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

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SEPTEMBER 19–20, 1956

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 JUDICIAL CONFERENCE OF THE UNITED STATES, SEPTEMBER SESSION, 1956

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 19, 1956 and continued in session on September 20. The Chief Justice presided and members of the Conference were present as follows:

District of Columbia Circuit	Chief Judge Henry W. Edgerton
First Circuit	Chief Judge Calvert Magruder
Second Circuit	Chief Judge Charles E. Clark
Third Circuit	Chief Judge John Biggs, Jr.
Fourth Circuit	Chief Judge John J. Parker
Fifth Circuit	Chief Judge Joseph C. Hutcheson
Sixth Circuit	Chief Judge Charles C. Simons
Seventh Circuit	Chief Judge F. Ryan Duffy
Eighth Circuit	Circuit Judge John B. Sanborn (Designated by the Chief Justice in place of Chief Judge Archibald K. Gardner)
Ninth Circuit	Chief Judge William Denman
Tenth Circuit	Chief Judge Sam G. Bratton
Court of Claims	Chief Judge Marvin Jones

The Conference welcomed Chief Judge Marvin Jones who attended as a member of the Conference for the first time under the provisions of Public Law 659 of the 84th Congress, approved July 9, 1956, making the Chief Judge of the Court of Claims a member of the Conference.

The Attorney General, Herbert Brownell, Jr., the Deputy Attorney General, William P. Rogers, and the Solicitor General, J. Lee Rankin, attended the morning session on the opening day of the Conference.

Circuit Judges Orie L. Phillips, retired, Albert B. Maris, Alfred P. Murrah, and District Judges Harry E. Watkins and Sam M. Driver, attended all or some of the sessions.

The Assistant Director of the Administrative Office of the United States Courts, 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 the Probation

Division, Louis J. Sharp, and other members of the staff of the Administrative Office attended the sessions of the Conference.

The following resolution was adopted:

> *RESOLVED,* that the Conference is distressed to hear of the illness of Mr. Chandler, for whom all of us entertain the highest sentiments of affection and esteem, and expresses the hope that he may soon be entirely restored to health and strength.
>
> The Conference notes, with regret, that Mr. Chandler is retiring from the position of Director of the Administrative Office as of October 31st and desires to record its appreciation of the fine service he has rendered in that capacity and to wish for him many years of health and happiness in his retirement.

REPORT OF THE ATTORNEY GENERAL

The Attorney General presented a report to the Conference which 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 seventeenth annual report on the activities of his office for the fiscal year ended June 30, 1956, 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.—The number of cases filed in the courts of appeals in the fiscal year 1956 was slightly less than the number filed during the previous fiscal year. The cases terminated increased and exceeded the cases commenced by 146. The general trend in the volume of cases begun in these courts has been upward since 1947 which probably is the result of an increase of 49 district judgeships since that year and a very substantial increase in the number of trials in

the district courts. The slight decrease in appeals in 1956 is not enough to indicate a change in trend.

Cases begun were 3,588 and the number terminated, 3,734, leaving 2,029 pending at the end of the year. The number of terminations was the largest in at least 17 years and amounted to 44 cases heard or submitted per judgeship.

The median period from docketing to disposition of cases heard or submitted was 7.4 months, about the same as last year. There was a wide variation among the different circuits in their promptness in disposing of cases, varying from a median of 3.5 months from filing to disposition in the Fourth Circuit to 13.5 months in the Ninth Circuit. The latter court has reduced its pending cases during the past 2 years from 584 to 348 but at the end of the last fiscal year reported a number of cases under submission more than 3 months.

District courts.—Civil cases terminated in the district courts increased more than 8,700 over the previous year and the backlog was reduced by 5,300 cases, the only substantial reduction except for the year 1948 in 16 years. Cases commenced increased about 3,000 over 1955, a continuation of a long time upward trend. The improved condition was the result of the work of judges in many districts but was most apparent in some of the congested metropolitan areas and particularly in the Southern District of New York. The remarkable achievement of that court in reducing its pending civil docket by over 2,000 cases and its calendar from 5,630 cases to 1,800 during the year is set forth in detail in the report of the Administrative Office. This accomplishment had an important part in the excellent showing made by the courts as a whole and the methods used there are being studied and effectively employed in other courts.

Civil actions filed in all districts in 1956 rose to 62,394 from 59,375 in 1955, the number terminated was 67,700 and the pending caseload went down to 63,526.

The number of cases between private individuals has continued to increase. About two-thirds of the civil cases filed and almost three-fourths of the number pending are private cases. Since on the average they are occupying much more time of the judges per case than actions to which the Government is a party, a constant increase in their number is of primary significance. It is mainly the result of a continuous rise in cases under the diversity of citizenship jurisdiction, including steadily growing motor vehicle accident cases, personal injury actions of other types and contract

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actions. As long as the number of motor vehicles on the road continues to expand, the volume of business continues to grow and the population to increase, it is reasonable to expect still larger numbers of these types of cases in the future. This year for the first time since 1943 more private cases were terminated than were commenced but the decrease was almost entirely the result of the excellent record in the Southern District of New York.

Although 58 out of 94 district courts were able to terminate more civil cases than were filed during the fiscal year 1956 the median time for disposition of cases tried continued to increase. The figure in 1956 was 15.4 months from filing to disposition compared to 14.6 months in 1955. Likewise the median period from issue to trial increased from 9.1 months to 10.3 months. As explained in the report of the Administrative Office, where improvement is occurring the reduction in the median time intervals tends to lag behind the decrease of the pending caseload, so that in spite of these longer intervals there has been a definite improvement in the civil dockets of the district courts.

There was little change in the number of criminal cases filed except for a drop of some 6,000 in the number of immigration cases, occurring principally in the five districts on the Mexican Border. Without including these proceedings, the total criminal cases filed were 25,211. Terminations of all criminal cases exceeded the number commenced by 1,400 leaving 7,243 pending on June 30, 1956 of which number a little more than one-fifth could not be tried because of fugitive defendants.

Bankruptcy cases continued to increase but the margin over 1955 was only some 2,700 cases or 4.5 percent, compared with an increase of 11.8 percent in the previous year. The number of terminations was also greater but was still about 3,800 short of the cases begun bringing the pending caseload to a higher level than at any time in recent years. The figures for 1956 were: cases filed, 62,086; cases terminated, 58,314 and cases pending at the end of the year, 59,364.

Cases and motions under advisement.—A list of 13 cases and motions under advisement more than 6 months on September 1st was submitted to the Conference and referred to the chief judges of the circuits concerned, for attention of the Judicial Council of the circuit where appropriate.

ADDITIONAL JUDGESHIPS RECOMMENDED

In its consideration of the matter of need for additional judgeships the Conference had before it a report made by the Com-

mittee on Judicial Statistics to the Committee on Court Administration, at the request of the latter Committee, which set out the number and location of additional judgeships which in the Committee's judgment, after consideration of statistical data supplied by the Administrative Office, would be required to bring the dockets to a condition where the normal case could be tried within six months of filing. The Committee on Court Administration informed the Conference that it had considered the report of the Committee on Statistics and agreed with it with one modification. The Conference also received and carefully considered the views of its members individually with regard to conditions in their respective circuits.

The Conference thereupon reaffirmed its recommendations made at the September 1955 session with respect to the creation of additional judgeships (Conf. Rept. p. 5). It also recommended the creation of the following judgeships not heretofore recommended:

1 additional circuit judgeship for the Fourth Circuit.
1 additional district judgeship for the District of Massachusetts.
1 additional district judgeship for the District of Connecticut.
1 additional district judgeship for the Eastern District of New York.
1 additional district judgeship for the Southern District of New York.
1 additional district judgeship for the Eastern District of Pennsylvania.
1 additional district judgeship for the Western District of Pennsylvania.
1 additional district judgeship for the Eastern and Western Districts of South Carolina.
1 additional district judgeship for the Southern District of Florida.
1 additional district judgeship for the Eastern and Western Districts of Louisiana.
1 additional district judgeship for the Southern District of Texas.
1 additional district judgeship for the Northern District of Ohio.
1 additional district judgeship for the Southern District of Ohio.
1 additional district judgeship for the Eastern District of Tennessee.
1 additional district judgeship for the Northern District of Illinois.
1 additional district judgeship for the Western District of Missouri.

A complete list of the present Judicial Conference recommendations of additional judgeships, including the former recommendations that the Conference voted to reaffirm is as follows:

Courts of Appeals:

Second Judicial Circuit.—The creation of one additional judgeship.

Fourth Judicial Circuit.—The creation of one additional judgeship.

District Courts:

First Judicial Circuit—District of Massachusetts—The creation of one additional judgeship.

Second Judicial Circuit—District of Connecticut.—The creation of two additional judgeships.

Eastern District of New York.—The creation of two additional judgeships.

Southern District of New York.—The creation of four additional judgeships.

District Courts—Continued

Third Judicial Circuit—Eastern District of Pennsylvania.—The creation of three additional judgeships.

Western District of Pennsylvania.—The creation of one additional judgeship.

Fourth Judicial Circuit—District of Maryland.—The creation of one additional judgeship.

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

Eastern and Western Districts of South Carolina.—The creation of one additional judgeship.

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

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

Eastern and Western Districts of Louisiana.—The creation of one additional judgeship.

Southern District of Mississippi.—The creation of one additional judgeship.

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

Southern District of Texas.—The creation of one additional judgeship.

Western District of Texas.—The creation of one additional judgeship.

Sixth Judicial Circuit—Eastern District of Michigan.—The creation of one additional judgeship.

Northern District of Ohio.—The creation of two additional judgeships.

Southern District of Ohio.—The creation of one additional judgeship.

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

Seventh Judicial Circuit—Northern District of Illinois. The creation of one additional judgeship.

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

Western District of Missouri.—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 Colorado.—The creation of one additional judgeship.

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

The Conference also recommended that the following existing temporary judgeships be made permanent:

District Courts:

Third Judicial Circuit—Western District of Pennsylvania.—The temporary judgeship to be made permanent.

Sixth Judicial Circuit—Middle District of Tennessee.—The temporary judgeship to be made permanent.

Tenth Judicial Circuit—District of New Mexico.—The temporary judgeship to be made permanent.

District of Utah.—The temporary judgeship to be made permanent.

The Conference recommended that the existing judgeship for the Eastern and Western Districts of Washington be made a judgeship for the Western District of Washington.

The following recommendations with regard to the District of Alaska, to be effected by an amendment to section 4 of the Organic Act of the Territory (31 Stat. 322; Title 48 U. S. C. sec. 101) were adopted:

1. That the judge assigned to the Second Division be assigned to the Second and Fourth Divisions with the right to reside in either Division.

2. That the district judge who is senior in length of judicial service in the Territory be the chief judge of the district court with power to designate and assign temporarily any district judge to hold sessions in a division other than that to which he has been assigned by the President.

3. That the Chief Judge of the Ninth Circuit be given power to assign a circuit or district judge of the Ninth Circuit, and the Chief Justice of the United States to assign any other circuit or district judge, with the consent of the judge assigned, and of the chief judge of his circuit, to serve temporarily as a judge of the district court for the Territory of Alaska whenever it is made to appear that such an assignment is necessary for the proper dispatch of business.

The Conference agreed to invite Circuit Judge Chambers of the Ninth Circuit to attend its next session to give the Conference the benefit of his views concerning the need of an additional district judgeship for the District of Arizona.

A proposal to transfer Kittitas, Klickitat, and Yakima counties from the Southern Division of the Eastern District of Washington to the Northern Division of the Western District was deferred for consideration to a later meeting of the Conference.

APPOINTMENT OF AN ADDITIONAL JUDGE WHEN A DISABLED JUDGE FAILS TO RETIRE

The Conference reaffirmed its recommendation made at several previous sessions that the repealed statute which permitted the President to appoint an additional judge when a disabled judge eligible to retire failed to do so and the President found that such an appointment was necessary for the efficient dispatch of business, be amended in the form recommended by the Conference and reenacted. (Conf. Rept., March 1956 Sess., p. 20, and Reports there cited). The recommendation of the Conference was embodied in H. R. 4792 of the 84th Congress which passed the House of Representatives but was not acted upon by the Senate.

PROPOSED DESIGNATION OF RETIRED JUDGES AS "SENIOR JUDGES"

The Conference reaffirmed its recommendation that Sec. 371 (b) of Title 28, United States Code, be amended so as to designate a judge taking advantage of the retirement provisions as a "senior judge" instead of a "retired judge" as at present and to provide that a roster to be known as the "Roster of Senior Judges" be maintained by the Chief Justice of retired judges willing and able to undertake special judicial duties upon assignment by him when and as needed (Conf. Rept. March 1956 Sess., p. 20, and Reports there cited). This proposed legislation was embodied in H. R. 6248 of the 84th Congress, which passed the House of Representatives but was not acted upon by the Senate.

JOINT REPORT OF THE COMMITTEE ON SUPPORTING PERSONNEL AND THE COMMITTEE ON COURT ADMINISTRATION

Chief Judge Biggs, who is chairman of the Committee on Supporting Personnel and also chairman of the Committee on Court Administration, made a joint report for the two Committees. In meeting together and making a joint report the Committees followed the practice initiated last year and continued prior to the March 1956 session of the Conference (Conf. Repts. Sept. 1955 Sess. p. 9; March 1956 Sess. p. 2).

Reclassification of Positions of Librarians

The Committee on Supporting Personnel, with the concurrence of the Committee on Court Administration, recommended that the following classifications and minimum standards of qualifications be established in the library service of the courts:

Library–Attendant GS–3

Minimum qualifications.—Ability under immediate supervision to perform routine tasks including keeping orderly arrangement of books; returning books not in use to shelves; charging out and seeing that books are returned within reasonable time; keeping current the loose-leaf services, pocket-parts, and advance sheets.

Library-Clerk GS–4

Minimum qualifications.—Ability under immediate supervision to perform work requiring stenographic or clerical training or experience in addition to duties of library-attendant as required.

Assistant Librarian GS–7

Minimum qualifications.—Considerable administrative or executive experience involving duties demonstrating ability to handle administrative and practical details of law library with minimum of supervision; sufficient legal training or experience to be able to perform all routine duties of law librarian.

Librarian GS–8

Minimum qualifications.—Professional training in library science consisting of or equivalent to that represented by completion in an educational institution of a full course in library science; considerable administrative or executive experience involving duties demonstrating ability to handle administrative and practical details of a law library without supervision, conferring with judges as to policy when necessary; sufficient legal training or experience to be able to perform all routine duties of a law librarian including simple legal research; ability to plan and supervise work of others and to perform such work when necessary; and ability to handle all library correspondence and other necessary typing.

Senior Librarian GS–9

Minimum qualifications.—Professional training in library science consisting of or equivalent to that represented by completion in an educational institution of a full course in library science; considerable administrative or executive experience involving duties demonstrating ability to handle administrative and practical details of a law library without supervision, conferring with judges as to policy when necessary; professional training in law equivalent to that represented by graduation from a law school or 12 years' experience as a law librarian with the qualifications set forth in grade GS–8, including ability to perform intricate legal research and make adequate reports thereon when requested by the judges and to assist law clerks in problems of research; ability to plan and supervise work of others and to perform such work when necessary; and ability to handle all library correspondence and other necessary typing.

The recommendation was adopted by the Conference.

Reclassification of Secretaries to Judges

The Committee on Supporting Personnel reported that it had considered the resolution of the Judicial Conference of the Ninth Circuit that provision be made for classification of secretaries to judges in grades GS–11 and GS–12. The Committee pointed out that this had been considered at length at a previous meeting, a report having been submitted to the Judicial Conference and approved by it at the March 1956 session, under which, when appropriate action is taken by Congress, grades GS–9 and GS–10 will become available for qualified secretaries as compared with GS–8 which is the top grade in which they presently may be classified regardless of their length of experience (Conf. Rept. March 1956 Sess., pp. 4–7). The Committee on Supporting Per-

sonnel, the Committee on Court Administration concurring, recommended that the Conference adhere to its previous action, and the recommendation was adopted by the Conference.

Reclassification of Positions in the Offices of the Clerks of the Courts of Appeals

At the March 1956 session, the Conference directed the Administrative Office to examine the grades and salaries of positions in the offices of the clerks of the courts of appeals and report to the Committee on Supporting Personnel. This Committee informed the Conference that it had received the report of the Administrative Office, and, after consideration, with the concurrence of the Committee on Court Administration, recommended that the position descriptions and classifications attached to the report be adopted as guides to the Administrative Office in classifying these positions. The Conference adopted the recommendation, with the understanding that the grades specified are not applicable to the office of the Clerk of the Court of Appeals for the District of Columbia which has been the subject of separate action by the Committee on Supporting Personnel and the Conference.

Relinquishment by Chief Judges of Their Administrative Duties at Age Seventy

After receiving the report of the Committee on Court Administration at the March 1956 session, the Conference tentatively approved the following resolution and referred it to the circuit and district judges for an expression of views pursuant to the "Phillips Plan" (Jud. Conf. Rept. Sept. 1945 Sess. pp. 9, 10):

> "*Resolved,* that the Judicial Conference recommend to Congress the enactment of legislation which will provide that a chief judge of a circuit or a chief judge of a district court shall cease to be chief judge of his circuit or his court at the age of 70 provided however that the Act shall not become effective until one year after its passage." (Jud. Conf. Rept. March 1956 Sess. p. 10).

The Conference was informed that seven of the Judicial Conferences of the Circuits approved the proposal and four took no action.

After further consideration the Conference reaffirmed its approval of the quoted resolution and voted to recommend to Con-

gress for enactment a draft of proposed legislation reported by the Committee on Court Administration with the concurrence of the Committee on Supporting Personnel as follows:

A BILL To provide that chief judges of circuits and district courts shall cease to serve as such upon reaching the age of 70.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 45 of title 28 of the United States Code is amended to read as follows:

"(a) The circuit judge in regular active service who is senior in commission and under 70 years of age shall be the chief judge of the circuit. If all the circuit judges in regular active service are 70 years of age or older the youngest shall act as chief judge until a judge has been appointed and qualified who is under 70 years of age."

SEC. 2. Subsection (a) of section 136 of title 28 of the United States Code is amended to read as follows:

"(a) In each district having more than one judge the district judge in regular active service who is senior in commission and under 70 years of age shall be the chief judge of the district court. If all the district judges in regular active service are 70 years of age or older the youngest shall act as chief judge until a judge has been appointed and qualified who is under seventy years of age."

SEC. 3. The amendments to sections 45 and 136 of title 28 of the United States Code made by this Act shall take effect at the expiration of one year from the date of enactment of this Act.

METHODS OF SELECTION OF CHIEF JUDGES OF CIRCUITS AND DISTRICT COURTS

The Committee on Court Administration informed the Conference that it was not yet prepared to make a report on the subject of the various methods proposed for selection of chief judges. The Conference granted the Committee further time for consideration.

JUDICIAL VACATIONS

A report of the Committee on Court Administration on the subject of vacations of judges was received by the Conference at the

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March 1956 session, (Conf. Rept. p. 11) and circulated for an expression of views under the "Phillips Plan" (Jud. Conf. Rept. Sept. Sess. 1945, pp. 9, 10). After consideration of the expressions received, and a recommendation of the Committee on Court Administration that the Conference request the Judicial Councils of the respective Circuits to consider the matter of excessive vacations in their respective Circuits, if any there be, and take appropriate action in respect thereto, the Conference adopted the following resolution:

> The Conference declares it to be the policy of the courts of the United States that in those circuits or districts in which the disposition of judicial business is not upon a current basis, judges' vacations should not exceed one month per annum, and the Conference requests the Judicial Councils of the respective circuits to inquire into the matter of vacations, and if any be excessive, to take appropriate action in respect thereto.

Disqualification of a Judge for Bias or Prejudice

Judge Biggs informed the Conference that the two Committees had given consideration to S. 3111 of the 84th Congress, introduced by Senator Watkins of Utah, relating to the disqualification of a judge on the ground of bias or prejudice, and that he had been authorized to appoint a subcommittee to give further study to the subject and report back as soon as possible.

Law Clerks and Secretaries of Judges

The Conference reaffirmed its recommendation, made at the March 1956 session (Conf. Rept. p. 5) that 28 U. S. C. sec. 752 be amended to read as follows:

> "Law clerks and secretaries:
>
> "District judges may appoint necessary law clerks and secretaries."

As stated in the previous report of the Conference, this recommendation would make the statutory authorizations for law clerks and secretaries for district judges identical with those now contained in 28 U. S. C. sec. 712 for circuit judges. It would eliminate the present requirement for a certificate of necessity by the chief judge of his circuit for the appointment of a law clerk by a district judge.

Also, it would permit those judges who wished to do so to have the services of additional employees at lower grades within the limitation upon the aggregate salaries of law clerks and secretaries in place of one law clerk and one secretary at the maximum grades.

Membership of District Judges in the Judicial Conference of the United States

A proposal recommended by the Committee on Court Administration with concurrence of the Committee on Supporting Personnel was considered at the March 1956 Session that legislation be recommended to provide for membership on the Judicial Conference of one district judge from each of the eleven circuits to be elected for a term of 3 years by the circuit and district judges of the circuits at the annual circuit conferences (Conf. Rept. p. 11). The Conference directed that it be circulated among the judges for an expression of views pursuant to the "Phillips Plan" (Jud. Conf. Rept. Sept. 1945 Sess. pp. 9, 10). The Committee on Court Administration reported that the proposal was approved in seven circuits and disapproved in one while three circuits took no action.

The Conference approved the proposal that provision be made by legislation for membership on the Conference of one District Judge from each circuit and recommended the enactment by Congress of the following bill for that purpose:

A BILL To amend section 331 of Title 28, United States Code, to provide representation of district judges on the Judicial Conference of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first two paragraphs of section 331 of title 28, United States Code, are amended so as to constitute three paragraphs reading as follows:

"§ 331. Judicial Conference of the United States.

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

"The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 332 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth and eighth circuits shall choose a district judge to serve for 2 years and the judges in the third, sixth, ninth and District of Columbia circuits shall choose a district judge to serve for 3 years.

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

Fees of United States Commissioners

The Conference reaffirmed its recommendation of legislation for an appropriate increase in the fees of United States Commissioners. At the March 1956 Session, the Conference, upon the recommendation of the Committee on Supporting Personnel, with a concurring advisory vote by the Committee on Court Administration, recommended an increase in the fee schedule of Commissioners along lines contained in a report made by the Administrative Office within a maximum limit of $10,500 per year (Conf. Rept. p. 8). This proposal was embodied in a bill, H. R. 10949 of the 84th Congress, which passed the House of Representatives but was not acted upon by the Senate.

Pre-trial Conferences

The Committee on Court Administration, with the Committee on Supporting Personnel concurring, informed the Conference that

it was of the opinion that the universal use of pre-trial procedure in civil cases would greatly facilitate the dispatch of the business of the courts, and it therefore recommended that the Conference recommend to the Supreme Court an amendment to Rule 16 of the Federal Rules of Civil Procedure under which the court in every civil action prior to trial would direct the attorneys for the parties to appear before it for a pre-trial conference.

Judge Murrah, chairman of the Committee on Pre-trial Procedure, told the Conference that his Committee recommended such an amendment to Rule 16 with an exemption as to a particular division or court seat only by the affirmative action, through general or special order, of the Judicial Council of the circuit, determining that the purpose of holding pre-trial conferences therein would be defeated by excessive expense or other good cause.

After consideration, the Conference adopted the following resolution:

> *Resolved,* That it is the sense of the Conference that pre-trial should be used in every civil case before trial except in extraordinary cases where the district judge expressly enters an order otherwise.

Diversity of Citizenship Jurisdiction

Judge Biggs requested and was given leave of the Conference to withdraw for further consideration and report at a later meeting of the Conference all recommendations of the Committee on Court Administration relating to amendment of the diversity of citizenship jurisdiction of the district courts, restriction of jurisdiction in State Workmen's Compensation Act cases, and compulsory arbitration of automobile negligence cases.

Appointment and Compensation of Bailiffs

The Conference, upon the recommendation of the Committee on Supporting Personnel with the Committee on Court Administration concurring, reaffirmed its recommendation made at the March 1955 Session that the power of employing bailiffs be transferred from the marshals to the district judges in whose courts they are to serve and that bailiffs so employed be specifically vested with the powers of a deputy United States Marshal in the performance of their duties (Conf. Rept. p. 8). To accomplish this purpose, amendment of Title 28, United States Code will be required,

in which event the transfer of appropriations for the compensation of bailiffs from the Department of Justice to the court appropriations will follow automatically.

Minimum Standards of Qualifications for Probation Officers

Upon the recommendation of the Committee on Supporting Personnel, with the concurrence of the Committee on Court Administration, the Conference renewed its recommendation that appropriate legislation be enacted to empower the Conference to promulgate minimum standards which must be met by all probation officers to be appointed in the future. This recommendation was adopted at the September 1955 Session of the Conference (Conf. Rept. p. 11).

Use of Court Facilities by Other Agencies of the Government

Judge Biggs called the attention of the Conference to the fact that at a recent hearing before the Senate Committee on Appropriations the statement had been made that some courts had shown reluctance to permit the use of court facilities in public buildings by other Government agencies for official purposes when not in use by the courts and that this had been the subject of comment in the Committee's Report on the Appropriation Bill for the courts for the current fiscal year.

The Conference, on motion of Judge Biggs, agreed that the Chief Judges should call this matter to the attention of the district judges in their respective circuits to the end that court rooms and facilities may be made available for appropriate use by all Government agencies to the extent that such employment will not interfere with their primary use by the courts.

Additional Matters Referred to the Committee on Court Administration

1. A recommendation of the Judicial Conference of the Ninth Circuit that "by rule or legislation the presiding judges of divisions or in banc hearings of the Courts of Appeals be required to make quarterly reports of the pendency of their submitted cases, such as are now required of the district judges" was referred to the Committee on Court Administration for consideration.

2. The proposed legislation contained in a Bill (S. 3744 of the 84th Congress) entitled "A Bill To establish a United States Court of Appeals for Patents, and for other purposes" was referred to the Committee on Court Administration for consideration.

SUPPORTING PERSONNEL OF THE COURT OF CLAIMS

On motion of Chief Judge Jones, the Conference adopted the following resolution:

> *Resolved,* that it is the sense of the Judicial Conference that the grades and salaries of the supporting personnel of the Court of Claims, not otherwise fixed by law, should correspond with the grades and salaries of comparable positions of the supporting personnel of the other United States Courts.
>
> The Conference approves such revision of the appropriation estimates of the Court of Claims as may be necessary to effectuate this resolution.

The Conference authorized the Committee on Supporting Personnel to consider the grades and salaries of the supporting personnel of the Court of Claims.

DUTIES OF PROBATION OFFICERS UNDER THE FEDERAL YOUTH CORRECTIONS ACT

The Administrative Office was instructed to inform the Probation Officers that it is the sense of the Conference that they should cooperate to the fullest extent with the Department of Justice in the administration of the Federal Youth Corrections Act with respect to the supervision of youth offenders as required by Title 18, U. S. C., § 5019, and making reports to the Youth Correction Division concerning such offenders as required by § 5016 of that Title.

UNITED STATES COMMISSIONERS FOR CUMBERLAND GAP NATIONAL HISTORICAL PARK

The attention of the Conference was called to Public Law 793 of the 84th Congress approved July 25, 1956, providing for the appointment of two United States commissioners for Cumberland Gap National Historical Park, one with jurisdiction limited to the portion of the park situated in Kentucky to be appointed by the district court for the Eastern District of Kentucky and the other with jurisdiction limited to the portion of the park situated in Tennessee and Virginia to be appointed by joint action of the district

courts for the Eastern District of Tennessee and the Western District of Virginia.

The Conference approved a maximum salary limit of $1,200 for each of the two commissioners authorized to be appointed and directed the Administrative Office to inform the courts concerned of its action and request that they fix salaries for the park commissioners within this maximum limit pursuant to the provisions of Section 634 of Title 28, United States Code.

SALARY OF DIRECTOR OF ADMINISTRATIVE OFFICE

The Conference renewed its recommendation that the salary of the Director of the Administrative Office of the United States Courts be set at $22,500 per year, which is the salary of a United States District Judge.

BANKRUPTCY ADMINISTRATION

Circuit 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 18, 1956, relating to certain changes in salaries and arrangements for referees and to the filling of vacancies in certain referees' positions. The report was made in the light of the amendment of Section 40a of the Bankruptcy Act (11 U. S. C. 68a) Public Law 518, 84th Congress, approved May 10, 1956, which increased the maximum annual salaries that may be fixed by the Conference to $15,000 for full-time referees and to $7,500 for part-time referees. The report was based upon a resurvey covering each referee position in the system.

The survey extended previous surveys through June 30, 1956 and took into account both for the district and for each referee's office, the number, size and character of new cases referred to the referees since July 1, 1947; the number, size and character of pending cases and the payments by each district and by each referee, into the referees' salary and expense funds so far as available.

The report had been circulated by the Director among the district judges and the Judicial Councils as well as the members of the Judicial Conference. The Committee also had before it the recommendations of the district judges and the Judicial Councils and these, with the report of the Committee, were before the Conference. The Committee agreed upon recommendations which

were contained in a written report submitted to the Conference. Except in a few instances the report of the Committee approved the report of the Administrative Office. The Conference, after discussion, approved the report of the Committee with regard to changes in salaries and arrangements and the filling of vacancies and in accordance with the report fixed the salaries of referees in the amount shown in the following Table I. It directed that the increases in salary, the changes in arrangements and the authorizations for the filling of vacancies shown in Tables I and II (except where otherwise noted) should take effect October 1, 1956, subject to the procurement of the necessary appropriation.

TABLE I

SALARIES OF REFEREES IN BANKRUPTCY

District	Regular Place of Office	Type of Position		Annual Salary	
		Present	As Fixed	Present	As Fixed
District of Columbia	Washington	Part-time	Part-time	$6,000	$7,500
1st Circuit					
Maine	Portland	Full-time	Full-time	11,250	[1] 13,750
Massachusetts	Boston	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
New Hampshire	Manchester	Part-time	Part-time	3,500	5,000
Rhode Island	Providence	do	do	6,000	7,500
Puerto Rico	San Juan	do	do	4,500	5,000
2nd Circuit					
Connecticut	Hartford	Full-time	Full-time	12,500	15,000
	Bridgeport	do	do	12,500	15,000
New York (N)	Utica	do	do	11,250	13,750
	Albany	do	do	9,000	11,250
New York (S)	New York	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	Yonkers	Part-time	Part-time	5,000	5,500
	Poughkeepsie	do	do	2,500	3,500
New York (E)	Brooklyn	Full-time	Full-time	12,500	15,000
	do	do	do	12,500	15,000
	Jamaica	do	do	12,500	15,000
New York (W)	Buffalo	do	do	11,250	13,750
	Rochester	do	do	9,000	10,000
Vermont	Rutland	Part-time	Part-time	2,400	3,000
	Burlington	do	do	3,000	3,000
3rd Circuit					
Delaware	Wilmington	do	do	4,000	5,000
New Jersey	Newark	Full-time	Full-time	12,500	15,000
	Trenton	do	do	12,500	15,000
	Camden [2]	Part-time	do	5,500	15,000

[1] Effective July 1, 1957.
[2] Position changed to full-time.

TABLE 1—Continued

SALARIES OF REFEREES IN BANKRUPTCY—continued

District	Regular Place of Office	Type of Position		Annual Salary	
		Present	As Fixed	Present	As Fixed
3rd Circuit—Continued					
Pennsylvania (E)	Philadelphia	Full-time	Full-time	$12,500	$15,000
	do	do	do	12,500	15,000
	Reading	Part-time	Part-time	6,000	7,500
Pennsylvania (M)	Wilkes-Barre	do	do	5,500	6,500
	Harrisburg	do	do	4,500	5,500
Pennsylvania (W)	Pittsburgh	Full-time	Full-time	11,250	13,750
	Erie	Part-time	Part-time	3,500	5,000
	Johnstown	do	do	3,500	5,000
4th Circuit					
Maryland	Baltimore	Full-time	Full-time	11,250	13,750
North Carolina (E)	Raleigh	Part-time	Part-time	3,500	4,500
North Carolina (M)	Greensboro	do	do	4,500	5,500
North Carolina (W)	Charlotte	do	do	4,000	5,000
South Carolina (E)	Charleston	do	do	2,500	2,500
	Columbia	do	do	2,000	2,500
South Carolina (W)	Spartanburg	do	do	1,500	2,500
Virginia (E)	Richmond	Full-time	Full-time	11,250	13,750
	Norfolk	Part-time	Part-time	5,500	7,000
Virginia (W)	Roanoke	Full-time	Full-time	10,000	12,500
	Lynchburg	Part-time	Part-time	6,000	7,000
West Virginia (N)	Grafton	do	do	4,000	5,000
	Wheeling	do	do	3,000	3,500
West Virginia (S)	Charleston	do	do	6,000	7,500
5th Circuit					
Alabama (N)	Birmingham	Full-time	Full-time	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	Anniston	do	do	12,500	[1] 15,000
	Tuscaloosa	Part-time	Part-time	4,000	5,000
	Decatur	do	do	2,500	2,500
Alabama (M)	Montgomery	Full-time	Full-time	8,000	11,250
Alabama (S)	Mobile	do	do	10,000	12,500
Florida (N)	Tallahassee	Part-time	Part-time	1,800	2,500
Florida (S)	Miami	do	do	6,000	7,500
	Tampa	do	do	3,500	4,500
	Jacksonville	do	do	3,000	4,500
Georgia (N)	Atlanta	Full-time	Full-time	12,500	[1] 15,000
	Rome	Part-time	Part-time	5,500	7,000
	Gainesville [2]	do		600	
Georgia (M)	Macon	Full-time	Full-time	10,000	[4] 12,500
Georgia (S)	Savannah [2]	Part-time	do	6,000	12,500
	Waycross [3]	do		1,500	
Louisiana (E)	New Orleans	Full-time	Full-time	10,000	12,500
Louisiana (W)	Shreveport	Part-time	Part-time	6,000	7,500
Mississippi (N)	Oxford	do	do	1,500	2,500
Mississippi (S)	Gulfport [5]	do	do	4,000	5,000
Texas (N)	Dallas	Full-time	Full-time	8,000	10,000
	Fort Worth	do	do	8,000	10,000
	Lubbock	Part-time	Part-time	4,500	6,000

[1] Effective July 1, 1957.
[2] Position changed to full-time.
[3] Position discontinued.
[4] Effective Jan. 1, 1957.
[5] Regular place of office changed from Biloxi to Gulfport.

TABLE I—Continued

SALARIES OF REFEREES IN BANKRUPTCY—continued

District	Regular Place of Office	Type of Position		Annual Salary	
		Present	As Fixed	Present	As Fixed
5th Circuit—Continued					
Texas (S)	Houston [2]	Part-time	Full-time	$8,000	$10,000
	Corpus Christi	do	Part-time	3,000	3,000
Texas (E)	Tyler	do	do	6,000	7,500
Texas (W)	San Antonio [2]	do	Full-time	6,000	10,000
	El Paso	do	Part-time	2,000	3,500
	Waco [3]	do		1,000	
6th Circuit					
Kentucky (E)	Lexington	do	Part-time	6,000	7,500
Kentucky (W)	Louisville	Full-time	Full-time	11,250	12,500
	Paducah	Part-time	Part-time	2,500	3,000
Michigan (E)	Detroit	Full-time	Full-time	12,500	15,000
	do	do	do	12,500	15,000
	Flint [5]		do		15,000
Michigan (W)	Grand Rapids	Full-time	do	11,250	12,500
	do	do	do	8,000	11,250
	Marquette	Part-time	Part-time	1,500	2,500
Ohio (N)	Cleveland	Full-time	Full time	12,500	15,000
	do	do	do	12,500	15,000
	Toledo	do	do	12,500	15,000
	Youngstown [2]	Part-time	do	6,000	12,500
Ohio (S)	Columbus	Full-time	do	11,250	15,000
	Dayton [2]	Part-time	do	6,000	12,500
	Cincinnati	do	Part-time	6,000	7,500
Tennessee (E)	Knoxville	Full-time	Full-time	9,000	11,250
	Chattanooga	Part-time	Part-time	6,000	7,500
Tennessee (M)	Nashville	Full-time	Full-time	10,000	[1] 12,500
	Cookeville	Part-time	Part-time	500	600
Tennessee (W)	Memphis	Full-time	Full-time	12,500	[4] 15,000
7th Circuit					
Illinois (N)	Chicago	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do [6]		do		15,000
	Joliet	Part-time	Part-time	4,000	5,000
	Freeport	do	do	4,500	5,500
Illinois (S)	Peoria	Full-time	Full-time	10,000	12,500
	Springfield	Part-time	Part-time	6,000	7,500
Illinois (E)	Danville	do	do	5,000	5,000
	E. St. Louis	do	do	6,000	7,000
Indiana (N)	Gary	do	do	5,000	6,000
	Fort Wayne	do	do	4,000	5,000
Indiana (S)	Indianapolis	Full-time	Full-time	11,250	13,750
Wisconsin (E)	Milwaukee [2]	Part-time	do	6,000	15,000
	Manitowoc	do	Part-time	5,000	6,000
Wisconsin (W)	Madison	do	do	5,000	6,500
	LaCrosse	do	do	2,500	3,500
	Superior	do	do	2,000	3,500

[1] Effective July 1, 1957.
[2] Position changed to full-time.
[3] Position discontinued.
[4] Effective Jan. 1, 1957.
[5] New position.

TABLE I—Continued

SALARIES OF REFEREES IN BANKRUPTCY—continued

District	Regular Place of Office	Type of Position		Annual Salary	
		Present	As Fixed	Present	As Fixed
8th Circuit					
Arkansas (E & W)	Little Rock	Full-time	Full-time	$8,000	$11,250
Iowa (N)	Fort Dodge	Part-time	Part-time	4,000	5,000
Iowa (S)	Des Moines	do	do	4,500	6,000
Minnesota	Minneapolis	Full-time	Full-time	12,500	[4] 15,000
	St. Paul	do	do	10,000	[4] 12,500
Missouri (E)	St. Louis	do	do	12,500	[1] 15,000
Missouri (W)	Kansas City	do	do	12,500	[1] 15,000
Nebraska	Omaha	do	do	10,000	12,500
North Dakota	Fargo	Part-time	Part-time	2,500	3,500
South Dakota	Sioux Falls	do	do	2,500	3,500
9th Circuit					
Arizona	Phoenix	Full-time	Full-time	11,250	13,750
California (N)	San Francisco	do	do	12,500	15,000
	Oakland	do	do	12,500	15,000
	Sacramento	do	do	11,250	15,000
California (S)	Los Angeles	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	do	do	do	12,500	15,000
	San Diego	Part-time	Part-time	6,000	7,500
	Fresno	do	do	6,000	7,500
	San Bernardino	do	do	5,000	6,000
Idaho	Boise	do	do	5,000	7,000
Montana	Great Falls	do	do	2,000	3,000
	Butte	do	do	2,000	3,000
Nevada	Las Vegas	do	do	6,000	7,500
	Reno [6]		do		5,000
Oregon	Portland	Full-time	Full-time	12,500	15,000
	do	do	do	8,000	10,000
	Corvallis	do	do	11,250	[4] 15,000
	LaGrande	Part-time	Part-time	3,500	4,000
Washington (E)	Spokane	Full-time	Full-time	10,000	12,500
Washington (W)	Seattle	do	do	12,500	[4] 15,000
	Tacoma	Part-time	Part-time	6,000	7,500
Alaska	Anchorage	do	do	3,000	5,000
Hawaii	Honolulu	do	do	4,000	6,000
10th Circuit					
Colorado	Denver	Full-time	Full-time	12,500	[4] 15,000
Kansas	Topeka	do	do	12,500	[4] 15,000
New Mexico	Albuquerque	Part-time	Part-time	4,500	5,500
Oklahoma (N)	Tulsa	do	do	6,000	7,500
Oklahoma (E)	Okmulgee	do	do	1,500	2,500
Oklahoma (W)	Oklahoma City	do	do	6,000	7,500
Utah	Salt Lake City	do	do	6,000	7,500
Wyoming	Cheyenne	do	do	3,000	4,000

[1] Effective July 1, 1957.
[4] Effective Jan. 1, 1957.
[6] New position.

CHANGES IN ARRANGEMENTS FOR REFEREES AND AUTHORIZATION FOR THE FILLING OF VACANCIES

The following changes in arrangements for referees and for the filling of vacancies, recommended by the Committee, were approved by the Conference. It directed that the changes in arrangements shown in Table II below (except where otherwise noted) should take effect October 1, 1956, subject to the procurement of the necessary appropriation.

TABLE II

THIRD CIRCUIT

District of New Jersey.—That the part-time position at Camden be made full-time at a salary of $15,000 per annum effective October 1, 1956 and that all referees in the district be given concurrent district-wide jurisdiction with designated places of holding court at Newark, Trenton and Camden.

FOURTH CIRCUIT

Eastern District of Virginia.—That a successor referee be appointed at Norfolk on a part-time basis for a term of 6 years beginning October 1, 1956 at a salary of $7,000 a year, the regular place of office of such appointee to be at Norfolk and the territory to remain unchanged.

FIFTH CIRCUIT

Northern District of Georgia.—That the part-time position at Gainesville be discontinued and the Gainesville territory consolidated with that of the Atlanta referee; also that Gainesville be added as a designated place of holding court for the Atlanta referee.

Southern District of Georgia.—That the part-time position at Savannah be changed to full-time at a salary of $12,500 a year effective October 1, 1956 and that the part-time position at Waycross be discontinued; also that the territory of the Waycross referee be consolidated with that of the Savannah referee and that Waycross and Brunswick be designated as places of holding court for the Savannah referee.

Southern District of Mississippi.—That the regular place of office of the referee be changed from Biloxi to Gulfport.

Southern District of Texas.—That the position at Houston be changed to a full-time basis at a salary of $10,000 a year effective October 1, 1956.

Western District of Texas.—That the Waco position be discontinued and the territory consolidated with the territory of the referee at San Antonio; also that Waco be designated as an additional place of holding court for the San Antonio referee, and that the part-time position at San Antonio be changed to a full-time basis at a salary of $10,000 per annum effective October 1, 1956.

SIXTH CIRCUIT

Eastern District of Michigan.—That a new full-time position be authorized at an annual salary of $15,000 effective October 1, 1956, with the regular place of

office at Flint; also that the new referee have concurrent jurisdiction with the referees at Detroit with the same designated places of holding court.

Northern District of Ohio.—That the part-time position at Youngstown be changed to a full-time basis at an annual salary of $12,500 effective October 1, 1956. Also that Ashtabula, Stark, Carroll and Tuscarawas Counties be transferred from the territory of the Cleveland referees to the territory of the referee at Youngstown and that Ashtabula and Canton be designated as additional places of holding court for the Youngstown referee.

Southern District of Ohio.—That the position at Dayton be changed from a part-time to a full-time basis at a salary of $12,500 a year effective October 1, 1956.

SEVENTH CIRCUIT

Northern District of Illinois.—That an additional full-time position be authorized for this district at an annual salary of $15,000 with the regular place of office at Chicago; the new referee to have concurrent jurisdiction with the referees now holding office at Chicago whose territory includes Cook and Lake Counties.

Eastern District of Wisconsin.—That the position at Milwaukee be changed from a part-time to a full-time basis and that the salary be increased to $15,000 effective October 1, 1956; also that Kenosha be designated as an additional place of holding court for the Milwaukee referee.

EIGHTH CIRCUIT

Southern District of Iowa.—That the position at Des Moines be continued for a new term of 6 years effective January 3, 1957, at a salary of $6,000 a year; the regular place of office to be at Des Moines and the territory to include the entire Southern District of Iowa.

NINTH CIRCUIT

Northern District of California.—That Humboldt and Del Norte Counties be transferred from the territory of the referees at San Francisco and Oakland to the territory of the referee at Sacramento, and that Redding and Eureka be designated as additional places of holding court for the referee at Sacramento; also that San Jose be designated as an additional place of holding court for the referees at San Francisco and Oakland.

Southern District of California.—That the part-time position at San Bernardino be continued for a new term of six years effective January 1, 1957, at a salary of $6,000 a year, the regular place of office to be at San Bernardino and the territory to embrace San Bernardino and Riverside Counties.

District of Nevada.—

(1) That an additional part-time position be provided at Reno at a salary of $5,000 a year;

(2) That the Counties of Mineral, Douglas, Lyon, Ormsby, Storey, Washoe, Churchill, Pershing, Humboldt, Lander, Eureka, White Pine and Elko be transferred to the new referee at Reno from the territory now served by the referee at Las Vegas;

(3) That Reno, Carson City, Ely and Elko be designated as places of holding court for the referee at Reno;

(4) That the referee at Las Vegas retain and serve the Counties of Clark, Lincoln, Nye and Esmeralda; and

(5) That Las Vegas be designated as the place of holding court for the referee located there.

Miscellaneous Bankruptcy Matters

Section 60 and Related Sections.—At the meeting of the Conference in March 1956, the Bankruptcy Committee through its Subcommittee was authorized to continue its study and report to the full Committee. The Committee was also authorized in connection with such study to consider proposals to enlarge the summary jurisdiction of the Bankruptcy Court. The Subcommittee consisting of Circuit Judge John B. Sanborn, Chairman, District Judge Albert V. Bryan, Member and Edwin L. Covey, Advisor, reported to the Committee that drafts of amendments prepared by the Drafting Committee of the National Bankruptcy Conference had been made available to it but that the Subcommittee had not yet had an opportunity to study the proposed amendments. The Committee recommended that it be authorized to continue its study of Section 60 and related sections.

The Subcommittee was of the view that specific grants of summary jurisdiction to the bankruptcy court should be enlarged so as to enable the court through its officers more promptly, economically and efficiently to administer the various recovery and avoidance provisions of the Bankruptcy Act. It recommended that the plenary jurisdictional provisions now contained in Sections 60b, 67e and 70e (3) be stricken from these sections and that amendments be adopted in each instance so as to give the court, after due notice to all parties in interest, summary jurisdiction of any proceeding brought under these sections for the purpose of recovering or avoiding any preference, transfer or obligation.

The Bankruptcy Committee approved the report of the Subcommittee with a special concurrence by District Judge Lynne, who agreed that the enlargement of summary jurisdiction would expedite and make more economical the administration of bankruptcy estates, but had some misgivings that the substitution of summary jurisdiction for plenary proceedings in the case of adverse claimants having more than merely colourable claims would deprive such claimants of a cherished right to have their cases heard in the first instance before a judge or jury instead of a referee.

The Conference directed that the report of the Committee with regard to summary jurisdiction be circulated among the judges for an expression of views pursuant to the "Phillips Plan" (Jud. Conf. Rept. Sept. 1945 Sess. pp. 9, 10); that all views expressed be communicated to the Committee on Bankruptcy Administration of the

Conference for its consideration; and that the Bankruptcy Committee make further report to the Conference at its next regular meeting.

Changes in Additional Charges for the Referees' Salary and Expense Funds.—The Committee reported that pursuant to Section 40c (2) of the Bankruptcy Act the Acting Director had recommended that the schedules of additional fees and charges now in effect for the Referees' Salary and Expense Funds be revised as follows effective as to all cases filed on and after January 1, 1957:

FEES TO BE CHARGED IN ASSET, ARRANGEMENT AND WAGE-EARNER CASES FOR THE REFEREES' SALARY FUND

One percent on net realization in straight bankruptcy cases with a minimum charge of $2.50 in each Asset and Nominal Asset case.

One-half of one percent on total obligations paid or extended in Chapter XI cases.

One-half of one percent upon payments made by or for the debtor in Chapter XIII cases.

CHARGES TO BE MADE IN ASSET, ARRANGEMENT AND WAGE-EARNER CASES FOR THE REFEREES' EXPENSE FUND

Referees' expenses in Chapter XIII cases at $10 per case where the liabilities do not exceed $200, and at $15 per case in all other Chapter XIII cases.

One and one-half percent on the first $50,000 and one percent on the balance of the net realization in straight bankruptcy cases with a minimum charge of $2.50 in each Asset and Nominal Asset case.

One-half of one percent on total obligations paid or extended in Chapter XI cases.

One-half of one percent upon payments made by or for the debtor in Chapter XIII cases.

The Committee reported that the estimated surplus in the Referees' Expense Fund for 1958 would be approximately $300.00. This small surplus is due primarily to a new provision in Section 4a of the Civil Service Retirement Act as amended (Public Law 854, 84th Congress) approved July 1, 1956, which requires that effective July 1, 1957, a sum equal to the amount deducted from the employee's salary for the retirement fund shall be contributed

from the appropriation or fund out of which such compensation is paid. This sum computed at six and one-half percent on the salaries paid to all clerks in referees' offices was estimated at $99,000. This, together with the other increases in the estimated expenditures for 1958 would practically exhaust the estimated receipts in the Expense Fund for that year.

Upon the recommendation of the Bankruptcy Committee the Conference approved the schedules of additional fees and charges as recommended by the Acting Director.

Proposal to amend General Order 17 (1) of the Supreme Court.—The Committee brought to the attention of the Conference a recent amendment of Section 58e of the Bankruptcy Act (Public Law 933, 84th Cong.) approved August 2, 1956, which relieved the clerk of the district court of the duty of sending to the Commissioner of Internal Revenue and the Comptroller General, a certified copy of the order of adjudication in bankruptcy. It also relieved the court (usually the referee) from the duty of sending a copy of the notice of the first meeting of creditors, which includes in it a notice of the date of adjudication in bankruptcy, to the Commissioner of Internal Revenue. The requirement for the mailing of such notice by the court to the Director of Internal Revenue of the district where the case is filed was continued and is now the only notice desired by the Internal Revenue Service since the decentralization of that Department. The Internal Revenue Service also desires to be relieved of the labor of handling and processing in Washington, the notice of adjudication now required to be sent by the Trustee pursuant to General Order 17 (1).

The Committee pointed out that the mailing of the notice of adjudication by the Trustee was a duplication of information already sent to the District Director of Internal Revenue and recommended that the Conference request the amendment of General Order 17 (1) by the Supreme Court so as to read as follows: "The Trustee shall, immediately upon entering upon his duties, prepare a complete inventory of all the property of the bankrupt or debtor that comes into his possession." The Conference approved the recommendation of the Committee.

Proposal to amend Sections 14b and 58b of the Bankruptcy Act.—The Committee recommended that the Conference reaffirm its approval of legislation to amend Sections 14b and 58b of the Bankruptcy Act so as to provide for the combining of notices of the time fixed for filing objections to the discharge of the bank-

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rupt with the notice of the first meeting of creditors whenever possible. The Conference approved the recommendation.

Proposal to Amend Section 331 of the Bankruptcy Act.—The Committee recommended that the Conference reaffirm its approval of legislation to amend Section 331 of Chapter XI (Arrangements) of the Bankruptcy Act so as to provide for the reference of Chapter XI proceedings by the clerk of the court to a referee in the absence of all the district judges from the district or division in which the proceeding is filed, the same as may be done now in voluntary straight bankruptcy cases. The Conference approved.

PROPOSAL TO AMEND SECTIONS 2a, 11 AND SECTION 14c (3) SO AS TO GIVE THE BANKRUPTCY COURT JURISDICTION TO DETERMINE THE DISCHARGEABILITY OR NONDISCHARGEABILITY OF PROVABLE DEBTS AS PROVIDED IN H. R. 11543 (CELLER) 84TH CONGRESS

The chairman brought to the attention of the Conference a bill (H. R. 11543) introduced on May 31, 1956, by Congressman Celler, chairman of the House Judiciary Committee, which would authorize the courts of bankruptcy to determine the dischargeability or nondischargeabilty of provable debts. The Committee reported that Congressman Celler had requested that the bill be brought to the attention of the Bankruptcy Committee and the Judicial Conference.

As to Section 2a, H. R. 11543 would add at the end of the section as subparagraph 22 a new grant of jurisdiction to the courts of bankruptcy to "determine the dischargeability or nondischargeability of all provable debts" and would further provide "If a case is reopened solely for the purpose of determining such dischargeability or nondischargeability, no additional filing fee shall be collected."

Section 2 of H. R. 11543 would amend Section 11a of the Bankruptcy Act so as to give the bankruptcy courts express authority to stay suits commenced against a bankrupt after bankruptcy as well as before, until the question of dischargeability or nondischargeabilty of a particular debt is determined.

Section 3 of H. R. 11543 would repeal clause 3 of Section 14c of the Bankruptcy Act which now provides "the court shall grant the discharges unless satisfied that the bankrupt has * * * (3) obtained money or property on credit, or obtained an extension or renewal of credit, by making or publishing or causing to be made

or published in any manner whatsoever, a materially false statement in writing respecting his financial condition; * * *."

The Committee expressed the view that there can be no question that the liability created by the extension of credit in reliance upon a materially false statement in writing should not be discharged. But to deny a complete discharge as to all claims created without any knowledge whatever of the issuance of such a statement places too great a penalty upon the bankrupt as well as gives too great a benefit to those creditors whose debts were created without any knowledge of the false statement and without any participation in the proceeding looking to the denial of the discharge.

The Committee recommended that the Conference approve in principle H. R. 11543. The Conference approved this recommendation.

Costs of Bankruptcy Administration.—The Committee reported that the Bankruptcy Division of the Administrative Office had made extensive studies of the costs of adminstration in asset cases in 17 districts. These cost studies were carefully considered by the Bankruptcy Committee which recommended that the Bankruptcy Division of the Administrative Office continue its cost studies; that the results thereof be brought to the attention of the referees, where the costs of administration recurrently exceed the national average; that where corrective and cooperative results are not obtained, the studies be brought to the attention of the district courts and, if deemed necessary, to the attention of the circuit councils. The Conference approved this recommendation.

AIR CONDITIONING OF COURT QUARTERS

Chief Judge Parker, chairman of the Committee on Air Conditioning of Court Quarters, presented the report of the Committee, which was approved by the Conference.

The report informed the Conference that $575,000 had been included in the appropriations for the courts for the current fiscal year to continue the program of air conditioning of court quarters which was commenced last year (Conf. Repts. Sept. 1955 Sess. p. 21; March 1956 Sess. p. 18). After the passage of the Act containing this appropriation the Committee met and determined the projects for which it should be used.

The Committee recommended that the sum of $1,500,000 be included in the appropriation estimates of the courts for the fiscal

year 1958 to carry forward the air conditioning program including air conditioning of quarters of supporting personnel of the courts where needed according to the following priorities:

1. Offices of Clerks of Court
2. Offices of Referees in Bankruptcy
3. Probation Offices
4. Grand Jury Rooms

The Committee recommended that the Administrative Office obtain the views of the Judicial Councils of the several circuits as to the offices of supporting personnel to be air conditioned within the circuit and also the views of the several Councils as to whether any additional court rooms should be placed in a higher priority than quarters of supporting personnel.

THE COURT REPORTING SYSTEM

The Administrative Office submitted a report on the court reporting system which informed the Conference that, as reflected by their reports submitted to that Office, the reporters during the fiscal year ending June 30, 1956, had average earnings from salaries plus net profits from official and private reporting of $10,403.56, an increase of $211.73 over the average earnings for the preceding fiscal year. The median earnings reported were $10,056.65, an increase of $869.58 over the preceding year. At the September 1955 Session (Conf. Rept. pp. 19–20) the Conference increased the salaries of the court reporters by 7½ percent pursuant to authorization contained in the Federal Employees Salary Increase Act of 1955, retroactive to March 14, 1955. The table of earnings for the fiscal year 1955, with which the earnings for 1956 were compared, does not include that part of the increase in salaries applicable to the period between March 14, 1955 and June 30, 1955, because the table was prepared before the retroactive increases had been granted.

The Conference was informed that its action also taken at the September 1955 Session to fix the salaries of reporters who had been receiving $4,500 per year at $5,000 per year plus the 7½ percent increase when funds should become available had been put into effect on May 21, 1956, so that there are presently three classes of reporters in terms of annual salaries received, namely, those receiving $5,375 per year, those receiving $5,915 per year, and those receiving $6,450 per year which is the maximum permitted by law.

Changes in Specific Salaries and Arrangements

Upon the recommendation of the Administrative Office the reporter for the Western District of Wisconsin was authorized to serve also as a United States Commissioner and receive the fees earned by him in the latter capacity in addition to his salary as court reporter of $5,375 per year.

Also upon the recommendation of the Administrative Office, the Conference authorized an increase in the salaries of the reporters in the Western District of Missouri from $5,915 per year to $6,450 per year.

The Conference concurred in a recommendation of the Administrative Office that no changes be made in the present salaries of the reporters in the Eastern District of Virginia at Norfolk and the Southern District of Mississippi with regard to which requests had been submitted.

Proposals of the Conference of United States Court Reporters

The Conference received, but took no action with respect to recommendations of the Conference of United States Court Reporters that the salaries of the court reporters be reviewed to the end that salaries would be increased and a plan devised to provide salary increases from time to time comparable to within-grade promotions granted to employees who are classified in grades; that transcript rates be raised; and that a committee of the Conference be designated to hear representatives of the reporters with regard to their proposals.

Proposal to Amend the Court Reporting Act

The Conference disapproved the enactment of proposed legislation contained in S. 3495 of the 84th Congress to amend the law providing for official court reporters.

The Conference was informed that the proponents of this proposed legislation, acting in behalf of various independent court reporters, have alleged that there exist in the Northern District of Illinois certain improper practices by official reporters. Having had this matter presented to it, and having no means to investigate it, the Conference referred it to the Judicial Council of the Seventh Circuit for appropriate action, and also to the Department of Justice for the information of the Department.

Also the Conference was informed that in one or more districts the official court reporters do not regularly devote their personal services to reporting, employing substitutes instead. Accordingly, attention was directed to the following action of the Conference at the April 1944 Special Session called to consider matters relating to the then recently enacted statute establishing the system of official court reporters for the courts:

> "It was the sense of the Conference that each reporter should devote his personal services to the duties of his position, but that when he needs assistance for the purpose of furnishing transcripts of proceedings currently or for other reasons he should be permitted to employ assistants satisfactory to the judge of the court whose proceedings he is reporting, to be compensated by the reporter." (Conf. Rept. Apr. 1944 Sess. p. 3).

APPROPRIATIONS

The estimates submitted by the Administrative Office pursuant to the statute (28 U. S. C. Sec. 605) for annual appropriations for the support of the courts for the fiscal year 1958 and supplemental appropriations for 1957 were approved.

For the first time the budget included the estimates for the Court of Claims for approval by the Conference as provided by Public Law 659 of the 84th Congress, approved July 9, 1956.

An estimate in the amount of $218,000 was included for the Judicial Survivors Annuity Fund to match the amount which it is estimated will accrue to the fund during the year from the 3 percent deductions made from the salaries of the judges who elect to bring themselves within the purview of Public Law 973 of the 84th Congress, approved August 3, 1956 providing for the payment of annuities to widows and dependent children of judges upon a contributory basis.

Funds were also included to implement the recommendations of the Conference made at the March 1956 Session relating to the grades and salaries of secretaries of judges (Conf. Rept. p. 4) and reclassification of Clerks of Court and their staffs (Conf. Rept. p. 3).

Authority was granted to the Administrative Office to make such changes in the estimates as may be required by actions of the Conference at this session including increases in the estimates for Salaries and Expenses of Referees in Bankruptcy.

The estimates of supplemental appropriations for the current fiscal year included additional funds for the appropriation for salaries of judges; for the Court of Claims to pay salary increases pursuant to the Federal Executive Pay Act of 1956; for fees of jurors; and for salaries of Referees in Bankruptcy.

COMMITTEE ON THE ADMINISTRATION OF THE CRIMINAL LAW

Chief Judge Parker, chairman, submitted the report of the Committee on the Administration of the Criminal Law.

Appellate Review of Sentences

Bills to provide for review of sentences by the Courts of Appeals in criminal cases (S. 1480, H. R. 4930 and H. R. 4932) were introduced in the 84th Congress. Arguments for and against the proposed legislation were summarized for the Committee in a memorandum prepared by Judge Picard, a member of the Committee. A majority of the Committee were tentatively of the view that such legislation is unwise and undesirable, but before reaching a final conclusion in the matter the Committee recommended that the proposal be circulated among the judges and Judicial Conferences of the circuits pursuant to the "Phillips Plan" (Jud. Conf. Rept. Sept. 1945 Sess. pp. 9, 10). The Conference approved the recommendation of the Committee for the circulation of this proposal.

Proposal To Amend the Laws Relating to Civil and Criminal Contempts

The Committee had considered a proposal originating in the Judicial Conference of the Ninth Circuit, based on a study made by a committee of the Junior Barristers of the Los Angeles Bar Association. See 19 Federal Rules Decisions page 167 et seq. The Committee was not of the opinion that need for legislation along this line is sufficiently pressing to warrant action by the Conference in making a recommendation to Congress, but thought that this matter might well be given consideration by the Committee on Rules in the event such a committee is revived by the Supreme Court.

Proposal To Amend Title 28, U. S. C., Sec. 2255

Consideration had been given by the Committee to a proposal coming from the Judicial Council of the Fifth Circuit that section 2255 of Title 28, United States Code, be amended so as to provide that "In cases where it appears to the sentencing court that the prisoner should be produced for a hearing, the court, in the exercise of its sound judicial discretion, may either require the prisoner's presence and proceed with such hearing or may dismiss the motion and remit the prisoner to his remedy by habeas corpus." This matter was referred to the Committee by the Conference at the March 1956 Session (Conf. Rept. p. 18). The Committee stated that the purpose of section 2255 of Title 28, U. S. C., was to prevent action of a sentencing court being reviewed by the judge of another court on writ of habeas corpus and the Committee did not think that there was any pressing need for amendment of the section.

Habeas Corpus

The Committee reported that the bill heretofore indorsed by the Conference relating to use of habeas corpus by the lower Federal courts to review state court action (H. R. 5649 of the 84th Congress) had passed the House of Representatives but was not taken up by the Senate before the adjournment of the Congress. (See Jud. Conf. Repts. Sept. 1955 Sess. p. 23; March 1956 Sess. p. 17). The Committee recommended that the Conference again approve the proposed legislation. No action was taken on this recommendation.

Payment of Compensation to Counsel Appointed to Represent Poor Persons Accused of Crime

The Committee reported that Congress has taken no action with respect to providing public defenders in the Federal courts or authorizing payment of compensation to counsel appointed by the courts to represent indigent defendants accused of crime. Upon the recommendation of the Committee the Conference renewed its approval of the proposed legislation heretofore approved by it for this purpose. (See Conf. Repts. Sept. 1954 Sess. p. 31; March 1955 Sess. p. 21; Sept. 1955 Sess. p. 29.)

Death of Court Reporter Before Notes of Trial are Transcribed

The Committee reported that it had given consideration to a proposal that legislation be recommended requiring a new trial in civil and criminal cases wherever the reporter who makes the stenographic notes of the testimony on which the judgment is based, dies before the notes are transcribed, but saw no need for action in this field because the trial judge has power, in the interests of justice, to order a new trial in such a situation.

Appeals by the United States in Criminal Cases

The Committee recommended that H. R. 9364 of the 84th Congress be approved with an amendment. The bill would amend existing law, 18 U. S. C. 3731, so as to provide for an appeal by the United States from an adverse decision on a motion to suppress evidence. After discussion, the amendment was withdrawn, and the Conference voted to approve the proposed legislation in the form in which it was introduced in the 84th Congress.

Rules Committee

The Committee reported that it is of opinion that a standing committee of the Supreme Court on Rules of Civil and Criminal Procedure would be of great value, not only in providing a standing body of competence and experience to consider suggested changes in procedure as they may be brought forward from various sources, but also making less likely the enactment of undesirable legislation by Congress interfering with the exercise of the rule making power by the Supreme Court. Accordingly it recommended that the Conference recommend to the Supreme Court that the Court revive, reconstitute and consolidate its committees on Civil and Criminal Rules. The Conference adopted the recommendation.

Additional Matters Referred to the Committee on the Administration of the Criminal Law

1. A recommendation of the Judicial Conference of the Ninth Circuit that the definition of a felony be amended was referred to the Committee on the Administration of the Criminal Law for consideration. The proposal is that paragraph 1 of section 1 of

Title 18, United States Code, defining a felony, be amended to read as follows:

> "(1) Any offense punishable by death or imprisonment for a term exceeding one year is a felony: *Provided, that when a person is convicted of any felony and the sentence imposed by the court does not provide for imprisonment for a term exceeding one year, such person shall, for all purposes, after the judgment of conviction shall have become final and after the sentence imposed upon him shall have expired, be deemed to have been charged with and convicted of a misdemeanor, and such person shall not suffer any disability or disqualification which would otherwise result from a conviction of a felony.*" (New matter proposed to be added in italics.)

2. A recommendation of the Judicial Conference of the Ninth Circuit for amendment of the Probation Law was also referred to the Committee on the Administration of the Criminal Law for consideration. The proposed amendment would add the following paragraph to section 3651 of Title 18, United States Code:

> Whenever a defendant has fulfilled the conditions of probation for the entire period thereof, or shall have been discharged from probation prior to the termination of the period thereof, the Court, after notice given by the Probation Officer to the probationer and the United States Attorney, shall, unless good cause to the contrary is shown, set aside the verdict of guilty, or plea of guilty or nolo contendere, and dismiss the indictment or information against such defendant. Such defendant shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted.

JUDICIAL STATISTICS

Chief Judge Clark presented the report of the Committee on Judicial Statistics which included an account of the work of the Committee during the year and its recommendations to the Committee on Court Administration, made at the request of the latter, of additional district judgeships necessary to bring the dockets of the courts to a condition where the ordinary civil case could be tried within 6 months of filing. He stated the desire of the Committee on Court Administration to have a study made of future trends of litigation in the Federal courts and in pursuance thereof presented the following resolution contained in the Committee report:

> RESOLVED, that this Committee endeavor to estimate and transmit to the Judicial Conference and to the Committees on Court Administration and Supporting Personnel its recommendations as to the number of judge-

ships necessary to take care of the judicial case-load as it will be at that period in the future when it is estimated the judges appointed to fill the recommended judgeships will take office; and it was further moved that this Committee recommend to the Judicial Conference the number of judgeships necessary to bring the dockets of the courts to a reasonably current condition three years from this time for each individual district in the Federal system.

The resolution was adopted by the Conference with the understanding that a statement of the future recommendations of the Statistics Committee concerning additional judgeships should be supplied to the Judicial Councils of the Circuits involved and to the district judges of the districts in which additions are recommended in sufficient time to enable them to express their opinions on the recommendations of the Committee before the meeting of the Judicial Conference to which the recommendations are submitted.

Judge Clark also asked approval of a recommendation of the Committee for authorization to the Administrative Office for a further follow up on matters reported to it as under advisement by any district judge in his quarterly report for more than 3 months but less than 6 months. The inquiry would be sent by the Office to such judge on the date which is 6 months after the case was taken under advisement, asking the judge for a report on its status. Cases reported as still pending decision could then be reported immediately to the Chief Judge and the Judicial Council of the Circuit. Exceptions should be made:

(1) Where the date of the follow-up letter would be within 2 weeks of the end of the quarter or within a month of his last report.
(2) Where the judge is sick.
(3) Where he has indicated in his last quarterly report that the case will be disposed of promptly or cannot be disposed of promptly because of length of the record, etc.

The recommendation was approved.

The Administrative Office was authorized to circulate the Committee report among the circuit and district judges.

PRE-TRIAL PROCEDURE

Judge Murrah, chairman of the Committee on Pre-trial Procedure, reported to the Judicial Conference on the progress being made in expanding the use and improving the techniques of pretrial procedure in the district courts. He submitted the report of the Committee including the following resolution with reference to the amendment of Rule 16:

"It is the sense of this Committee that Rule 16 should be amended in such manner as to require that a pre-trial conference be held in every civil case, with the reservation, however, that upon the written application of a judge of any district, exemption from this requirement, as to a particular division or court seat, may be made only by the affirmative action, through general or special order, of the circuit council, determining that the purpose of holding pre-trial conferences therein would be defeated by excessive expense or other good cause."

The action of the Conference in recommending to the district judges the use of pre-trial procedure in every case before trial or the entry of an order dispensing with it rather than advocating an amendment of the Federal Rules of Civil Procedure is stated in connection with the report of the Committee on Court Administration.

OPERATION OF THE JURY SYSTEM

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

Use of Certified Mail for Summoning Jurors

With the object of saving money, the Committee recommended the enactment of legislation to amend Title 28, U. S. C., sec. 1867 so as to permit the use of the newly developed "certified mail" in lieu of "registered mail" for summoning prospective jurors. It was estimated that this would result in a saving of more than $12,000 per year in postage costs. The Conference adopted the recommendation and approved for submission to the next session of Congress the draft of a bill for this purpose prepared by the Committee.

Mileage and Subsistence Allowance for Jurors

Because of increased costs of travel, hotel rates, and meals, the Committee recommended that the mileage allowance of jurors be raised from 7 cents per mile as presently allowed to 10 cents per mile, which is the mileage rate now allowed by the Government for travel by automobile of Government employees generally, and that the daily subsistence allowance be increased from $5 to $7 for jurors required to stay overnight away from their homes at the place of holding court. It was pointed out that there has been no increase

in these amounts since July 14, 1949. The Committee did not at this time recommend an increase in the jurors fee of $7 per day although considerable sentiment had been expressed that this amount should be increased also.

The Conference adopted the recommendation of the Committee and approved for submission to the next session of Congress the draft of a bill for this purpose prepared by the Committee.

Number of Peremptory Challenges of Jurors

At the March 1956 Session, the Conference referred to the Committee a proposal from the Judicial Council of the Fifth Circuit that section 1870 of Title 28, U. S. Code relating to the number of peremptory challenges of jurors allowable in civil cases be amended (Conf. Rept. p. 17). The recommendation was that there be allowed additional peremptory challenges to all multiple parties instead of to multiple defendants only as at present. The Committee recommended the proposed change. The Conference adopted the recommendation of the Committee and approved for submission to the next session of Congress the draft of a bill prepared by the Committee for this purpose.

Jury Commission

Upon the recommendation of the Committee, the Conference reaffirmed its approval of proposed legislation to provide for a jury commission for each United States District Court, to regulate its compensation, to prescribe its duties, and for other purposes, and authorized the Committee to seek its enactment in the next Congress. The enactment of this bill has been advocated by the Judicial Conference since 1943.

Uniform Qualifications for Jurors

The Conference adopted the recommendation of the Committee that it reaffirm its approval of proposed legislation to establish uniform qualifications for jurors in Federal courts, and seek its enactment in the next Congress. The Committee pointed out that one of the main purposes of this bill is to qualify women for jury service, and informed the Conference that although it has not passed in the more than ten years during which it has been advocated by the Conference, public attention has been brought to bear on the subject by the Hearings which have been held on it and that

there are now only four States in which women are not permitted to serve as jurors.

Number of Jurors Required for Verdicts

Pursuant to authorization given at the September 1955 Session (Conf. Rept. p. 25) the Committee had studied a bill introduced in the 84th Congress (H. R. 565) which would provide that in a civil action tried by a jury, other than one tried by a jury "as a matter of right guaranteed by the seventh amendment to the Constitution", the number of jurors required to constitute the jury and the number who must agree for a valid verdict or finding should be determined by the law of the State in which the action is tried; or, if there is no State law on the subject, the number of jurors shall be 12 and the verdict or finding shall be valid if 10 of them agree. The Committee recommended that the Conference disapprove the proposed legislation, and the Conference adopted the recommendation.

Cost of Jury System

A report prepared by the Administrative Office on the cost of the operation of the jury system for the fiscal year ended June 30, 1956, similar to reports prepared for previous years, was submitted to the Conference by the Committee. At the Committee's request the Conference authorized the report to be distributed among the judges for their information to the end that jury costs may be kept to the lowest level consistent with efficient operation of the system.

COMMITTEE ON REVISION OF THE LAWS

Judge Maris, chairman, submitted the report of the Committee on Revision of the Laws.

Removal of Causes From State to Federal Courts

1. There had been presented to the Committee through the Administrative Office a request by the chairman of the Committee on the Judiciary of the House of Representatives for the views of the Judicial Conference with respect to a proposal by Professor George B. Fraser of the College of Law of the University of Oklahoma, that section 1446 of Title 28, United States Code, be amended so as to provide that the removal of a case from the State

to the Federal court should be effected by the filing of the removal petition in the Federal court rather than by the subsequent filing of a copy of that petition in the State court. The Committee recognized that theoretically questions may arise as to the power of the Federal court to deal with a case in the interval between these two events, although it had not learned of any difficulties which have occurred in this regard in practice since the enactment of section 1446. It was the view of the Committee that Professor Fraser's proposal as an original proposition has merit, although the need for such a change has not been shown to be sufficiently pressing to call for passage of legislation to effect it alone. The Committee therefore recommended that the Conference authorize the Director of the Administrative Office to inform the chairman of the House Judiciary Committee that the Conference regards the proposal as one which should be considered in connection with the next bill which may be prepared for the general improvement of the various titles of the United States Code but is not considered sufficiently urgent to call for immediate consideration in a separate bill. The Conference adopted the recommendation.

2. The Administrative Office had presented to the Committee a suggestion transmitted to it by the Deputy Attorney General from the United States Attorney for the Northern District of Iowa that the procedure for removal of causes be modified by requiring that the original papers in the State court be transmitted to and filed in the Federal court in lieu of copies. The Committee after considering this proposal concluded that it should not be approved because it appears to have certain practical disadvantages in proceedings in which the entire law suit in a State court is not removed and also presents questions of the constitutional power of the Congress to require a soverign State to deliver up its public records to the Federal government without its consent. The Committee accordingly recommended that the Director of the Administrative Office be authorized to inform the Attorney General that the Judicial Conference does not approve this proposal. The Conference adopted the recommendation.

Writs of Habeas Corpus with Respect to Persons Held in Institutions in Virginia for Criminal Offenses Committed in the District of Columbia

A resolution adopted by the Judicial Conference of the District of Columbia Circuit disapproving S. 448 of the 84th Congress was

referred to the Committee at the September 1955 session (Conf. Rept. p. 28). This bill would confer jurisdiction on the United States District Court for the District of Columbia to issue writs of habeas corpus with respect to persons held in institutions in Virginia for criminal offenses committed in the District of Columbia. The Committee reported that it saw no reason why the traditional principle that habeas corpus jurisdiction applies only to persons held in the territorial bailiwick of the Court should be departed from in this case and that this was particularly so in view of the fact that under section 2255 of Title 28, United States Code, which is applicable to the District Court and Municipal Court of the District of Columbia, relief can be obtained by prisoners held in Virginia under the judgments of those courts which is substantially equivalent to that which might be obtained by a writ of habeas corpus. Also in view of the provisions of the last paragraph of section 2255 it would appear that the jurisdiction proposed to be conferred by this bill would in practice be exercisable only in the rarest of cases; that section 2255 has in effect engrossed this field of jurisdiction. The Conference adopted the recommendation of the Committee and the Judicial Conference of the District of Columbia Circuit that this proposed legislation be disapproved.

Admission to the Bar of Courts of Appeals and District Courts of the United States

The Conference at the September 1955 session referred to the Committee a resolution of the Judicial Conference of the District of Columbia Circuit disapproving H. R. 828 of the 84th Congress amending Title 28 of the United States Code with respect to eligibility of members of the bar of the United States Supreme Court to practice before all courts of appeals and district courts of the United States, insofar as provisions of the bill would apply to practice before the Court of Appeals for the District of Columbia Circuit or before the District Court for the District of Columbia (Conf. Rept. p. 28). H. R. 7461 subsequently introduced in the 84th Congress was identical with H. R. 828 except that it eliminated the District of Columbia from its provisions. The proposed legislation would provide that with respect to a member of the bar of the United States Supreme Court the sole requirement for admission to practice before a court of appeals or district court of the United States should be the filing of an application to practice with his statement that he is a member in good standing of that bar.

The Committee pointed out that from the beginning of the Federal judicial system the several Federal courts have had power by rule of court to determine the qualifications of persons seeking admission to their bar. It was recalled that several years ago a committee of the Judicial Conference gave extensive consideration to the matter of uniform standards for admission to bars of the Federal courts and reported that it was not prepared to recommend uniform standards in this field. The Committee reported that it concurred in this view and believed that conditions in the various Federal judicial districts throughout the States were sufficiently diverse as to make it inadvisable to seek to impose uniform standards for admission to the bar of each of them. Also, H. R. 7461 would appear to deprive the lower courts of all control of the admission to their bar of lawyers who had previously been admitted to the bar of the Supreme Court. The Committee recommended that the Judicial Conference disapprove the proposed legislation embodied in H. R. 828 and H. R. 7461 of the 84th Congress and the Conference adopted the recommendation.

The Committee was asked by the Judicial Conference at the September 1955 session to consider a bill, H. R. 151 of the 84th Congress, disapproved by the Judicial Conference of the District of Columbia Circuit, relating to the practice of law in that circuit (Conf. Rept. p. 28). The proposed legislation which related only to the District of Columbia would appear to be designed to make criminal the practice of law by persons not admitted to the bar. However it would seem that the bill might be construed to authorize a member of the bar of any court of record of any State, territory, or possession to practice law in the District of Columbia. The Committee recommended that the judgment of the Judicial Conference of the District of Columbia Circuit disapproving the bill be followed, and the Conference adopted the recommendation.

Assignment of Retired Territorial Judges to Active Duty

The Judicial Council of the Third Circuit had submitted to the Committee a proposal that legislation be enacted to permit a judge of a territorial district court who has retired from office on salary under section 373 of Title 28, United States Code, to be designated and assigned, with his own consent, to perform judicial duty as a judge pro tempore in any such territorial court where his services are needed. The Committee reported that it was of the opinion that such a provision for the employment of the services of a retired

territorial judge who was willing to give them was in the public interest and recommended approval by the Conference of a bill drafted by the Committee to accomplish that object. The Conference approved the recommendation and the draft of bill prepared by the Committee, with an amendment that the retired judge would be eligible for assignment only upon the filing of a certificate that he was not engaged in the practice of law.

Furnishing the Congressional Record to Judges and Court Libraries

The Committee reported that it had considered a bill (H. R. 815, 84th Congress) which would provide for the supplying of the Congressional Record, free of charge, to United States judges and to the libraries of the United States courts of appeals and district courts. The Committee was of the view that access to the Congressional Record may be of value to some judges and that it may be important to have it in court libraries. The Committee therefore recommended that the Conference approve the proposed legislation modified so as to provide that a copy of the daily Congressional Record be provided to those judges who request it and that copies of the bound volumes of the Congressional Record be provided to the libraries of courts which request them. The recommendation of the Committee was approved by the Conference.

Record on Review of Orders of Administrative Agencies

The Committee recommended that the Conference reaffirm its approval (Conf. Rept. Mar. 1955 Sess., p. 16) of proposed legislation (S. 2223 and H. R. 6682, 84th Congress) authorizing the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders, with the following amendment:

> In line 15, page 2, after "record." and before "The" insert the following additional sentence: "Such rules may authorize the agency, board, commission or officer to file in the court a certified list of the materials comprising the record and retain and hold for the court all such materials and transmit the same or any part thereof to the court, when and as required by it, at any time prior to the final determination of the proceeding."

The Committee pointed out that this amendment would recognize a procedure which has been adopted by a number of courts of

appeals to avoid the unnecessary burden of transmitting from the agencies to the clerk's office a large volume of papers which actually may not need to be examined, by authorizing the filing of a mere list of the papers constituting the record, the actual papers to be forwarded to the appellate court only when called for.

The Conference adopted the recommendation of the Committee and reaffirmed its approval of the proposed legislation with the above amendment.

Notice of Appeals of Certain Interlocutory Orders

Upon recommendation of the Committee the Conference reaffirmed its approval of the legislation embodied in S. 2128 and H. R. 6631 of the 84th Congress which would provide for reasonable notice (instead of a mandatory five days' notice as at present) to the agency of applications to the courts of appeals for interlocutory relief against orders of the Civil Aeronautics Board, the Federal Communications Commission, the Secretary of Agriculture, the Federal Maritime Board, and the Atomic Energy Commission. (See Jud. Conf. Repts. March 1955 Sess., p. 17; March 1956 Sess., p. 20.)

Appeals from Interlocutory Orders of the District Courts

Upon recommendation of the Committee, the Conference reaffirmed its approval of the legislation embodied in H. R. 8331 of the 84th Congress which would amend section 1292 of Title 28, United States Code, so as to authorize the court of appeals to permit appeals to be taken from interlocutory orders in civil actions when the district judge states in the order that it involves a controlling question of law as to which there is substantial ground for differences of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation. (See Jud. Conf. Rept. March 1956 Sess., p. 19.)

District Court of Guam

Upon recommendation of the Committee, the Conference reaffirmed its approval of the legislation embodied in H. R. 10630, 84th Congress, which supersedes H. R. 9609, relating to the compensation and term of office of the judge of the district court of Guam, the jurisdiction of the court, the composition of the appellate division of the court, and the temporary assignment of judges

to the court. (See Jud. Conf. Rept. Sept. 1955 Sess., p. 29; March 1956 Sess., p. 20.)

Consideration of Matters by the Committee on Revision of the Laws

On motion of Chief Judge Biggs, the Committee on Revision of the Laws was authorized by the Conference to consider and report to the Conference on proposals pertinent to the sphere of the Committee whether or not they had previously been referred to the Committee by the Conference.

BAIL IN CERTAIN CRIMINAL CASES

The Conference disapproved the proposed legislation contained in H. R. 26 of the 84th Congress which would restrict the right of a defendant to bail before conviction if the charges related to alleged offenses affecting the national security.

TENURE OF JUDGES IN HAWAII AND PUERTO RICO

The Conference reaffirmed its recommendation that legislation be enacted to provide that the United States district judges for the districts of Hawaii and Puerto Rico shall have the same tenure of office and retirement rights as all other United States district judges. This proposed legislation was introduced in the 84th Congress as H. R. 8621. (See Jud. Conf. Repts. March 1953 Sess. p. 15; March 1956 Sess., p. 20.)

PRETERMISSION OF TERMS OF THE COURTS OF APPEALS OF THE EIGHTH AND TENTH CIRCUITS

At the request of Circuit Judge Sanborn, 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 Bratton, the Conference consented that terms of the Court of Appeals of the Tenth Circuit at places other than Denver be pretermitted during the current fiscal year.

ATTENDANCE AT CONFERENCE BY FORMER CHIEF JUDGES OF CIRCUITS

On motion of Chief Judge Biggs, it was resolved that former Chief Judges of the Circuits are invited to attend sessions of the

Conference and participate in its proceedings, without, of course, the right to vote.

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. October 30, 1956.

APPENDIX

REPORT

OF

THE HONORABLE HERBERT BROWNELL, JR.

ATTORNEY GENERAL OF THE UNITED STATES

TO THE

JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D. C.

SEPTEMBER 19, 1956

This opportunity to meet with the distinguished members of this Judicial Conference and to discuss with them the issues of current interest to the Bench, the Bar, the people and the Department of Justice, is very much appreciated.

Through our continued joint concern over common problems and our joint efforts in solving them, we will together have the satisfaction of forwarding the great American traditions and ideals of justice in our courts.

1. *Case Backlog and Delay.*

Delay in litigation continues to be the primary problem in the administration of justice in most of our Federal and State courts. We seek a solution to this problem which will wipe out the law's delays without sacrifice of fundamental rights.

There are no pat or easy answers to this problem. Recent experiments in some districts for modernizing judicial machinery and administration have paid handsome dividends. One case involving the Federal District Court for the Southern District of New York—our largest and most congested court—will illustrate the point.

In the fall of 1955 a committee of Federal district judges took over control of the calendar. The jury and non-jury parts were placed in charge of two of the judges. These judges required attorneys in every case to appear and discuss these cases informally.

In this frame of judicial interest, guidance and supervision, hundreds of cases that should have been settled, were settled. If a case was not ready for trial, it was removed from the calendar. Those ready for trial were shifted to the ready day calendars, and the attorneys instructed to be prepared to try them at short notice.

The first call of the entire calendar was completed by the end of January. In the next two months there was a second call of cases adjourned for various reasons. By the end of April 1956, this system of special calendars produced the most amazing results. In a period of merely seven months, a calendar load of 5,772 cases had been reduced to 2,384, or a reduction of 60 percent, and further reductions are anticipated in the future. However, even with their present load, and working very hard as all our Federal judges do—harder than is good for their health and the adequate consideration of matters—it is not possible for them to handle the increasing load of incoming cases unless Congress authorizes the appointment of additional judges.

That the fault for these delays does not lie with our judges is demonstrated by statistics. These show, not a decrease in output by judges, but an increase in litigation that completely outpaces the number of judges available to cope with it.

Thus between 1941 and 1956, the number of cases filed annually increased 62.2 percent, whereas the number of district judges increased only 26.9 percent. In that period the district judges increased the average number of civil cases terminated annually per judgeship, 38.8 percent, and increased the average number of private cases terminated annually per judgeship, 44.5 percent. But even these marked increases in disposition of cases fell far short of what was required to handle the burden of increased civil litigation.

We know that relief will not come from any reduction in the population. The contrary is the case. As Judge Biggs aptly declared: "The population is not expanding, it's exploding." In addition, our expanding economy, tremendous increases in automobile and air travel, and many other factors are bound to be productive of mounting litigation.

You have requested, and I have strongly supported, your plea for more judges. Favorable action in both the Senate and House last year on the Omnibus Judgeship Bills almost assures favorable action early in the next Congress. But when we get down to it, this is merely an emergency stop-gap measure. It does not suffice for our fast growing country. We must set our sights on the long-range problem of an effective and adequate system of justice in the Federal courts. If we are not to be bogged down in the future we must be ready with something more than patchwork plans now, where it is always too little, too late.

What we need in my opinion, if we are to avoid a real crisis in the Federal court system, is a comprehensive study and report of our anticipated needs at least for the next 10 to 20 years.

When Congress is fully apprised of the facts, it will not be reluctant to act. Give the Congress documentary proof of the peoples' needs in the Federal courts and it will not fail to respond to them. And when the people learn in detail what the crying needs of the Federal judiciary are, it will go all-out to support worthy measures enacted by Congress to help the Courts discharge their public responsibility.

2. *The Attorney General's Conference on Court Congestion in 1956.*

With these objectives in mind, during May of this year I invited to Washington leaders of the bench and bar to discuss the problem of court congestion and delay in litigation, and to plan its solution. Representatives of State and local bar associations, and other organizations from all over the country participated actively in this conference. It fulfilled our highest expectations. I think a course has been charted which will materially help provide the machinery to bring about needed reforms.

A Steering Committee chaired by Judge Herbert F. Goodrich, of the Court of Appeals for the Third Circuit, rendered a Report which represented the conclusions reached by the Conference.

It was decided that the Conference would not undertake research but would serve solely in an advisory capacity. It will encourage, on a nationwide basis, programs to help eliminate delays in the trial and decision of cases. It plans to coordinate, to the extent possible, by voluntary action, the various activities being undertaken by many organizations, groups and individuals in this field. In the forthcoming year the principal function of the Conference will be to receive and correlate information, and to discuss and report on various projects designed to improve the administration of justice.

Among other matters, areas of inquiry to be covered in the Conference study are:

1. The need for adequate judicial statistics in each state and their accurate appraisal;

2. The flexibility of judicial systems, and the extent to which judges of one community whose workloads are light are permitted to serve in areas where calendars are heavy;

3. The extent to which discovery procedures, pre-trial conferences and other pre-trial techniques are employed and their success in relieving court congestion;

4. The procedures for handling court calendars so that the most efficient use is made of judicial time, courtroom space and court officers;

5. The extent to which the progress of litigation must be controlled by the judge, and the extent to which cooperation by bench and bar can be made most effective;

6. The professional responsibility of the bar in assisting to accomplish these objectives.

It was recommended that an Executive Committee should be formed including a chairman appointed by the Attorney General. This Executive Committee has been charged with the function of carrying into effect the recommendations and conclusions of the conference; of preparing an agenda for further conferences; and soliciting the assistance of other individuals and organizations,

both professional and lay, who may be likely to make helpful contributions in the matter.

It is my pleasure to announce at this time the members of the Executive Committee who have graciously agreed to serve. They are:

Mr. William P. Rogers, Chairman, Deputy Attorney General, representing the Department of Justice
Judge John Biggs, Jr., Chairman of the Committee on Court Administration of the Judicial Conference of the United States
Congressman Emanuel Celler, Chairman of the Judiciary Committee of the House of Representatives
Senator James O. Eastland, Chairman of the Judiciary Committee of the Senate
Chief Justice Edmund W. Flynn, Chairman of the Conference of Chief Justices
Mr. Jenkins Lloyd Jones, President of the American Society of Newspaper Editors
Governor Arthur B. Langlie, President of the Council of State Governments
Mr. Arthur Littleton, Chairman of the National Conference of Bar Associations
Mr. David F. Maxwell, President of the American Bar Association
Mr. Philip Mechem, President-Elect of the American Association of Law Schools
Judge Arthur T. Vanderbilt, President of the Institute of Judicial Administration

3. *Other Aspects of Department Cooperation To Reduce Congestion in the Courts.*

The Department of Justice has been doing its share in other respects to cut down court delays.

As you know the Department is the Federal Court's best customer. It is plaintiff in 27 percent and defendant in 7 percent of all civil litigation in the District Courts. This alone amounts to 20,000 new cases each year. In addition, the Government prosecutes about 28,000 criminal cases annually. Excluding the Customs Court and Court of Claims, this means that the United States is a party to approximately 50 percent of all the cases in the Federal District Courts.

Because of our great concern and responsibility in enforcing Federal laws, the Department has exerted every effort to cooperate with the courts in clearing up case backlogs.

I am proud of the remarkable results achieved by United States Attorneys and their staffs for the fiscal year ending June 30, 1956.

As of June 30, 1955, our caseload was 29,979 cases. As of June 30, 1956, our caseload was 24,253 cases. This was a reduction of 19.1

percent or 5,726 cases. It is by far the largest reduction in the pending caseload for the past 20 years.

While we were reducing the caseload, we were increasing collections for the United States Treasury. For the fiscal year 1956, our collections reached an all-time high of $42,034,788. This was an increase of 53.02 percent over fiscal year 1955, when $27,470,493 was collected.

You may be interested in one of the ways by which we were able to dispose of many of our cases.

At the 1955 Conference of United States Attorneys, the latter were requested to contact Federal district judges and attempt to arrange special tax calendars wherever this was feasible. This was done in a number of districts with the kind cooperation of the judges sitting there. The results were fruitful. Over 600 civil tax cases were presented to the courts in the fiscal year ending June 30, 1956. This was an increase of 183 trials or 44 percent over 1955. With only a few exceptions, the dockets of civil tax cases are now current.

On the basis of this experiment, it is suggested that this plan may be carried out successfully in other district courts as well, not only with tax cases, but in other kinds of cases where similar or related problems are presented.

4. *Federal Youth Corrections Act.*

We are pleased once again to report the steady increase in the use which is being made by the courts of the provisions of the Youth Corrections Act. The Act has now been invoked in all but six of the Judicial Districts in which it is now operative. Between January 1954 and June 1956, a total of 819 young men and women were committed under sentence as youth offenders, and an additional 59 youths were received for study and observation prior to sentence. In 1955, 30 percent of the offenders under the age of 22, exclusive of juveniles, received in Federal institutions were sentenced under the Youth Act, and in 1956, the percentage increased to slightly more than 36 percent.

Continued progress has been made during the past year in the development of a sound yet flexible and experimental program of training and treatment for youth offenders at the institution at Ashland, Kentucky.

To June 30, 1956, a total of 226 offenders had been released on authorization of the Youth Division of the United States Board of Parole. The rate of paroles each month is now rising rapidly

and it is anticipated that by the end of this year the number of youths under supervision in the community will equal the number receiving treatment in the institution. Of the youths paroled 38 had violated the conditions of their release by June 30. We continue to have excellent cooperation from the United States Probation Service in release planning and supervision for the youth group. We feel confident that through the combined resources of both institutional and probation staffs we may look forward to significant results from this fresh and intensified approach to the treatment of this most challenging group of offenders.

We have, of course, been particularly anxious to extend the operations of the Youth Act to the area of the United States beyond the Mississippi River. This has been delayed, unfortunately, because the continuing high level of population of Bureau of Prisons institutions posed serious difficulties in certifying the availability of additional institutions for the youth program. The need for additional institutions to implement the youth program was presented to Congress in 1955 and again in 1956. At its last session Congress appropriated funds for the establishment of a new youth camp in the West and we are now looking for a site suitable for this unit. Congress also made funds available for the preparation of plans and acquisition of sites for two additional institutions, one of which will be a guidance center for the youth group. We will have to return to Congress at its next session for the necessary funds to construct these institutions and if they are appropriated it will still require 2 or 3 years before the guidance center is ready for occupancy.

Despite the fact that no new institutional facility is yet available, the Director of the Bureau of Prisons has informed me that because of the importance of the youth program, he is taking emergency measures to develop the institution at Englewood, Colorado, as our second youth center. He expects to be in a position to certify the availability of that institution within the next few weeks. This will enable us to extend the program to the entire country.

Another important development during the past year has been the activiation of the Federal Advisory Corrections Council, which you will recall was established by the Youth Corrections Act. The Advisory Corrections Council, which numbers among its membership Chief Judge Orie L. Phillips and United States District Court Judges Albert V. Bryan and Luther W. Youngdahl, has been active since Dr. Hurst R. Anderson, President of American University,

was appointed chairman in May 1955. To date the Council has had three meetings. Following an organizational meeting in September 1955, the meeting in January 1956, was devoted largely to a review of legislation then before the Congress. The Council unanimously endorsed an administration proposal to strengthen and improve State and local programs to combat and control juvenile delinquency. In this connection it was urged that the States give particular attention to measures which would aid the States in developing their programs for the treatment and training of youthful offenders.

5. *Treatment of Adult Criminal Offenders.*

The challenge presented by youthful law violators is given added emphasis by the steady increases in the population of Bureau of Prisons institutions over the past five years. On June 30, 1956, there were 20,374 prisoners confined in our institutions. The average population of the 28 institutions reached 20,209, an all-time peak. Perhaps even more significant than the increase in number has been the marked change in the composition of the Federal prison population over the past 5 years. Federal prisoners, generally, are younger, are serving longer sentences, and have committed more serious offenses. This has resulted in dislocations in the distribution of the institutional population among the institutions. Thus, while a few of the minimum custody institutions are under capacity, the majority are seriously overcrowded.

The enactment of the Uniform Narcotic Act of 1956, which provides substantially higher criminal penalties for offenses involving importation and sale of narcotive drugs and denies persons convicted of such crimes eligibility for probation and parole consideration, will serve further to swell the populations of overburdened institutions.

We have recognized the vital importance of our continuing to expand our institutional system. This is essential not only to reduce current crowding of our institutions, but we must also provide for a continuing increase in commitments as the general population of the United States continues to grow. It is for this reason that we outlined to the last session of Congress the need for a broad program of future development of Federal penal and correctional institutions. We are hopeful that there may be an orderly, systematic development of our needed facilities in order that we may continue faithfully to execute the orders of the courts and protect the interests of society.

6. *Uniform Sentencing.*

Before we leave the subject of the federal penal system, I should like briefly to discuss the question of sentencing persons convicted for the same or similar crimes.

In imposing a sentence it is recognized that a judge frequently gives consideration, among other things, to the motivation of the crime, the antecedents of the offender, the nature of the personality of the accused, his past record, and many other social, human and individual elements which may be inseparable from the cause of the crime itself. It is indeed, as it should be, the modern trend to fit the punishment to the criminal rather than to the crime.

In those circumstances, however, where the apparent elements back of a crime and a criminal are substantially alike, disparate punishment creates misunderstanding and confusion in the public mind. It presents a troublesome morale problem for prosecutors and their assistants. It also engenders resentment among prisoners, and makes for an undesirable morale problem within the prison.

Those of us who have any experience with the courts know that the duty of imposing sentence is often more difficult than the trial itself. No one of us can minimize the anguish that goes into balancing the scales of justice so that each sentence will be just. Our courts are properly concerned about safeguarding the public against future crime. The sentence must be adequate to deter other persons from similar wrongdoing. It must be such as will prevent the hardened criminal from continuing to prey on society. It must not be so severe as to deprive the young, the accidental or unfortunate offenders of an opportunity to correct their way of life. Margins of difference in sentences either because of different defendants, different fact situations, or other differences, are to be expected. But if the people are to continue to have faith in the integrity of the judicial process, then at the very least a unified sentencing philosophy must prevail in our courts.

This perplexing problem will be under careful study in the Department of Justice during the coming months.

7. *Tribute of Henry P. Chandler.*

Finally, on behalf of the Department of Justice, I would like to express our sincere appreciation and gratitude to Henry P. Chandler. After 17 years as Director of the Administrative Office, United States Courts, Mr. Chandler plans to retire October 31, 1956. We have long valued Mr. Chandler's friendship. He has won the esteem and respect of judges, court personnel, members of

Congress and the public at large. His notable service as a true and devoted public servant will be missed by all of us. Under his able, mature and conscientious leadership, the Administrative Office has played an important role in promoting the proper administration and efficiency of the Federal Courts. When organized in 1939, this Administrative Office of the Federal judicial system was a pioneer in its field. It has now become a model for the States to follow. Already New Jersey and New York have established similar offices to improve the administration of their courts, and many other States are making rapid progress in this direction.

I know that I express the sentiments of many friends throughout the country in wishing Mr. Chandler the greatest happiness in his well-earned leisure years ahead.

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