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

* *

SEPTEMBER 22–24, 1954
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.

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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 Title 28, United States Code, Section 331, on September 22, 1954, and continued in session on September 23 and September 24. The Chief Justice presided and members of the Conference were present as follows:

Circuit:	
District of Columbia	Chief Judge Harold M. Stephens.
First	Chief Judge Calvert Magruder.
Second	Chief Judge Charles E. Clark.
Third	Circuit Judge Albert B. Maris.
(Designated by the Chief Justice in place of Chief Judge John Biggs, Jr., who was unable to attend.)	
Fourth	Chief Judge John J. Parker.
Fifth	Chief Judge Joseph C. Hutcheson.
Sixth	Chief Judge Charles C. Simons.
Seventh	Chief Judge F. Ryan Duffy.
Eighth	Chief Judge Archibald K. Gardner.
Ninth	Chief Judge William Denman.
Tenth	Chief Judge Orie L. Phillips.

The Conference welcomed the new Chief Judge for the Second Circuit, Honorable Charles E. Clark, succeeding Chief Judge Harrie B. Chase, retired; and welcomed also the new Chief Judge for the Seventh Circuit, Honorable Francis Ryan Duffy, succeeding Honorable J. Earl Major, who has relinquished the office of Chief Judge for the Seventh Circuit pursuant to 28 U. S. C. § 45 (c). In this connection the Conference adopted the following resolution:

> Whereas, Honorable Harrie Brigham Chase retired on September 1, 1954, from regular active service as a Circuit Judge of the Second Circuit, after 35 years of distinguished judicial service on the State courts of Vermont and on the Federal bench, culminating in his accession to the office of Chief Judge of the Second Circuit on July 1, 1953, and
>
> Whereas, it has resulted from Chief Judge Chase's service of less than one year as a member of this body that the members of the Conference are all genuinely sorry for the brevity of our official association with him, and

Whereas, Honorable J. Earl Major, after 6 years of service on this body has withdrawn from the Judicial Conference by virtue of his relinquishment of the office of Chief Judge of the Seventh Circuit on September 1, 1954, and

Whereas, this Conference will miss the practical, earthy counsel, the unfailing good nature, the sly but never malicious wit, of Chief Judge Major: Now, Therefore, be it

Resolved, That we express in this formal way our appreciation to Chief Judge Chase and to Chief Judge Major for their services as members of this Conference, our assurance to them of our affectionate regard, our regret for their departure from our midst, and our every good wish for them in the years ahead.

The Conference sadly took note of the death on September 8, 1954, in the 88th year of his life, of the Honorable Curtis D. Wilbur, who for many years was a valued member of this body, until his retirement on May 10, 1945. The resolution of this Conference adopted upon the occasion of Judge Wilbur's retirement is found in the report of the Judicial Conference for its September session, 1945.

The Attorney General, Herbert Brownell, Jr., accompanied by Assistant Attorney General J. Lee Rankin, attended the morning session on the opening day of the Conference.

Circuit Judges Alfred P. Murrah and E. Barrett Prettyman, Chief Judge Marvin Jones and Judge Sam E. Whitaker of the Court of Claims, and District Judges Harry E. Watkins and Bolitha J. Laws attended some of the sessions.

The Director of the Administrative Office of the United States Courts, Henry P. Chandler, the Assistant Director, Elmore Whitehurst, the Chief of the Division of Procedural Studies and Statistics, Will Shafroth, the Chief of the Bankruptcy Division, Edwin L. Covey, the Chief of Business Administration, Leland L. Tolman, the Chief of the Probation Division, Louis J. Sharp, and other members of the staff of the Administrative Office attended the sessions of the Conference.

The Administrator of the General Services Administration, Edmund F. Mansure, accompanied by Commissioner of the Public Buildings Service Peter A. Strobel, was present at a part of the afternoon session on the opening day.

The Chairman of the Securities and Exchange Commission, Ralph H. Demmler, accompanied by Commissioner J. Sinclair Armstrong, and General Counsel William H. Timbers, was present at a part of the afternoon session on the second day.

Messrs. William R. Foley of the professional staff and Charles J. Zinn, law revision counsel of the Committee on the Judiciary of the House of Representatives attended the morning session on the opening day of the Conference.

Report of the Attorney General

The Attorney General presented his report to the Conference. The full report appears in the appendix.

Report of the Director of the Administrative Office of the United States Courts

Pursuant to the statute (28 U. S. C. 604 (a) (3)) the Director had previously submitted to the members of the Conference his 15th annual report on the activities of his office for the fiscal year ended June 30, 1954, including a report of the Chief of the Division of Procedural Studies and Statistics on the state of the business of the courts. The Conference approved the immediate release of the report for publication and authorized the Director to revise and supplement it in the final printed edition to be issued later.

Business of the Courts

State of the dockets of the Federal courts—Courts of appeals.—Cases filed in the courts of appeals have shown a steady but gradual increase since 1950. During the fiscal year 1954 the total number commenced increased 8 percent over the previous year to 3,481. Terminated cases were 3,192 and the number pending at the end of the year went up by 289 to 2,134. The largest number of cases, 517, was begun in the Court of Appeals of the Ninth Circuit, which was able to dispose of only 363, leaving 584 cases pending at the end of the year. As a result the median time from filing of the complete record to final disposition of cases heard or submitted in that circuit increased to 13.6 months compared with the national median of 7.1 months. The First, Second, Third, Fourth, Seventh, and Tenth Circuits all had a median time of disposition of less than 7 months. Public Law 294 of the 83d Congress, approved February 10, 1954, provided for 2 additional judgeships for the Ninth Circuit and 1 for the Fifth.

Petitions to the Supreme Court for review on certiorari to the United States Courts of Appeals were 592 in 1954, compared with

603 in 1953. The percentage of the number granted to the total number acted on was 12.4 percent, compared with 14.3 percent during the previous year.

District courts.—The serious condition of the civil dockets in many district courts is indicated by the increase in the median time required from filing to disposition of civil cases tried in 86 districts having only Federal jurisdiction, from 12.4 months in the fiscal year 1953 to 13.5 months in 1954. This has been accompanied by a further rise in the number of pending civil cases despite a decrease in the number of cases commenced.

There was a decline of 7 percent in the number of civil cases filed in the district courts during the fiscal year 1954 as compared with the previous year. This resulted from special circumstances including the expiration of rent controls and other restrictions provided in the Defense Production Act of 1950, a sharp decline in declaratory judgment actions in reference to citizenship and a decrease in National City Bank note cases in Puerto Rico. Civil cases commenced were 59,461 compared with 57,903 cases closed leaving 68,431 pending at the end of the year. Private cases were slightly fewer than last year but actions based on diversity of citizenship continued to increase in both tort and contract categories in response to the definite trend which has been in effect for 10 years.

By Public Law 294 Congress created 27 new district judgeships and most of these positions have now been filled. Even with this addition to the judicial force, the number of judgeships in the district courts has increased by only 27 percent since 1941, compared with a 55 percent increase in all civil cases commenced annually and an 80 percent increase in private civil cases, which take much the largest part of the judges' time. The inability of the courts to keep up with incoming business has resulted in long delays in reaching trial in some metropolitan districts with the worst condition in the Southern District of New York, where, on June 30, 1954, there were 10,989 civil cases pending of which 6,213 were on the trial calendar, and where litigants in jury personal injury cases were being required to wait 44 months to get a trial after the case was calendared. In this district, in the Eastern District of Pennsylvania and in the Northern District of Ohio, in spite of extreme docket congestion, Congress failed to provide the number of judgeships previously recommended by the Judicial Con-

ference. Detailed information concerning them and a number of other districts which have fallen behind in the disposition of cases is contained in the Director's report.

Although there was a 12 percent increase in criminal cases in 1954, this was almost entirely the result of an increase in informations charging immigration law violations in the districts on the Mexican border. The total number of criminal cases filed was 41,808 and the number terminated, other than by transfers, was 41,258, leaving 10,100 cases pending at the end of the year of which between a fifth and a sixth could not be disposed of because of fugitive defendants. Generally speaking, criminal cases have priority and the criminal dockets are in good condition except as to some cases where long trials are in prospect. The Director's report lists 13 Communist cases brought under the Smith Act since 1949, of which 9 had been completed by the end of the year, requiring a total of 845 trial days.

An increase of almost one third in bankruptcy cases commenced brought the total in 1954 to 53,136. Terminations were 43,494 and the pending load increased to 48,428, the highest figure in 12 years. There were 18 districts with over 100 cases filed in 1954, which showed increases of more than 50 percent in the number of cases commenced as compared with 1953.

Cases and motions under advisement.—At the end of the fiscal year 1954, of 222 district judges reporting, 147 reported no cases held under advisement over 30 days. The number of cases and motions held over 60 days was 120, compared with 107 at the end of the third quarter. The Administrative Office submitted a report to the Conference listing, by judge, 31 cases and motions which had been held under advisement more than 6 months on September 10, 1954. Where necessary, these will be brought to the attention of the circuit council by the chief judge of the circuit.

Additional Judgeships Recommended

The Conference reaffirmed its previous recommendations (Cf. Rep. April 15, 16, 1954 pp. 2–3) with respect to the creation of additional district judgeships not included in Public Law 294, 83d Congress, approved February 10, 1954, except that the creation of 3 additional permanent judgeships for the Southern District of New York was recommended instead of 3 additional judge-

ships with a proviso that the first 2 vacancies occurring in that district should not be filled as heretofore recommended.

The Judicial Council of the Ninth Circuit having rescinded its recommendation that the Ninth Circuit be divided and a new Eleventh Circuit constituted, the Conference rescinded its recommendation in this respect adopted at the special session held in April 1954 (Cf. Rep. p. 3), and holds the matter in abeyance pending further action by the Judicial Council of the Ninth Circuit. The Conference recommended the creation of 3 additional judgeships (2 permanent and 1 temporary) for that circuit.

After reviewing the needs of the courts, the Conference also recommended the creation of the following additional judgeship:

One additional district judgeship for the Eastern, Middle and Western Districts of North Carolina.

A complete list of the present Judicial Conference recommendations with respect to judgeships follows:

Courts of Appeals:

Ninth Judicial Circuit.—The creation of three additional judgeships with the proviso that the first vacancy occurring in the office of circuit judge in this circuit shall not be filled.

District Courts:

Second Judicial Circuit.—Southern District of New York.—The creation of three additional judgeships.

Third Judicial Circuit.—Eastern District of Pennsylvania.—The creation of one additional judgeship.

Fourth Judicial Circuit—Eastern, Middle and Western Districts of North Carolina.—The creation of one additional judgeship.

Fifth Judicial Circuit—Southern District of Mississippi.—The creation of one additional judgeship.

Eastern District of Louisiana.—The creation of one additional judgeship.

Sixth Judicial Circuit—Northern District of Ohio.—The creation of one additional judgeship.

Eighth Judicial Circuit—Northern and Southern Districts of Iowa.—The creation of one additional judgeship.

Ninth Judicial Circuit—District of Alaska—Third Division.—The creation of one additional judgeship.

Northern District of California.—The creation of one additional judgeship.

Tenth Judicial Circuit—District of Kansas.—The creation of one additional judgeship.

Establishment of a Separate Domestic Relations Court for the District of Columbia

The Conference reaffirmed the following resolution adopted at the September 1953 session (Cf. Rep. p. 28):

> "*Resolved,* that the Judicial Conference of the United States reaffirms its approval of the creation in the District of Columbia of a separate court for the handling of domestic relations cases and matters pertaining to them; and recommends that legislation providing for this separation be promptly enacted by the Congress of the United States.
>
> "The Conference represents to Congress that unless this separation of business as recommended is accomplished at an early date, three additional judges will be required and should be authorized by Congress for the United States District Court for the District of Columbia."

Appointment of an Additional Judge When a Disabled Judge Fails to Retire

The Conference reaffirmed its recommendation made at the April 1954 special session (Cf. Rep. p. 3), relating to the appointment of an additional judge when a disabled judge fails to retire. Prior to its repeal by Public Law 294 of the 83d Congress, subsection (c) of § 371 of Title 28, United States Code, provided that whenever a circuit or district judge who was eligible to retire on account of age and length of service failed to do so and the President should find that he was unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge was necessary for the efficient dispatch of business, the President could make such an appointment by and with the advice and consent of the Senate.

The recommendation of the Conference is that the repealed law be reenacted with the following changes:

1. That the law be made applicable to the judges of the Court of Claims, the Court of Customs and Patent Appeals and the Customs Court, as well as to circuit and district judges.

2. That the amendment be added to § 372 of Title 28, United States Code, instead of to § 371 and thus be made applicable to all judges who become permanently disabled and eligible to retire on that account without regard to their age or length of service.

3. That a certificate of the disability of the judge should be required to be executed by an appropriate representative of the judiciary before the President could make another appointment although it would still be for the President to find whether or not the judge concerned was unable on account of his disability to discharge all the duties of his office and whether the appointment of an additional judge was necessary for the efficient dispatch of business.

Assignment of Retired Judges to Active Service

In a report submitted by the Committee on Retirement of Judges of which Judge Duffy is chairman, a recommendation was made that there be established in the office of the Chief Justice a register which would contain the names of all retired judges who desire to be available for special judicial assignments. The register would be known as the Roster of Senior Judges. Consent of the chief judge or judicial council of the circuit from which a retired judge would be designated would not be required. A draft of a proposed bill accompanied the report.

A cognate proposal that retired judges, because they are not required to live within the circuits in which they were appointed, may be assigned for service which they are willing to undertake outside such circuits without the consent of the chief judge had been referred to the Committee on Revision of the Laws under the chairmanship of Judge Maris at the April 1954 session (Cf. Rep. p. 19). That Committee also recommended the draft of a bill which would accomplish the purpose by amending § 295 of Title 28, United States Code, so as to restrict to judges in active service its requirement that consent of the chief judge or judicial council of the circuit be obtained for a designation outside the circuit. A request from the chief judge of the circuit to which the assignment was to be made would continue to be required as at present. As a substitute for a similar provision in the draft of bill proposed by the Committee on Retirement of Judges to provide for a roster of retired judges the Conference approved the draft of the bill recommended by the Committee on Revision of the Laws.

Proposed Designation of Retired Judges as "Senior Judges"

The Committee on Retirement of Judges also submitted a proposal that § 371 (b) of Title 28, United States Code, be amended so as to designate a judge taking advantage of the retirement provisions as "senior judge" instead of his being called a "retired judge" as at present. It was pointed out that judicial retirement is sometimes confused with "retirement" as the term is used with reference to other Government service and private industry, although it is essentially different in that retired judges can and frequently do continue to render judicial service. The Committee had learned that in some instances judges contemplating retirement had hesitated to accept it because the term to them carried a

connotation of inability to carry on judicial duties. The Conference directed that the proposals in reference to a roster of retired judges and the designation of such judges as senior judges, with the substitute approved by the Conference to do away with the necessity for consent of the chief judge of the circuit in case of the assignment of a retired judge outside of the circuit, be circulated among the judges for an expression of views.

Attendance of Retired Judges at Judicial Conferences of the Circuits

A recommendation of the Judicial Conference of the Ninth Circuit that the statute be amended so as specifically to include retired judges among the judges to be summoned to attend the judicial conferences of the circuits was not acted on for the reason that the Conference is of the opinion that it is not necessary. The Conference takes the view that when retired judges are summoned to the circuit conferences they are performing official functions and are so entitled to reimbursement for their expenses of travel and subsistence.

Supporting Personnel of the Courts

Judge Maris reported for the Committee on Supporting Personnel of the Courts in the absence of Judge Biggs, the Chairman of the Committee. The report contained no recommendations requiring action by the Conference. The Conference was informed concerning the action taken by the district courts with respect to the salaries of national park commissioners pursuant to the authorization made by the Conference at the April 1954 special session (Cf. Rep. p. 5).

The Committee asked and was given leave to report at a later date with regard to the request submitted by Chief Judge Stephens at the April 1954 special session for additional personnel for the Court of Appeals for the District of Columbia Circuit (Cf. Rep. p. 8).

The Conference referred to the Committee for consideration and report the following resolutions adopted by the Judicial Conference of the Ninth Circuit at its meeting held in July of 1954:

(1) A resolution recommending that legislation be enacted concerning the retirement of secretaries of Federal judges similar to that enacted in relation to employees of the legislative branch by Public Law 303 of the present Congress, approved March 6, 1954.

(2) A resolution to amend the present classification plan heretofore approved by the Judicial Conference for secretaries and law clerks of judges and contained in the annual appropriation acts so as to add to grades GS–4 to GS–8 inclusive, which are presently open to secretaries of judges, grades GS–9, GS–10, GS–11, and GS–12.

A request by Judge Denman for review of the action of the Administrative Office in declining to reclassify the positions of the chief deputy clerk and a deputy clerk in the District of Nevada with increases in salary was referred to the Committee.

Also referred to the Committee was a proposal of the Administrative Assistant Attorney General, that the fees of bailiffs employed temporarily to assist criers in the district courts under § 755 of Title 28, United States Code, and the fees of witnesses for indigent litigants when payable by the Government be provided for in the appropriations for the courts instead of those for the Department of Justice as at present.

AMENDMENT OF THE WITHIN-GRADE PROMOTIONAL PLAN

In order to accord to employees of the courts in grades 11 to 15 treatment with respect to longevity increases similar to that granted by the provisions of Public Law 763 of the 83d Congress to employees in those grades under the Classification Act of 1949, the within-grade promotional plan as revised by the Conference at its November 1949 session (Cf. Rep. p. 3) was amended effective as of September 13, 1954 as follows: For the second paragraph under the heading "2. The basis of promotions", substitute the following:

> An additional step-increase (to be known as a longevity step-increase) beyond the maximum scheduled rate of the grade in which his position is placed will be granted to each officer or employee for each 3 years of continuous service completed by him at such maximum rate or at a rate in excess thereof authorized by this paragraph without increase in grade or rate of basic compensation except such change as may be prescribed by any provision of law of general application, subject to the following conditions:
>
> 1. No officer or employee shall be entitled to a longevity step-increase while holding a position in any grade above grade 15 of the General Schedule as established by the Classification Act of 1949 as amended.
>
> 2. No officer or employee shall receive a longevity step-increase unless his current efficiency rating is good or better than good.

3. No officer or employee shall receive more than 1 longevity step-increase for any 3 years of continuous service.

4. Each longevity step-increase shall be equal to one step-increase of the grade in which the position of the officer or employee is placed except that the step-increase for grade 15 shall be $200.

5. Not more than three successive longevity step-increases may be granted to any officer or employee.

6. The officer or employee shall have had in the aggregate, not less than 10 years of service in the position which he then occupies, or in positions of equivalent or higher class or grade.

In the case of officers and employees in grades 11 to 15, inclusive, of the General Schedule who are receiving compensation at or above the maximum scheduled rates for their respective grade on the date immediately preceding the effective date of this amendatory provision, not to exceed 3 years of service performed immediately preceding such effective date, shall be counted toward longevity step-increases.

For the purpose of conforming the references to the courts and judges to the proper nomenclature paragraph 3 (d) of the promotional plan as set forth in the Conference report referred to was amended to read as follows:

(d) The review of ratings.

Every officer or employee will be given notice in writing by his rating officer of his adjective rating. Any officer or employee, except one whose rating rests in a judge without review, who desires to appeal his efficiency rating will be given an opportunity to do so in writing, within 10 days from receipt of written notice of the rating, in the case of courts of appeals to the chief judge of the circuit, and in the case of district courts to the resident district judge if there be only one, or the chief judge of the district court if there be more than one. A hearing will then be held by the judge in the presence of the officer or employee and the rating officer. Both the officer or employee and the rating officer or either may be represented in the hearing by another person at the option of both or either. The judge will determine the final efficiency rating to be assigned without further review.

Bankruptcy Administration

Judge Phillips, chairman of the Committee on Bankruptcy Administration, reported that the Committee had met and considered the recommendations contained in the report of the Bankruptcy Division of the Administrative Office which was approved by the Director on August 16, 1954, relating to certain changes in the salaries of referees, and other arrangements.

The report was submitted by the Director to the members of the Judicial Conference and to the judicial councils and the dis-

trict judges of the circuits and districts concerned, with the request that the district judges advise the judicial councils of their respective circuits of their views in respect to the recommendations for their districts and that the chief judges of the circuits in turn inform the Administrative Office of the views of the judicial councils of their circuits. The Director's report together with the recommendations of the district judges and of the judicial councils were considered by the Committee on Bankruptcy Administration. The Conference had before it the Committee's report as well as the recommendations of the district judges and the judicial councils. Upon the recommendation of the Commitee on Bankruptcy Administration, the Conference took the action shown in the following table to be effective January 1, 1955:

District	Regular place of office	Present type of position	Present salary	Conference action	
				Type of position	Salary
District of Columbia Circuit					
District of Columbia	Washington	Part-time	$5,500	Part-time	$6,000
3d Circuit					
Pennsylvania (M)	Harrisburg	do	3,500	do	4,500
4th Circuit					
North Carolina (M)	Greensboro	do	3,500	do	4,500
North Carolina (W)	Charlotte	do	3,000	do	4,000
Virginia (E)	Norfolk	do	5,000	do	5,500
5th Circuit					
Alabama (S)	Mobile	do	6,000	Full-time	10,000
Georgia (N)	Rome	do	4,500	Part-time	5,500
Georgia (M)	Macon	Full-time	8,000	Full-time	10,000
6th Circuit					
Kentucky (W)	Louisville	do	9,000	do	10,000
	Paducah	Part-time	2,000	Part-time	2,500
Tennessee (W)	Memphis	Full-time	11,250	Full-time	12,500
7th Circuit					
Illinois (S)	Peoria	Part-time	6,000	do	10,000
8th Circuit					
Iowa (N)	Ft. Dodge	do	3,000	Part-time	4,000
Minnesota	St. Paul	Full-time	9,000	Full-time	10,000
	Minneapolis	do	11,250	do	12,500
9th Circuit					
Idaho	Boise	Part-time	3,500	Part-time	5,000
Oregon	Corvallis	Full-time	10,000	Full-time	11,250
	La Grande	Part-time	1,800	Part-time	2,400
Washington (W)	Seattle	Full-time	11,250	Full-time	12,500
10th Circuit					
Colorado	Denver	do	11,250	do	12,500
Kansas	Topeka	do	11,250	do	12,500
New Mexico	Albuquerque	Part-time	3,000	Part-time	4,500

Upon the recommendation of the Committee the Conference took the action shown in the following table relating to the positions to become vacant by expiration of terms or by resignation on the dates indicated:

District	Regular place of office	Type of position	Authorized salary	Term expires	Conference action
2d Circuit					
New York (E)	Brooklyn	Full-time	$12,500	Nov. 30, 1954	Continued.[1]
New York (S)	New York	do	12,500	Jan. 13, 1955	Do.
4th Circuit					
Virginia (E)	Norfolk	Part-time	5,500	Mar. 28, 1955	Do.
5th Circuit					
Alabama (N)	Anniston	Full-time	10,000	Oct. 28, 1954	Do.
8th Circuit					
Arkansas (W)	Ft. Smith	Part-time	2,500	By resignation Dec. 31, 1954.	Consolidated Effective[2] Jan. 1, 1955.
Arkansas (E)	Little Rock	do	4,000	do	Do.
9th Circuit					
California (N)	Oakland	Full-time	12,500	Feb. 20, 1955	Continued.[1]
California (S)	Los Angeles	do	12,500	Oct. 31, 1954	Do.
Alaska	Anchorage	Part-time	3,000	Feb. 13, 1955	Do.

[1] The word "Continued" signifies an authorization for the filling of the vacancies for a term of 6 years beginning on the day following the expiration date of the present term at the salary shown above.

[2] The Conference authorized the consolidation of the part-time positions at Fort Smith, Arkansas and Little Rock, Arkansas into a single full-time position at Little Rock to serve the Eastern and Western Districts of Arkansas, the full-time referee to be appointed for a term of 6 years commencing January 1, 1955, at a salary of $8,000 a year. All places of holding court in the Eastern and Western Districts of Arkansas were continued as places of holding court for the full-time referee at Little Rock.

CHANGES IN ARRANGEMENTS

The following changes in arrangements for referees were recommended by the Committee and approved by the Conference:

Sixth Circuit—Michigan (W).—That an additional full-time position be established at Grand Rapids, effective January 1, 1955, with concurrent jurisdiction with the present referee at Grand Rapids over the Southern Division of the District at a salary of $8,000 a year and that an additional place of holding court be designated at Kalamazoo for the referees at Grand Rapids.

Ninth Circuit—District of Oregon.—That an additional full-time position be established at Portland, effective January 1, 1955, with concurrent jurisdiction with the present referee at Portland at an annual salary of $8,000 a year.

REPORT CONCERNING CERTAIN PENDING LEGISLATION REFERRED TO THE BANKRUPTCY COMMITTEE RELATING TO THE SUBJECT OF RECEIVERS AND TRUSTEES AND THEIR COMPENSATION

Pursuant to the direction of the Judicial Conference at its special session in April 1954, the Director on May 22, 1954, circulated

among the circuit and district judges (1) a copy of a report dated February 5, 1954, of a subcommittee of the Bankruptcy Committee appointed to study and report on the subject of receivers and trustees and their compensation including S. 2344, S. 2560, S. 2561, S. 2562, S. 2563, and H. R. 4400, 83d Congress, and (2) a copy of a report of the Bankruptcy Committee dated April 14, 1954, approving the report of the subcommittee. The Director's letter requested the judges and the judicial conferences and judicial councils of the circuits to express their views upon the report.

The Committee after considering the replies received, recommended that the report of the Bankruptcy Committee dated April 14, 1954 approving the report of the subcommittee dated February 5, 1954 (which opposed the enactment of all the bills mentioned above), be approved.

The Conference adopted the recommendation of the Bankruptcy Committee.

COMPENSATION OF RECEIVERS AND TRUSTEES

The report of the subcommittee of February 5, 1954, also dealt with the question of increasing the compensation to be provided for receivers and trustees. The subcommittee expressed the view that in some districts too many nonasset cases were being administered without the appointment of a trustee, the inevitable result of which "is to permit the undervaluation of property claimed as exempt by the bankrupt and natural carelessness in the scheduling of assets." With regard to this portion of the subcommittee report the Conference adopted the following resolution recommended by the Committee:

> BE IT RESOLVED: That it is the sense of the Conference that a greater use of trustees in the administration of nonasset cases should be made by the referees in bankruptcy. And be it further resolved that the following maximum rates of compensation for trustees be provided by amendment of Sec. 48c (1) of the Bankruptcy Act to wit:
>
10 percent on the first	$500.00
6 percent on the next	1,000.00
3 percent on the next	8,500.00
3 percent on the next	15,000.00
1 percent on all above	25,000.00
>
> together with an increase in the discretionary allowance from $100 as now provided in the subsection to the sum of $150.

LEGISLATIVE MATTERS

At the regular session of the Judicial Conference held in September 1953, the Bankruptcy Committee recommended and the Con-

ference approved legislation dealing with the subject of unclaimed moneys in bankruptcy cases and legislation which would provide for the combining of the notice of the time fixed for filing objections to the discharge of the bankrupt with the notice of the first meeting of creditors wherever possible. Bills amending the applicable sections of the Bankruptcy Act were submitted to the 83d Congress and introduced in the House of Representatives as H. R. 8209 and H. R. 8210 respectively. H. R. 8210 providing for the combining of such notices passed the House of Representatives but failed to be enacted by the Senate. No action was taken on H. R. 8209 relating to unclaimed moneys.

The Committee recommended that the Conference reaffirm its previous approval of both proposals. This recommendation was approved.

PROCUREMENT OF SPACE FOR REFEREES IN FEDERAL BUILDINGS

The Committee brought to the attention of the Conference the pressing need for additional space in Federal buildings for referees' offices sufficient to handle the volume of work now before them and pointed out that a number of part-time positions have already been changed to full-time positions and that many more such changes as well as additional full-time positions will be recommended shortly. It also pointed out that in several cities where requests for space are now pending, the Post Office and Courthouse buildings are presently providing a large amount of space for non-court executive agencies of the Government other than the Post Office Department. The Committee felt that because of the nature of the work of the referees and their constant contact with the district judges and clerks of court, priority should be given to the referees in the assignment of space in these buildings and that it is essential to have them adequately housed in Federal buildings in close proximity to the district judges and district clerks.

The Committee recommended the following resolution which was adopted by the Conference:

> *Resolved*, That it is the sense of the Conference that the referees in bankruptcy are performing a very important judicial function in the United States District Courts and because of their constant contact with the district judges and the clerks of courts, it is imperative that adequate office and courtroom space be provided in Post Office and Courthouse buildings for these officers and further that in the providing of such

space a priority be given to the needs of the referees over the needs of noncourt executive agencies other than the Post Office Department.

BANKRUPTCY—GENERAL

The Conference adopted the following resolution:

It appearing to the Conference, from the report of the Bankruptcy Committee, that there has been a complaint of irregularity in a bankruptcy proceeding in one of the circuits, the Conference refers the matter to the Judicial Council of the circuit, and requests the Administrative Office to bring it to the attention of the Department of Justice.

REFERENCE TO BANKRUPTCY COMMITTEE OF PROPOSAL TO INCREASE SALARIES OF FULL-TIME REFEREES

Judge Maris brought to the attention of the Conference a recommendation of the Judicial Conference of the Third Circuit that the statutory ceiling on salaries which can be authorized for full-time referees be increased from $12,500 per year to $15,000 per year. The recommendation was referred to the Bankruptcy Committee for consideration.

The Court Reporting System

The Director reported to the Conference on the operation of the court reporting system during the fiscal year 1954 and the earnings of court reporters. The Conference was informed that the general increases in salaries authorized for court reporters at the September 1953 session to take effect July 1, 1954, contingent upon the necessary appropriation had been made effective as of that date after favorable action by the Congress.

GENERAL INCREASES IN SALARIES

The Director reported to the Conference that in his judgment there was little if any real difference in the situation of reporters in the $4,200 salary class and those in the $4,500 class and that the consolidation of the two classes at the higher rate would seem to be logical. Seventeen reporters would be affected. He recommended that the Conference authorize such an increase subject to the availability of funds. The recommendation was approved by the Conference.

CHANGES IN SPECIFIC SALARIES

The Director recommended that the court reporters for the Eastern District of Missouri with headquarters at St. Louis be placed in the $6,000 salary class instead of the present $5,500 salary class subject to the availability of funds. The recommendation was approved by the Conference.

The Director also recommended that the reporters for the Western District of Washington and the reporter for the Eastern and Western Districts of Washington be placed in the $6,000 salary class instead of the present $5,500 salary class subject to the availability of funds. The recommendation was approved by the Conference.

The Conference was informed that Mr. John R. Shaughnessy, one of the official court reporters for the Western District of Pennsylvania, intends to resign his position; that the District Court for that district proposes to appoint Mr. Shaughnessy United States Commissioner and requests that he be authorized in addition to act as an official reporter on a per diem basis from time to time when needed to serve retired Judge McVicar or for other special assignments. The approval of the Conference for such a combination of duties is required by Title 28, U. S. C., § 753 (a). The Director recommended the proposed arrangement and the Conference approved it.

A combination position of court reporter and secretary at a salary of $6,000 was authorized for the District of New Mexico to serve the judgeship now held by Judge Waldo H. Rogers of that District.

In compliance with a request from Judge Charles N. Pray of the District of Montana, the combination position of court reporter and secretary heretofore authorized by the Conference for him was enlarged to include also the duties of law clerk at no increase in salary.

The Conference in July of 1954, authorized by mail a change in the reporting position for Judge Fred M. Taylor of the District of Idaho to the combination position of court reporter and secretary at a salary of $6,000 per year. Also in July of 1954, the Conference by mail authorized the following arrangement for court reporting service for the Middle District of Georgia:

> *Middle District of Georgia.*—A new alternative position of reporter to serve also as secretary for the judgeship now held by Judge W. A. Bootle at a salary of $6,000 per annum, is

authorized, if the Judge should find that preferable to the position presently authorized for a reporter who acts solely in that capacity at a salary of $4,500 per annum.

Both of these actions were confirmed.

For the District of Minnesota the appointment of one additional reporter at a salary of $5,500 per year was authorized. This will provide for that district a number of reporters equal to the number of active judges and is in compliance with a request received from the court.

Appropriations

The Director submitted to the Conference for its approval pursuant to the statute (28 U. S. C. 605) estimates for supplemental appropriations for the current fiscal year, and for annual appropriations for the fiscal year 1956.

In the Appropriation Act for the courts for the current fiscal year appropriations were allowed in an amount sufficient to provide for not more than 15 of the 30 additional judgeships authorized by Public Law 294, approved February 10, 1954, on the ground that not all of the new judges would be appointed and serve throughout the year. However, more than 15 of the new judges have now been appointed and are serving so that additional funds for their salaries, the salaries of supporting personnel and miscellaneous expenses will be required by supplemental appropriations, although the exact amount will have to be determined later. Other items for which it appears that additional funds will be needed during the current year, but for which accurate estimates cannot be made so early in the year are pensions for widows of Justices of the Supreme Court pursuant to Public Law 702, approved August 28, 1954, fees of jurors and United States commissioners, salaries and expenses of referees in bankruptcy, including changes in salaries of referees authorized to be effective January 1, 1955, and contribution to the cost of Employees' Group Life Insurance under Public Law 598, approved August 17, 1954. The Director accordingly recommended and the Conference approved the submission of supplemental estimates in such amounts as may be found to be required, leaving the specific amounts for later determination by the Director.

The Director explained the estimates submitted for the fiscal year 1956, which include a number of increases required by reason of the larger number of judges authorized by Congress who will be serving throughout the year, the expanding business of the courts

which requires additional personnel and the inadequacy of appropriations for the current fiscal year. He pointed out that the estimates did not include provision for increases in the number and salaries of court reporters and referees in bankruptcy authorized by the Conference at this session, nor the Government's contribution to the cost of Employees' Group Life Insurance under the recently enacted Public Law 598, the amount of which is as yet undetermined. The Conference approved the estimates as submitted and authorized the Director to include these additional items.

WAYS AND MEANS OF CONFORMING EXPENDITURES WITH THE APPROPRIATIONS FOR SALARIES OF SUPPORTING PERSONNEL AND TRAVEL AND MISCELLANEOUS EXPENSES IN 1955

The Director reported that the appropriations allowed by the Congress for the support of the courts during the current fiscal year are substantially below the amounts necessary to operate the courts of appeals and district courts on the general basis of the last fiscal year, and provide throughout the year for 15 of the 30 additional judges authorized by Public Law 294. Therefore rigorous measures to reduce expenditures must be invoked to avoid violation of the Anti-deficiency Act (31 U. S. C. sec. 665). Specific measures to this end were recommended.

It is the considered view of the Conference that taking these actions will seriously impair the efficient operation of the courts, but that the terms of the Anti-deficiency Act seem to leave no choice. Accordingly, the measures recommended by the Director were approved, with the understanding that at the earliest opportunity when Congress reconvenes for its next session the situation will be laid before the Congress and supplemental appropriations requested.

The recommendations of the Director which were approved by the Conference are as follows:

I. The Appropriation for Salaries of Supporting Personnel

Temporary employments and overlapping employments will need to be avoided. When changes occur in supporting personnel it will be necessary to postpone the entry on duty of new employees until any leave with pay of their predecessors has expired. The funds will not support temporary employments while regular personnel are on vacation. Only in situations of extreme need amounting to emergency can exceptions be made. These courses will be necessary in order to maintain within grade promotions and normal reclassifications when earned.

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II. The Appropriation for Travel and Miscellaneous Expenses

1. *The Funds for Expenses of Travel*

(a) Means of saving in the travel of personnel accompanying judges in service away from their official stations:

That when a district court sits in a location where there is a deputy clerk in residence, only one other member of the clerk's staff attend in a travel status, and that when a district court sits in a location where there is no resident deputy clerk, not more than two members of the clerk's staff attend in a travel status. This is on the assumption that court is held in the location by only one judge. If more than one judge sits, more of the clerk's staff may need to attend. But the number under all conditions should be held to a minimum.

That when a district judge holds court away from his headquarters he normally be accompanied by only his law clerk or secretary, and not by both, and that circuit judges on brief absences from their headquarters follow the same course.

That whenever possible judges dispense with the attendance of their criers during service in places away from their headquarters and involving travel. When deputy clerks or law clerks accompany judges on their official trips, it would seem that usually in the fiscal situation this year, they could perform the duties also of crier.

That where travel by automobile is practicable and conditions permit, the fullest use be made of the practice for judges and supporting personnel of the courts to travel in automobiles together.

(b) Reduction of the travel expenses of the probation officers.

The allotments for travel of probation officers will be reduced during the second, third and fourth quarters to the extent necessary to reduce the total allotment for travel of probation officers for the year by the amount of $50,000.

2. *The Funds for Impersonal Expenses Other than Travel*

The supplying of office machines will be limited to the number imperatively required.

Continuation service on law works of judges is suspended except for works which are indispensable, such as statutes, reports of decisions, and the like. Continuation service to court libraries used by numbers of judges will be maintained.

The law works being furnished to the new judges will be far below the basic libraries of judges and any expansion will have to be deferred.

Rebinding cannot be provided for and requests for it are suspended.

Printing other than the printing of opinions, especially the printing of special forms where there are general forms, is restricted.

Additions or improvements in telephone service entailing additional costs cannot be authorized under present conditions.

Operation of the Jury System

Judge Watkins, chairman, submitted the report of the Committee on Operation of the Jury System.

In conformity with the instruction of the Conference at the September 1953 session (Cf. Rep. pp. 18–19) the proposal to

amend section 1871 of Title 28, United States Code, relating to allowances for jurors, with particular reference to the provision for the payment of travel expense at the rate of 7 cents a mile when jurors return to their homes each night during their term of service, had been circulated for an expression of the views of the judges. After considering the replies of the judges, and recent reports of the Administrative Office with regard to payments made to jurors since the distribution of the Committee report the Committee did not for the present urge the adoption of the proposed amendment. Instead the Committee recommended that the Administrative Office be instructed through its audit section to keep constant, close watch of payments to jurors; that the Office make it a regular practice when payment for interim daily travel appears to be excessive in any district, to call the facts to the attention of the judges of the district concerned, suggesting possible means by which jury expenses might be reduced, based on experience in other courts. The recommendation of the Committee was approved. In accordance with the Committee's suggestion the Conference again calls to the attention of the judges the discretion given by U. S. C. Title 28, § 1871, to limit daily travel to that which is "necessary", and to require the payment of only "subsistence at $5 per day" when in the court's opinion daily travel appears impracticable; and under U. S. C. Title 28, § 1865, to select jurors from only those parts of the district which are close enough to the place where the term of the court is to be held so that "unnecessary expense" and "burden" upon the citizens of any part of the district will be avoided. These provisions have been useful in most districts in preventing excessive jury travel costs and there is no reason why they should not be so used in all.

The Committee also reported that after a canvass of the judiciary for suggestions it had completed a revision of the jurors' handbook which it considers suitable for use in all district courts. The Conference approved the revised edition of the handbook and authorized the Administrative Office to have it printed and distributed for use in courts where the judges desire to have it.

The Committee reported that the bill heretofore approved by the Conference to provide uniform qualifications for jurors (S. 961 of the 83d Congress) was the subject of a hearing before the Senate Judiciary Committee in March of 1953, but did not ad-

vance further during the Congress. The Conference reaffirmed its approval of the proposed legislation, the reintroduction and enactment of which will be sought in the next Congress.

The Committee reported that the bill to provide for a jury commission for each United States district court, to regulate its compensation, to prescribe its duties, and for other purposes (S. 959 of the 83d Congress), passed the Senate the latter part of the last session of Congress with amendments in the form approved by the Judicial Conference. Efforts to secure its consideration by the House Judiciary Committee were unavailing. The Conference reaffirmed its recommendation of the proposed legislation in the form in which it passed the Senate.

A report of the Administrative Office on the cost of operation of the jury system was submitted and its circulation among the judges authorized.

Committee on Habeas Corpus

At the September 1953 session, the Conference directed that the former Committee on Habeas Corpus be reactivated to consider questions with regard to applications to Federal courts for the writ of habeas corpus by persons imprisoned under judgments or sentences of State courts. (Cf. Rep. p. 27.) This subject had been mentioned by the Attorney General in his report to the Conference in 1953 and resolutions with respect to it had been passed by the Conference of Chief Justices, the Association of State Attorneys General, and the Section of Judicial Administration of the American Bar Association.

Judge Parker, Chairman of the Committee, submitted a report and supplement. The Committee had the assistance of representatives of the Conference of Chief Justices and of the Association of State Attorneys General at its meetings. A proposed amendment to section 2254 of Title 28, United States Code, developed by the Committee has the approval of these representatives.

The Committee found that many persons convicted by State courts are seeking release from State penal institutions by writs of habeas corpus in Federal courts claiming that constitutional rights had been denied them in the State courts; that although only an insignificant number of these petitions had been successful they had imposed an unnecessary burden on the Federal courts, and greatly interfered with the procedure of the State courts. The Committee was of the opinion that where adequate procedure is

provided by State law for the handling of such claims the remedy should be sought in the State courts with review of State court action only by the Supreme Court of the United States and that resort to the Federal courts by habeas corpus should be reserved for situations where an adquate record cannot be made in the State court. Accordingly the Committee proposed that § 2254 of Title 28, United States Code, be amended by adding thereto a new subsection (b) as follows:

A Justice of the Supreme Court, a Circuit Judge or a District Court or Judge shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to a judgment of a State court, only on a ground which presents a substantial Federal constitutional question (1) which was not theretofore raised and determined (2) which there was no fair and adequate opportunity theretofore to raise and have determined and (3) which cannot thereafter be raised and determined in a proceeding in the State court, by an order or judgment subject to review by the Supreme Court of the United States on writ of certiorari.

An order denying an application for a writ of habeas corpus by a person in custody pursuant to a judgment of a State court shall be reviewable only on a writ of certiorari by the Supreme Court of the United States. The petition for the writ of certiorari shall be filed within 30 days after the entry of such order.

The Conference directed that the report of the Committee and the supplement be circulated among the judiciary for an expression of views.

Pretrial Procedure

The report of the Committee on Pretrial Procedure was made by Judge Murrah, its chairman, and Judge Laws, a member of the Committee also supported its recommendations. Judge Murrah stated that the use of pretrial conferences was expanding both in State and Federal courts and detailed some of the activities of the Committee. The Committee is convinced that substantial savings in time and money result from the use of pretrial. It considers it important that newly appointed judges be informed of the advantages of the procedure and the most effective methods of using it. To that end the Chairman has corresponded with each district judge who has been appointed during the last several years, and when feasible, contact has been arranged between the new judge and a member of the Committee or an experienced pretrial judge in the circuit and a considerable amount of educational work has been done.

The following recommendations designed to strengthen the Committee and bring about closer and more effective cooperation

of the circuit committees were then presented to the Conference and approved by it:

1. *Be it resolved,* That the Committee recommends that there be appointed or reconstituted by the chief judge of each circuit of the United States a Pretrial Committee in each circuit and that on the day preceding the meeting of the Conference of the circuit the Pretrial Committee shall be called in session, and

Be it further resolved, That the Committee recommends that the Chairman of the Circuit Committee or some other judge be designated by the chief judge of the circuit to make arrangements to acquaint all newly appointed judges with pretrial procedure and the technique of its employment.

2. It is recommended that the Judicial Conference Committee on Pretrial be reconstituted with one member from each circuit who is an experienced pretrial judge.

A suggestion for a meeting in Washington of the new judges in the first four circuits and the District of Columbia for a pretrial demonstration and a discussion of pretrial techniques was found not to be feasible at this time because of the expense involved.

Judge Murrah also presented for the consideration of the Conference the following recommendation for setting up a panel of judges with experience and aptitude in the handling of antitrust and other protracted cases to help the judges to whom such cases are assigned, if the trial judge requests it:

3. It is recommended that the Judicial Conference approve the appointment by the Chief Justice of the United States of a panel of district judges consisting of one or more from each circuit who shall make a study of the special problems in the pretrial of long and complicated cases, the study to be under the auspices of the Pretrial Committee and in conference with leading trial counsel: that this panel be authorized to meet in conference; and that after the formation and study of such panel, it be adopted as the policy of the Judicial Conference of the United States that in antitrust and similar complicated and protracted cases one of the judges of this panel be available to the judge who will try the case, on his request and upon designation by the chief judge of the circuit, for consultation or to sit jointly in the pretrial conferences, or to assist in such manner and to such extent as the trial judge may deem advisable.

Judge Prettyman informed the Conference that his Committee on Procedure in Antitrust and other Protracted Cases had considered the resolution and that although it had some doubt as to the practicability of the suggested plan it considered it to be worthy of consideration as a possible help in the economical disposition of these complex cases, and therefore, without affirmative endorsement passed the resolution to the Conference for its consideration.

The Conference received the report of the Committee and directed that it be circulated throughout the Judiciary with a request for an expression of the views of the judges with respect to recommendation 3, concerning the creation of a panel of judges

experienced in handling antitrust cases, to be followed by a further report of the Committee.

Committee on Procedure in Antitrust and Other Protracted Cases

Judge Prettyman, Chairman, submitted a report for the Committee on Procedure in Antitrust and other Protracted Cases.

The Conference was informed of the consideration given by the Committee, meeting with Judge Murrah and Judge Laws of the Committee on Pretrial Procedure, to the recommendation of the latter Committee concerning the appointment of a panel of district judges to give particular attention to the use of pretrial in long complicated cases to which reference has already been made.

Three recommendations addressed to the Judicial Conference by the Conference on Administrative Procedure called by the President of the United States had been considered by the Committee. The first is as follows:

Exclusion of Evidence.—That the United States Courts be urged to encourage hearing officers and agencies in formal administrative proceedings to exclude irrelevant, immaterial, and repetitious evidence.

This recommendation which had been approved by the Committee was approved by the Conference.

The second recommendation proposed the adoption of a uniform rule relating to the certification and filing of the record on review of administrative agency proceedings. It was pointed out that the Conference on recommendation of the Committee on Revision of the Laws, and after circulation among the judges for an expression of views, had recommended for enactment the draft of a proposed bill under which agencies would be permitted to send to the reviewing court an abbreviated record where the whole record is not necessary and to authorize the use of the original papers in lieu of a transcript (Cf. Reps. September 1953 session, p. 25, April session 1954, p. 17). Accordingly no action was taken by the Conference with regard to this recommendation.

The third recommendation urged that the courts of appeals uniformly adopt the joint appendix system for records on review of agency proceedings and require briefs to be filed in advance of printing the appendix record. The Committee without expressing approval or disapproval recommended that this suggested procedure be called to the attention of the several courts of appeals

for possible use in instances where its value seems to be indicated, and the Conference adopted the Committee's recommendation.

The Committee informed the Conference that Assistant Attorney General Stanley N. Barnes, who is head of the Antitrust Division of the Department of Justice and Cochairman of the Attorney General's National Committee To Study Antitrust Law accompanied by members of his staff had met with the Committee. Later he had submitted comments and suggestions in the form of a letter. The Committee was of the view that the suggestions and comments of Judge Barnes do not call for affirmative action by the Committee, but that they should be circulated to all Federal judges as part of the Committee's report.

The Committee also informed the Conference that the American Bar Association Committee on Practice and Procedure in the Trial of Antitrust Cases had prepared a report which the Committee, without expressing either agreement or disagreement with the suggestions contained in it, considered to be a thoughtful and valuable contribution to the solution of the problem with which the Committee is concerned. It recommended that the Director of the Administrative Office be instructed to circulate copies of the report to all Federal judges if arrangements can be made with the American Bar Association to supply the necessary copies. The recommendation was approved by the Conference.

The Conference was informed that because of the numerous requests for them, the supply of copies of the Report of the Committee adopted by the Conference in 1951, is now exhausted. The Committee recommended that the 1951 report be reprinted in an adequate number and that the present report be printed as a supplement with a sufficient number of copies to permit distribution to all Federal judges and to members of the bar who may request them. The Conference approved this recommendation.

Committee on Revision of the Laws

Judge Maris, Chairman of the Committee on Revision of the Laws, submitted an interim report on behalf of the Committee.

The Committee requested and was given further time to consider a recommendation of the Judicial Council of the District of Columbia Circuit that certain statutes be amended so as to eliminate the present requirements that 5 days' notice be given before temporary stays may be granted in cases involving the review of

the orders of the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Board, and the Secretary of Agriculture. This matter was referred to the Committee at the April 1954 session (Cf. Rep. p. 19).

The Committee reported on a proposal made by Professor George B. Fraser of the College of Law of the University of Oklahoma for amendment in two particulars of § 1441 of Title 28, United States Code, pertaining to the removal of cases from State courts. This matter was also referred to the Committee at the April 1954 session (Cf. Rep. p. 19). The first recommendation is that the statute be amended so as to permit the removal of a case improperly brought in the State court and of which that court does not have jurisdiction because exclusive jurisdiction has been given by Congress to the Federal courts. The second is that removal be authorized from the State to the Federal court if at the time of removal instead of at the time it was brought in the State court it appears from either the complaint or the petition for removal that the action involves a Federal question. The Committee did not favor the first proposed amendment and recommended that the second be circulated among the judges for an expression of views. The Conference directed that both of the proposals be so circulated.

At the April 1954 session of the Conference, Chief Judge Garrett and Judge Johnson of the Court of Customs and Patent Appeals and Chief Judge Oliver and Judge Ekwall of the Customs Court discussed with the Conference bills then pending in Congress (H. R. 7864, S. 3131; H. R. 6919, S. 2975 of the 83d Congress), which would declare their courts to be established under Article III of the Constitution, and provide for the temporary assignment of judges from other courts to those courts and from those courts to other courts (Cf. Rep. p. 14). The bills were then referred to the Committee on Revision of the Laws for study and report to the next session of the Conference. The Committee informed the Conference that it considered the provisions of the bills desirable but that it apprehended that the question as to whether the declaration proposed by the bills respecting the establishment of the courts under Article III would be constitutionally effective is a judicial question for determination by the Federal courts and not within the competence of the Judicial Conference or its committees. Upon consideration of the Committee's report,

the Conference, expressing no view with reference to their constitutionality, approved the proposed legislation contained in the bills.

The Committee recommended that the Conference suggest to the Supreme Court the adoption under section 2074 of Title 28, United States Code (Act of July 27, 1954, 68 Stat. 567), of a rule providing that the review of decisions of the Tax Court shall be begun by the filing in that court of a notice of appeal in form analogous to that prescribed by rule 73 of the Federal Rules of Civil Procedure, which shall be the petition for review referred to in sections 7481, 7482, 7483, and 7485 of the Internal Revenue Code of 1954. The Conference approved the recommendation.

DISQUALIFICATION OF JUDGE FOR BIAS OR PREJUDICE

The attention of the Conference was called to S. 3517 of the 83d Congress, relating to disqualification of a judge for bias or prejudice which was favorably reported by the Senate Judiciary Committee. The bill was referred to the Committee on Revision of the Laws for consideration and also for circulation among the judges for an expression of views.

JUDICIAL STATISTICS

Judge Clark, Chairman of the Committee on Judicial Statistics, presented the report of the Committee. He referred to the usefulness of the statistical information and reports of the Administrative Office concerning the business of the courts to the Judicial Conference, to Congress and to scholars and teachers, and said that the Committee thought the reports also had great potential usefulness to individual district judges who have dockets to maintain and a definite list of cases to dispose of. The Committee has been reviewing the form and contents of the tables published in the quarterly and annual reports of the Administrative Office and has solicited advice and suggestions regarding them from all judges.

He reported that the Committee was particularly desirous of acquainting the newly appointed district judges with the value and possible use by them of the statistical information available in the Administrative Office, and the Chairman has been writing to each district judge at the time of his appointment, explaining the general plan for the collection and publication of this material.

A handbook on Federal court statistics, a preliminary draft of which was included in the Committee report last year, will be completed and made available this year.

Judge Clark pointed out that statistics may show the lack of need for additional judgeships as well as the need for them, as illustrated by a careful analysis of the judicial business of Maine, New Hampshire, Vermont, Rhode Island, and Wyoming, contained in the Committee report. An additional judgeship for each of these districts was included in S. 2910, and the report pointed out that a statement by the Conference with reference to the lack of need for additional judge power in these districts would be an appropriate exercise of the responsibility which is assigned to the Conference, if the bill should be reintroduced.

The Committee recommended to the judicial councils of the circuits that they regularly follow up the quarterly reports of cases under advisement by the district judges and that where cases are reported which have been under advisement for more than 6 months, they should ascertain the reason for such delay and when feasible, offer to send in a judge from another district to help if the judge who is in arrears should so desire.

Judge Clark also announced the plan of the Committee to make a time study again with the help of a few district judges, as to the time spent by them on various types of cases. The Conference directed that the report be received and that it be circulated throughout the judiciary for the information of the judges.

Committee on Punishment for Crime

The Conference authorized the Chief Justice to reconstitute the Committee on Punishment for Crime for the purpose of considering the proposal advanced by the Attorney General in his report that criminal sentences be made reviewable on appeal with power in the appellate court to increase or decrease the punishment.

A proposal made by Representative Charles E. Bennett of Florida that the right to bail for defendants charged with crimes of a subversive nature be restricted was also referred to this Committee.

Proposal To Amend the Probation Law To Permit Confinement in Connection With Probation

A recommendation of the Judicial Conference of the Ninth Circuit that the probation law be amended so as to permit con-

finement in jail-type institutions or treatment institutions for a period not exceeding 6 months in connection with the grant of probation on a 1-count indictment was ordered referred to a committee for study and report.

Quarters of the Courts and Related Facilities

Hon. Edmund F. Mansure, Administrator of the General Services Administration, and Hon. Peter A. Strobel, Commissioner of the Public Buildings Service, discussed with the Conference problems relating to the need for additional space for court activities and particularly the acute need for air conditioning of court quarters in many places. The appointment of a Committee on Air Conditioning was authorized. It is intended that this Committee will consider and formulate principles for determining the relative need for air conditioning and will ask the judicial councils of the circuits to determine which courthouses in their respective circuits would qualify for installation of air conditioning according to the standards outlined by the Committee.

NEW COURTHOUSE IN SAN FRANCISCO

Judge Denman submitted a resolution of the Judicial Conference of the Ninth Circuit recommending the construction of a new courthouse at San Francisco, Calif., with accommodations for the Court of Appeals for the Ninth Circuit and the District Court for the Northern District of California.

The resolution was approved by the Conference and the construction of the proposed new building is recommended.

COURTHOUSE AT ANCHORAGE, ALASKA

Judge Denman informed the Conference that the Judicial Council of the Ninth Circuit had adopted the following resolution:

> Whereas the Third Division of Alaska has litigation requiring the services of two district judges, a requirement inadequately served by the infrequent sittings of judges from other Divisions of Alaska, and whereas the Judicial Conference of the United States has recommended to Congress the creation of a second judgeship for the Third Division; and whereas the present facilities even for one district judge are grossly inadequate because largely occupied by other Government activities: Now, therefore, be it
>
> *Resolved by the Judicial Council of the Ninth Circuit,* That the Judicial Conference of the United States recommend to

the Congress that in Anchorage, Alaska, a new building be constructed in connection with the structure there containing the present court and its facilities, providing a second courtroom and its facilities and further accommodations for other governmental activities, including those now using part of the present court facilities.

The Conference approved the resolution and recommends the improvement of the court facilities at Anchorage in accordance therewith.

Sound Recording of Court Proceedings

Judge Laws, Chairman of the Committee on the Sound Recording of Court Proceedings, submitted a progress report. The Conference was informed that a number of experiments in sound recording of court proceedings have been made and it is the purpose of the Committee to continue to observe the development of the art of sound recording. A point has been reached, however, where a study of methods and types of equipment by an expert and impartial agency is necessary for further progress, and that will involve cost estimated at approximately $6,000. The Conference authorized the Committee to go on with its consideration and procure a study of the kind indicated when and if funds are available for this purpose.

Indigent Litigants

The Conference was informed that the bills of the type which it had approved to provide for the appointment of public defenders by district courts which desired or in the alternative the allowance of compensation to counsel appointed in individual cases under specified conditions, H. R. 398 and H. R. 2091 of the 83d Congress, had been the subject of a hearing before a Subcommittee of the House Judiciary Committee. The Committee however did not report such a bill. Instead a substitute bill providing only for a system of small fees of flat sums per case for appointed counsel, H. R. 10158, was reported by the Committee and passed the House of Representatives. It was not considered in the Senate prior to the adjournment of Congress. The Conference reaffirmed its approval of the legislation embodied in H. R. 398 and H. R. 2091 and voted its disapproval of the substitute H. R. 10158.

The Conference is of the view that the proposed legislation in the form recommended by it should be reintroduced at the next session of Congress and its enactment sought. The Conference approved

the inclusion in the legislation of all district courts constituted by Chapter V of Title 28 of the United States Code.

Pretermission of Terms of the Courts of Appeals of the Eighth and Tenth Circuits

At the request of Chief Judge Gardner, the Conference, pursuant to Title 28, U. S. C. 48, consented that terms of the Court of Appeals of the Eighth Circuit at places other than St. Louis be pretermitted during the current fiscal year.

At the request of Chief Judge Phillips, the Conference consented that terms of the Court of Appeals of the Tenth Circuit at Oklahoma City, Okla., and Wichita, Kans., be pretermitted during the current fiscal year.

Functions of the Securities and Exchange Commission in Chapter X Cases Under the Bankruptcy Act

Chairman Demmler of the Securities and Exchange Commission, accompanied by Commissioner Armstrong and General Counsel Timbers, discussed with the Conference the undertaking in which the Commission is engaged to reexamine its functions under Chapter X of the Bankruptcy Act. He explained that this has been found to be necessary because of budgetary and other considerations, although he recognizes that substantial curtailment of the Commission's activities in these cases, by legislation or administrative determination, might have a marked effect upon the work of the courts. He submitted to the Conference the draft of a proposed questionnaire which his Commission desires to have submitted to the judges for the purpose of eliciting information which it is believed would be helpful for the determination of policy in this field. The Administrative Office was authorized to submit the questionnaire to the judges in behalf of the Securities and Exchange Commission and transmit the answers to the Commission.

Disposition of Old Records of Courts of Appeals Not of Permanent Value

The Committee appointed at the April 1954 session to consider a proposed schedule for the disposal of noncurrent records of the courts of appeals (Cf. Rep. p. 16) submitted an interim report and asked for further time to submit its final report. The request was granted.

Rules Adopted by the Court of Appeals for the Second and Sixth Circuits for Review or Enforcement of Orders of Administrative Agencies

The Courts of Appeals for the Second and the Sixth Circuits submitted to the Conference for approval pursuant to the provisions of the Act of December 29, 1950 (64 Stat. 1129; 5 U. S. C. 1041) rules adopted by those courts relating to the review and enforcement of orders of administrative agencies. The Conference accordingly approved of Rule 13 of the Second Circuit and Rule 15 of the Sixth Circuit as thus submitted.

Wages and Effects of Deceased and Deserting Seamen

The Conference was informed that the bill which it had approved, S. 2017, to provide for a method of disposing of the wages and effects of deceased and deserting seamen (Cf. Rep. Sept. Sess. 1951, p. 29) had passed the Senate during the second session of the 83d Congress but was not acted upon by the House of Representatives. The Conference reaffirmed its approval of this legislation.

Proposed Amendment to the Taft-Hartley Act

For a time last spring, the House Committee on Education and Labor had under consideration a proposed amendment to the Taft-Hartley Act which would provide that complaints of unfair labor practices would be prosecuted directly in the United States District Courts by the complainant or the United States Attorney instead of being handled at they now are by examiners of the National Labor Relations Board. At that time, the Conference by a mail vote opposed the proposed legislation. The Conference reviewed this action and it was ratified and reaffirmed.

Transfer of Cases Between the District Courts and the Court of Claims

The Director informed the Conference that he had received inquiries from the respective chairmen of the Committees on the Judiciary of the Senate and House of Representatives with regard to S. 3608 and H. R. 9346 of the 83d Congress, which were companion bills providing for the transfer of cases between the district courts and the Court of Claims. The Conference approved this proposed legislation.

Amendment to the Federal Probation Act To Make It Applicable to the District of Columbia

The Conference considered and approved the following resolution adopted by the Judicial Conference of the District of Columbia Circuit June 24, 1954:

> *Resolved by the Judicial Conference of the District of Columbia Circuit*, That it favors the enactment of legislation to make the provisions of the Federal Probation Act (sec. 3651 through sec. 3656, Title 18, United States Code) applicable to the United States District Court for the District of Columbia, and to repeal those provisions of the separate Probation Act (see secs. 101 and 102 of Title 24, D. C. Code, 1951 ed.), now applicable to the United States District Court for the District of Columbia, without, however, abolishing the separate Parole Board in the District of Columbia.
>
> *It is further resolved*, That a copy of this Resolution be presented to the Judicial Conference of the United States.

Proposed Amendment to the District of Columbia Code Regulating Bondsmen

The Conference considered and approved the following resolution adopted by the Judicial Conference of the District of Columbia Circuit June 24, 1954:

> *Resolved by the Judicial Conference of the District of Columbia Circuit*, That it favors the enactment of legislation to amend the first sentence of Section 608 of Title 23 of the District of Columbia Code (1951 ed.), relating to the regulation of bondsmen in the District of Columbia, by striking out the words "police court" and inserting in lieu thereof the words "Municipal Court for the District of Columbia", and by deleting the words "criminal divisions of the District Court of the United States for the District of Columbia" and inserting in lieu thereof the words "United States District Court for the District of Columbia."
>
> *It is further resolved*, That copies of this Resolution be presented to the Judicial Conference of the United States and to the appropriate committees of Congress.

Integration of the Bar of the District of Columbia Circuit

The Conference considered a resolution adopted by the Judicial Conference of the District of Columbia Circuit June 24, 1954, favoring in principle a proposal of legislation for the establishment of an integrated bar in the District of Columbia.

The Conference approved the principle of an integrated bar for the District of Columbia and agreed to request the Attorney General to sponsor appropriate legislation to that end.

Regulation of the Practice of Law in the District of Columbia

H. R. 9431 of the 83d Congress entitled "A Bill relating to the practice of law in the District of Columbia" was called to the attention of the Conference and referred to the Judicial Council of the District of Columbia Circuit for study and later report to the Judicial Conference of the United States if desired.

Additional Deputy Marshals

The Director of the Administrative Office was directed to take up with the Department of Justice the matter of the appointment of additional deputy marshals in districts where it appears that there are not now an adequate number of deputy marshals for the needs of the courts.

Supreme Court Digest

The Conference rescinded its action taken at the September 1948 session (Cf. Rep. p. 38), expressing its sense that the furnishing to judges of a separate digest of opinions of the Supreme Court of the United States would not be justified inasmuch as the judges were then being furnished with a combined digest of the opinions of the Federal courts including the Supreme Court.

Salaries of Judges

The Conference reaffirmed the view expressed at the April 1954 session (Cf. Rep. p. 22), that substantial increases in the salaries of the judges of the United States courts are in the interest of maintaining the efficient administration of justice and again recommends to the Congress the enactment of legislation to that end.

Committees

The Conference renewed the authorization to the Chief Justice to take whatever action he may consider desirable with respect to increasing the membership of existing committees, the filling of committee vacancies and the appointment of new committees. Subject to such action existing committees were continued. The

Conference continued the Advisory 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.

EARL WARREN,
Chief Justice.

Dated Washington, D. C., January 17, 1955.

APPENDIX

Report of Honorable Herbert Brownell, Jr., Attorney General of the United States

Mr. Chief Justice, Members of the Judicial Conference of the United States:

Section 331 of Title 28, United States Code, provides in part:

> The Attorney General shall, upon request of the Chief Justice, report to [the Judicial Conference of the United States] 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.

Pursuant to the discretion vested in the Chief Justice by this language each year, since the origin of this Conference in 1922, the Chief Justice has extended an invitation to the Attorney General to participate in the Conference. To me it affords one of the greatest honors bestowed upon the Office of the Attorney General, for it is both a privilege and a pleasure to meet with the distinguished members of this Conference, and to discuss with them the issues of current interest to the Bench, the Bar, and the Department of Justice. These conferences provide the opportunity to discuss both formally and informally the many problems of common concern, and many times problems which have seemed insurmountable have been readily resolved as a result of these meetings. Let me add, however, that this year we enjoy a state of complete unanimity of opinion with respect to the many important issues before the Judicial Conference.

Last year, I reported on eight subjects. Some of these matters, because of recent developments, require brief treatment again this year. In addition, there are several new issues which I would commend to your attention.

1. *Public Defenders and Compensation of Assigned Counsel.*— The Judicial Conference and the Department of Justice endorsed two bills in the Eighty-third Congress[1] (H. R. 398; H. R. 2091), believing that the enactment of either one would provide public defenders and assigned counsel under terms which would insure adequate representation to indigent defendants. On February 17, 1954, I had the honor to appear before a subcommittee of the House

[1] Unless otherwise stated, all bill numbers are of the 83d Congress.

Judiciary Committee and make a statement in support of these measures (see Committee Hearings, Serial No. 13, pp. 19–25). Unfortunately, the full committee reported favorably on H. R. 10158, which makes no provision for either full- or part-time public defenders but merely authorizes the district courts to allow counsel fees not to exceed $250 in cases involving capital offenses and a maximum of $100 in cases involving other felonies. I think these maximum amounts clearly inadequate and that the technique employed of setting an arbitrary ceiling most unfortunate. We should have full-time public defenders in heavily populated districts, and it seems to me that in less populated areas the court should be provided a flexible system under which it could authorize payment of counsel on a per diem basis. Certainly to provide in advance that the maximum fee that can be allowed in a capital case is $250 is most unrealistic. It could result in encouraging pleas of guilty or hasty disposition of cases without adequate investigation of the facts or law involved. While lawyers have been most generous of their time in rendering free legal service to persons unable to afford counsel, the whole purpose of legislation of this sort is to eliminate that haphazard method of procuring counsel for the indigent. If proper evaluation and presentation of a felony case would take 6 weeks, we should not limit compensation to $100—an amount scarcely sufficient to compensate the attorney for necessary expenses.

The Department of Justice will again place legislation to provide for public defenders on its legislative program. It is incumbent upon us to demonstrate the shortcomings of a bill like H. R. 10158 and to persuade the Congress to enact legislation which will insure adequate representation for the indigent.

2. *Concerning Judges*—(a) *Judicial Salaries.*—At the time of last year's Judicial Conference, a committee was studying the adequacy of judicial salaries. The Report of the Commission on Judicial and Congressional Salaries, which found that salaries "are, and for a long time have been grossly inadequate," was filed, and the recommendation incorporated into S. 1663. No action was taken on the bill in the 83d Congress.

The Department strongly favors an increase in judicial salaries. A primary consideration is ably set forth in the Report of the Commission at page 20, where it is stated:

> There have been many instances of able lawyers refusing judgeships because their lack of independent means made it unfeasible for them to accept appoint-

ment to the bench at present salaries. * * * the maintenance of the democratic tradition in this country requires that every effort be made to eliminate any tendency which might confine representative positions in our legislative branch and the judicial branch to men of wealth or whose outside interests can produce a substantial income. No citizen of modest means, possessing the ability, the high-minded purpose, and the background to serve with distinction in these high offices should ever be prevented from doing so because salaries have fallen below any fair or realistic standard.

Because present salaries are inadequate, the Department of Justice will actively support legislation which, as the Report of your Special Session in April found, is so clearly "in the interest of maintaining the efficient administration of justice * * *."

(b) *Additional Judgeships.*—The 83d Congress enacted legislation to provide 3 new circuit judgeships, 27 new district court judgeships, including 6 on a temporary basis, and made 3 judgeships permanent which heretofore had been only temporary. These 33 new posts represent much that was sought and urgently needed. I share your dismay in the failure of Congress to appropriate money to make it possible to fill these positions immediately. I feel certain that Congress will correct this deficiency early next year. However, as the Report of the Administrative Office of the United States Courts points out, the bill fails to provide several judgeships critically needed, particularly three more for the Southern District of New York, where the case load per judge is overwhelming, the dockets overflowing, and the time lag between filing and final disposition of a case is now 45 months. It has been often observed that justice delayed is justice denied, and it needs no argument on my part to persuade that a time lag of almost 4 years in the Southern District of New York must result in the denial of substantial justice in all too many cases. The solution lies in expanding the courts to permit them to handle all cases in prompt and orderly fashion. The statistics in that Report also clearly justify the creation of additional judgeships in other Districts, particularly in the Eastern District of Pennsylvania, the Northern District of Ohio, and the Third Division of the Territory of Alaska. S. 2910, which was not acted on in the 83d Congress, would have provided these and other positions. It should be reintroduced and receive our joint endorsement.

(c) *Pensions for Widows of Federal Judges.*—Public Law 702 of the 83d Congress provides pensions for the widows of Supreme Court Justices only. As such, the bill falls far short of the recommendation of this Conference, by failing to make provision for

the widows of all Federal judges. There can be no doubt but that an amendment should be introduced to rectify this omission, and that the Department of Justice will support such a bill.

(d) *Retirement of Judges.*—The enactment of Public Law 294 had the effect of repealing subsection (c) of Section 371 of Title 28, United States Code, which provided for the appointment of an additional judge when a disabled judge failed to retire and the President found him disabled and that an additional appointment was necessary for the efficient dispatch of court business. S. 2910, referred to above, would restore Section 371 (c) in its original form.

However, at its meeting on April 15–16, 1954, the Special Session of the Judicial Conference renewed its prior recommendation that the law be amended so as to authorize the President to appoint an additional judge whenever a permanently disabled judge, appointed to hold office during good behavior and eligible to retire on account of permanent disability under Section 372 of Title 28, failed to do so, even though not eligible to retire on account of age and length of service. The Special Session further recommended that a certificate of disability should be executed by members of the judicial branch before the President could make another appointment, but that the President should retain the duty to find that the judge, by reason of his disability, could not discharge his duties so that the appointment of an additional judge was necessary.

In a letter to the Chairman of the Senate Judiciary Committee, dated May 11, 1954, the Department concurred in the recommendations of the Judicial Conference and this legislation should again be placed before Congress.

3. *Rules for Review of Decisions of the Tax Court of the United States.*—Public Law 538 of the 83d Congress provides that the Supreme Court shall have power to prescribe, and from time to time amend, uniform rules for the filing of petitions or notices of appeal, the preparation of records, and the practice, forms, and procedure in the several United States Courts of Appeals in proceedings for review of decisions of the Tax Court of the United States. The Department of Justice conducts approximately 400 tax cases each year in the several courts of appeals, and our experience with the present divergent rules in these courts indicated the need for the promulgation of uniform rules. It is our opinion

that such rules will result in substantial savings in both time and effort.

The only opposition to the measure was that expressed by the late Chief Justice of the United States, Chief Justice Vinson, who felt that the Supreme Court should not be called upon to act in this rulemaking field, and that the courts of appeal were better adapted to determine, upon the basis of actual experience, what rules of procedure were needed. This Conference concurred in his position. However, the Supreme Court has previously promulgated rules for the several District Courts of the United States and has prescribed rules of procedure for the admiralty courts. In my opinion, the Supreme Court is eminently qualified to establish uniform rules to govern appeals from the Tax Court of the United States. Presumably a committee will be appointed to study the rules already in effect and to make recommendations for adopting the best features of them. In this connection the Department of Justice stands ready to aid the Court in any way we may be of assistance.

4. *Appellate Review of Federal Criminal Sentences.*—Judge Sobeloff had hoped that he could be here this morning and asked that I extend to you his apology for being unavoidably absent. In a speech before the criminal section of the American Bar Association, Judge Sobeloff discussed what to me is a most important subject. I will take the liberty of leaving several copies of it with you, as I view it as a most scholarly presentation of a most challenging subject.

Pointing out the many safeguards which are accorded to persons accused of crime to insure due process of law, the Solicitor General noted that in Federal courts one of the most important steps is nonreviewable on appeal—the question of the proper sentence or final disposition of the case. Here the trial judge enjoys almost uncontrolled discretion; he may suspend sentence, place on probation, impose a nominal fine or a short prison term, or he may, as they say, "Throw the book" at the defendant. There are few, if any, guideposts for the trial judge to follow, for each case presents unique problems. As Judge Sobeloff said: "The truth is that passing sentence is too delicate and too powerful a function to lodge in any man's hands entirely unsupervised."

There is no one ideal solution to this problem. This Conference, I know, has in the past favored the adoption of a system of indeterminate sentences, and there is much to be said for that ap-

proach as the ultimate solution. However, it would entail the establishment of new and, perhaps, expensive procedures, and considerable time might elapse before it could be put into operation. I commend to you for your earnest consideration the suggestion of making sentences reviewable on appeal, with the power in the appellate court either to increase or decrease the punishment as the facts of the case might require. It would not, in my opinion, add materially to the work of the courts, for, as the Solicitor General observed, "the existence of the power (of review) would make its exercise unnecessary in all but a few cases."

5. *Attorney General's Committee to Study the Antitrust Laws.*—A development which may result in easing the burden on court calendars is the study now being made by my Antitrust Committee. There are at least three major areas in which it is anticipated that the Report will make useful recommendations directly affecting this complex and often lengthy litigation.

First, the group aims, through its review of statute and case law, to clarify antitrust doctrines and thus suggest positive guides for businessmen. By so doing, it is hoped that unwitting violations and resulting trials will be cut down.

Second, this group is concerned with procedures for speeding the progress of antitrust litigation by suggesting means for counsel to aid the court in sharpening issues for trial and shortening litigation. A limitation on the period of relevant inquiry is but one of the many possible means under study.

Finally, the work may in some measure respond to the demands of at least a few district judges for some coherent relation between the legal and economic concepts of antitrust by attempting to relate these two disciplines to antitrust problems. Bringing together these two bodies of learning may facilitate the court's handling of antitrust litigation in determining violations and in the preparation of proper orders and decrees.

A tentative final draft of the Committee Report was presented to all members of the Committee in mid-August. That draft is now being revised and a modified report will be presented to the next full Committee meeting in November. The Committee's goal is to complete its Report before the end of the year.

6. *Federal Youth Corrections Act.*—It is always a pleasure to be able to report results. I have that pleasure now.

In February of this year, Mr. James V. Bennett, the able Director of the Bureau of Prisons, certified the availability of facilities at

Ashland, Kentucky, thus enabling us to put into effect, for the Eastern half of the United States, the long awaited program for special custody, training, treatment, and supervised release of Federal juvenile offenders. That program, as you know, is the outgrowth of splendid planning and hard work by the American Law Institute and this Judicial Conference. The first commitment to Ashland was made shortly after Mr. Bennett's certification in February, and as of September 10, 1954, 31 of the 51 districts where the Act applies have availed themselves of its provisions. One hundred and fifty-eight youthful offenders have been committed under its terms. I am confident that this program, designed to salvage and rehabilitate youngsters who violate Federal laws, will pay ever increasing dividends in human beings capable of assuming positions of confidence and trust in society.

7. *The President's Conference on Administrative Procedure.*—Judge Prettyman, in his address to the American Bar Association in August of 1953, described, in terms which bear repeating, the origin of this important Conference. He said:

> In the year 1949 the subject came to the attention of the Judicial Conference of the United States. As is the established custom in these matters, the Conference appointed a Committee, the Committee suggested an Advisory Committee, the Advisory Committee reported to the Committee, the Committee reported to the Conference, and the Conference recommended that the President of the United States call a Conference. He did so.

You will remember that President Eisenhower called upon the Attorney General on April 29, 1953, to implement this recommendation, and that thereafter invitations were extended to 56 departments and agencies having adjudicatory and rulemaking functions. In addition, members of the Federal judiciary, Federal trial examiners, and a number of prominent members of the Bar were invited to participate in the Conference.

You will also recall that on November 23, 1953, the Conference issued its first Report in which it recommended to the President the establishment of an Office of Administrative Procedure, to the Judicial Conference that uniform rules be established to govern the review of administrative proceedings, and to the several interested agencies, 16 specific suggestions aimed at eliminating delays, undue expenses, and voluminous records. Many of these recommendations have already been put into effect and others are now reaching the stage where they will shortly be ready for adoption.

One of these matters now approaching the stage of final action is a legislative proposal to permit the transmission of an abbreviated record upon review and enforcement of agency orders by the courts of appeal. In commenting on this recommendation, the President's Conference Report said:

> Although the filing of an abbreviated record is permitted by certain statutes governing particular agencies (citations), other statutes are silent in this connection (citations), while still others expressly preclude any procedure for filing an abbreviated record (citation). Accordingly, it appears that implementing legislative amendments to the various statutes will be necessary * * *.

Legislation to accomplish this purpose has now been prepared by the President's Conference, and by the Committee on Revision of the Laws of the Judicial Conference of the United States. Judge Maris, Chairman of the Committee on Revision of the Laws, requested my views on the bill drafted by that Committee. My suggestions were all of a technical nature, and in my letter to him of March 8, 1954, I gave my support to the proposal "as a laudable effort to eliminate unnecessary expenditures in time and money in the review of agency orders by the courts of appeal." I hope legislation of this sort will be introduced and favorably acted on by the next session of Congress.

At its plenary sessions in October, the President's Conference on Administrative Procedure will take up two subjects of great importance; the question of the status of hearing officers and the desirability of adopting uniform rules of practice in administrative agencies. With respect to this latter subject, I received just yesterday copies of the Recommendations and Report of the Committee on Uniform Rules. As you know, this study resulted, in part, from my recommendation that the question be thoroughly examined. While I have not yet had the opportunity to fully consider the Report or the Recommendations, I was most pleased that the Committee has concluded that, in at least nine areas such as computation of time, service of process, subpenas, official notice, and presumptions, uniformity is both feasible and desirable. The Committee concludes its Report on this note of caution:

> No matter how uniform rules are formulated and put into effect, three practical principles should be kept in mind: (1) the formulation of such rules must be preceded by thorough spade work; (2) they must be evolved in close cooperation with the agencies and the bar; (3) there must be provision for continuous study and revision, such as we have for the Rules of Civil Procedure, rather than a one-shot operation.

I know that this Conference will be keenly interested in this Report. You may wish to consider at this meeting the desirability of establishing a body, such as an Office of Administrative Procedure, to provide the continuing review of these rules which will be so essential.

In closing this report I would like to express the thanks of General Swing, our Immigration Commissioner, and myself for the cooperation and assistance of the Chief Justice, the personnel in the Administrative Office of the Courts, and the many Federal judges and clerks in preparing for the Special Naturalization Ceremonies to take place on Veterans' Day, November 11, when it is conservatively estimated that over 50,000 persons will become citizens of the United States.

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