represents a substantial portion of the over-all costs of operating the courts. These offices are the most important business office of the courts—the nuclei of their record-keeping and service functions—and, because of these duties, the prompt and orderly dispatch of the court's business is, to a considerable extent, contingent upon the degree of efficiency maintained in the management of such offices. Due to these factors alone, it is highly desirable that the most efficient office methods be adopted and advantage taken of all feasible means of saving labor.

The Committee reviewed the improvements in methods and procedures which resulted through studies and surveys conducted by the Administrative Office since it was organized in 1939. While these results have been most gratifying, the Committee was of the opinion that there was room for much further improvement, but

it could be fully realized only through the adoption of a program providing for constant supervision and study of operating procedures and methods. It was the sense of the Committee that the field was a highly specialized one and, because of everchanging conditions, the continuous effort to improve office techniques and equipment, and the magnitude of the volume of detail and work incident to studies of this nature, such a program demanded the full time and attention of experts in the field.

The Committee recommended the appointment of an additional member to the staff of the Administrative Office to be charged with the duty of conducting a continuous study of the processes used in handling the business matters of the courts, and bringing about their improvement.

The Committee also recommended that the Administrative Office conduct a survey of some representative clerks' offices, with the approval of the judges of the courts concerned, and with such assistance from the Bureau of the Budget, or elsewhere, as may seem advisable, and report back to the Conference any recommendations which in its opinion may be generally applicable.

Sending up Original Papers on Appeals.—The Committee urged that those courts of appeals which have not already done so, give serious consideration to the adoption of a local rule that will make operative subdivision (o) of Rule 75 of the Federal Rules of Civil Procedure, as added by recent amendments to the rules, to provide for the transmission to the courts of appeals of original papers for hearing of the appeals. In addition, the Committee also urged consideration of the adoption of the "appendix" rule. It was stated that the experiences of those circuits in which these practices were followed, clearly demonstrated that substantial savings in labor, time, and expense to the courts and the parties resulted from their use.

The Conference thereupon approved those suggestions and recommendations of the Committee hereinabove set forth which it had not already specifically adopted. It directed that the report of the committee, as amended, be adopted and approved; and, as amended, be sent to all judges with the request that they give their earnest and serious consideration to the matters contained therein.

Service of Process—Costs.—The attention of the Conference was directed to the statement of the Attorney General in respect of the excessive costs that were being incurred in many instances incidental to the service of process in civil cases on parties located at a considerable distance from the United States Marshal. It was

the consensus of the Conference that, in situations of this type, important savings in both time and costs could be realized through a more regular and widespread use of the "special appointment" provisions under Rule 4 (c) of the Federal Rules of Civil Procedure. The Conference urged that district judges give this matter their immediate attention. It directed the Director to cooperate with the Department of Justice in working out a suitable procedure for bringing this to the attention of those charged with the administrative responsibility for such services.

Supreme Court Digests.—The Director advised that additional publications of digests of the opinions of the Supreme Court of the United States were becoming available and, in some few instances, requests therefor had been received. It was the sense of the Conference that inasmuch as all judges were presently being furnished with a current and up-to-date digest of these opinions, the furnishing of additional digests which covered the same field was not justified.

Status Report
Legislative Proposals Previously Recommended

Concerning the Adequacy of Existing Provisions for the Protection of the Rights of Indigent Litigants in the Federal Courts.—The report of the Conference Committee was presented by Judge Otto Kerner. The Committee met on May 4, 1948 to consider the questions in reference to the legislation previously recommended, which were referred to it by the Judicial Conference in 1946; namely, whether provisions should be included to make available to indigent defendants in criminal cases in the courts of appeals the services of the public defender or of counsel appointed in the particular cases in the trial courts, and also to furnish counsel for indigent persons applying for habeas corpus.

The committee readily agreed that counsel appointed to represent poor persons in criminal proceedings in trial courts on compensation, should continue to represent them and to receive compensation on appeal in proper cases. The committee recommended a new section to be inserted in the bill following the present section 3 as section 4, and the renumbering of the present sections 4 and 5 as 5 and 6 respectively. The new section 4 recommended is as follows:

> Sec. 4. In any criminal cases in which an indigent defendant is represented in the district court by a public defender or by

counsel appointed by the court in the particular case, the public defender or such counsel as the case may be, shall also represent him in the event of appeal in the appeal proceedings if either the district court or the court having jurisdiction of the appeal shall consider that there is reasonable ground for appeal and shall so direct. Services of the nature specified in this section if rendered by a public defender shall be part of his duties and performed without other compensation than his salary. If such services are rendered by counsel appointed in the particular case, such counsel may in the discretion of the court directing the representation on the appeal, be compensated in the measure specified in section 3 of this act for counsel appointed to represent indigent defendants in criminal cases and be reimbursed for their expenses. Any sums so paid for compensation and expenses of services on appeal shall be included in the maximum limit of $3,000 in any fiscal year imposed by section 3 of this act upon the aggregate expenditures for the defense of indigent defendants in the respective districts from which the appeals are taken.

The Conference adopted the Committee's recommendation.

The Committee stated that careful thought had been given to the proposal that provision should also be made in the bill for the payment of compensation to counsel appointed to represent poor persons petitioning for habeas corpus, and had concluded that it may not be advisable at this time to introduce such provision into the present measure which is designed to secure adequate representation for indigent defendants.

The Conference concurred in the conclusions of the Committee.

The Committee reported that it had considered again the feature of the bill that in districts containing cities of over 500,000 inhabitants, if there is to be any system of compensating counsel for poor defendants in criminal cases, it must be by the appointment of public defenders, and had concluded that they should adhere to their original recommendation as is encompassed in the present provisions of the bill.

After a general discussion of the Committee's position, the Conference concluded that, in those districts having cities of over 500,000 population, the representation of poor persons in criminal proceedings might be by counsel appointed and compensated in the individual cases where the district court so recommends and the circuit council approves, and directed that the proposed bill be so amended.

Sentencing and Parole of Youthful Offenders—The Federal Youth Authority.—Chief Judge Orie L. Phillips, Chairman of the

Committee on Punishment for Crime, advised that a bill to provide for a Federal Youth Authority, in accordance with the recommendations of the Judicial Conference in 1946, was introduced in both Houses of the present Congress early in the session in slightly different forms. The bill in the House (H. R. 1680) left blank the provision for the appointment of two members of the Authority other than the Director of the Bureau of Prisons. The bill as introduced in the Senate (S. 857) provided that the two members mentioned should be appointed—one by the Supreme Court of the United States, and one by the President with the advice and consent of the Senate. Salaries of each of the members were fixed at $9,000 per annum under both bills.

The Conference reaffirmed its interest in the prompt enactment of legislation establishing a correctional system for youthful offenders convicted in the courts of the United States along the lines previously recommended. It was of the view that the method of appointment of the members of the Authority, other than the Director of the Bureau of Prisons, should be by the President with the advice and consent of the Senate; and that, in order to provide salaries at levels equal to those prevalent in other similar agencies of the government, the salaries of the members should be at the rate of $10,000 per annum.

The Conference directed that the Congress be again informed of its deep interest and feeling in this proposal in the hope that favorable action thereon may be had in the immediate future.

Review of Orders of Certain Administrative Agencies.—The report of the Committee on Review of Orders of the Interstate Commerce Commission and certain other Administrative agencies submitted by its Chairman, Chief Judge Orie L. Phillips, was ordered received and filed.

Interstate Commerce Commission and the United States Maritime Commission.—It was the opinion of the Conference that Section 8, as amended by the report of the Judiciary Committee of the House of Representatives (Report No. 1619) of H. R. 1468, 80th Congress, 2d Session, and Section 10 thereof fully protect the rights of the Commissions. The Conference, thereupon, recommended that the bill be passed, as amended and reported by the Committee on the Judiciary of the House of Representatives.

Federal Communications Commission and certain orders of the Secretary of Agriculture made under the Packers and Stockyards Act, and the Perishable Agricultural Commodities Act.—It was the opinion of the Conference that Sec. 8, as amended by the report of

the Judiciary Committee of the House of Representatives (Report No. 1620) of H. R. 1470, 80th Congress, 2d Session, and Sec. 10 thereof fully protect the rights of the Commission and the Secretary. The Conference, thereupon, recommended that the bill be passed, as amended and reported by the Committee on the Judiciary of the House of Representatives.

The Federal Jury System.—District Judge Harry E. Watkins, of West Virginia, a member of the Committee appointed to make a study of the federal jury system, reported to the Conference concerning the status of legislation relating to certain changes in the federal jury system which had been proposed pursuant to recommendations of the Conference. It was stated that the recommendations pertaining to increases in compensation and allowances for jurors had been enacted into law, and the Committee was favorably impressed with the prospects for obtaining necessary action covering the remainder of the program within the immediate future.

The Conference thereupon reaffirmed its approval and recommendations heretofore given to that portion of the legislative measures previously proposed which remain unenacted, as well as the repeal of subsection (4), § 1861 of Title 28, United States Code, if such action was deemed necessary.

Treatment of Insane Persons Charged with Crime in the Federal Courts.—The Conference reaffirmed its interest in legislation providing for a method of treatment, care, and custody of insane persons charged with or convicted of offenses against the United States, and approved the bill which passed the Senate (S. 850) on June 10, 1948.

OTHER COMMITTEE REPORTS

Codification and Revision of the Judicial Code.—Judge Maris, Chairman of the Committee on Codification and Revision of the Judicial Code, submitted the final report of the Committee. The report stated that, under Public Law 773 of the 80th Congress, 2nd Session (approved by the President June 25, 1948), Title 28 of the United States Code, entitled "Judicial Code and Judiciary," is revised, codified, and enacted into positive law, thus completing the task for which the Committee was originally created.

The Conference extended a vote of appreciation to the Committee for its untiring efforts and its accomplishments.

The Conference ordered the Committee continued for the purpose of considering matters of clarification, the correction of errors, and such other matters which may be specifically referred to it by the Conference.

Probation with Special Reference to Juvenile Delinquency.—The report of the Conference Committee on Probation with Special Reference to Juvenile Delinquency was presented and discussed by District Judge Harold M. Kennedy. The Conference ordered the report received and filed.

Judicial Statistics.—The report of the Committee on Judicial Statistics was submitted to and discussed by the Conference. The report was ordered received and approved. The Conference directed that copies of the report be sent to all judges and they be urged to give the suggestions and recommendations of the Committee their most earnest consideration.

Pretrial Procedure.—The report of the Committee on Pretrial Procedure was presented to and discussed by the Conference. The report was ordered received and approved. The Conference directed that copies of the report be submitted to all judges and they be urged to give the suggestions and recommendations of the Committee their serious consideration.

Statutory Definition of Felony.—The reports of the Committee appointed to consider the proposal that 18 U. S. C. § 541 (Title 18 U. S. C. § 1, Rev.) be amended so as to make the definition of "felony" depend upon the punishment actually inflicted rather than the punishment which could lawfully be imposed were ordered received, and, in conformance with Conference policy, circulated throughout the judiciary for consideration. The Committee was directed to submit a further report to the Conference with respect of the views of the judiciary concerning the proposal.

BUDGET AND DEFICIENCY APPROPRIATION ESTIMATES

The estimates of expenditures and appropriations necessary for the maintenance and operation of the United States Courts, and the Administrative Office of the United States Courts, for the fiscal year 1950 were considered by the Conference and ordered approved as submitted. The Director, with the approval of the Chief Justice, was authorized to make any adjustments therein necessitated by the actions of the Conference at this session.

After consideration, the Conference approved the estimates for deficiency appropriations for the fiscal year 1949.

COMMITTEES

Committees Continued and Discharged.—All present Committees of the Conference were ordered continued with the exception of the following which were ordered to be discharged:

Committee on the Court Reporting System.

Committee on Bankruptcy Administration.

Committee on Probation with Special Reference to Juvenile Delinquency.

Committee on Ways and Means of Economy in Operation of the Courts.

Committee on the Trial of Minor Offenses by Commissioners or similar Federal Officers.

New Committees.—Pursuant to the direction of the Conference, the Chief Justice designated the following committees:

Committee to make a study concerning the proposal to eliminate or modify the provisions for a three judge district (expediting) court in anti-trust cases as presently provided for under Title 15 U. S. Code 28:

Chief Judge Calvert Magruder, Chairman, Chief Judge Learned Hand, Circuit Judges John C. Collet, William E. Orr, and Charles C. Simons, and District Judges Charles G. Briggle, Albert V. Bryan, Robert E. Thomason, Matthew McGuire, and Mac Swinford.

Committee of District Judges to consider some more satisfactory method of dealing with the wages and effects of deceased or deserting seamen than that presently provided for under existing law:

District Judge William C. Coleman, Chairman, and District Judges Herbert W. Christenberry, Francis J. W. Ford, Louis E. Goodman, Charles H. Leavy, Vincent L. Liebell, and Thomas F. Meaney.

Committees General.—The Conference authorized the Chief Justice to take whatever action he deemed desirable with respect to increasing the membership of existing committees, the reconstituting of discharged committees, the filling of any existing committee vacancies, the appointing of new committees, and the designation of membership in such instances.

Advisory Committee.—The Conference continued the committee consisting of the Chief Justice, and Chief Judges Stephens, Biggs, Parker and Phillips, to advise and assist the Director in the performance of his duties.

The Conference declared a recess, subject to the call of the Chief Justice.

For the Judicial Conference of the United States:

FRED M. VINSON,
Chief Justice.

Dated Washington, D. C., December 17, 1948.

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