
REPORT
of the
JUDICIAL CONFERENCE OF THE
UNITED STATES

* * *

PROCEEDINGS, MARCH 11-12, 1963

WASHINGTON, D. C.

1963

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

Warren Olney III
Director

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

§ 331. Judicial Conference of the United States.

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

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

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

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

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

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

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

TABLE OF CONTENTS

	<i>Page</i>
Call of the Conference.....	1
Announcement of the Death of Senior Judge Soper.....	2
Report of the Attorney General.....	3
Survey of Judicial Business.....	4
Court Administration.....	4
Geographical Organization.....	5
Consolidation of Judicial Districts in South Carolina.....	5
Divisions in the Southern District of Texas.....	5
Judicial Survivors' Annuity Fund.....	6
Division of Clerks' Offices.....	6
Clerks' Fees.....	6
Selection of Chief Judges.....	7
Disbursement of Judiciary Funds.....	7
Pretrial Examiners.....	8
Disqualification for Bias or Prejudice.....	8
Additional Districts and Divisions.....	8
Representation of District Judges on the Judicial Councils of the Circuits.....	9
Retirement of Territorial Judges.....	9
Electronic Sound Recordings.....	10
Court Reporters' Transcripts.....	11
Payment of court reporters who fail to file transcripts of pleas and sentencing proceedings in criminal cases.....	11
Precedence of Judges.....	12
Revision of the Laws.....	13
Removal Jurisdiction.....	13
Judicial Referrals to the Interstate Commerce Commission.....	13
Seizure of American Property Abroad.....	14
Direct Action Statutes.....	14
Commission and Advisory Committee on International Rules of Judi- cial Procedure.....	15
Other Legislation.....	16
Admissions to the Bar.....	18
Court of Veterans' Appeals.....	18
Retirement of Territorial Judges.....	19
Rules of Practice and Procedure.....	19
Special Committee on Rules of Evidence.....	20
Advisory Committee on Criminal Rules.....	20
Advisory Committees on Civil, Admiralty, Bankruptcy, and Appel- late Rules.....	21
Amendments to the Rules of Civil Procedure.....	21
Judicial Appropriations.....	21
Bankruptcy Administration.....	22
Salaries and Positions of Referees.....	24
Vacancies in Referee Positions and Changes in Arrangements.....	25
Appropriations.....	30

	<i>Page</i>
Legislation.....	31
Referees' Retirement and Salary Bill.....	32
Salary of the Referee in the Western District of Louisiana.....	33
Audit of Statistical Reports.....	34
Developments in the Use of Chapter XIII.....	35
Examination of Bankrupts.....	35
Matters under Advisement.....	35
Intercircuit Assignment of Judges.....	36
Administration of the Criminal Law.....	37
Legislation.....	38
Mandatory Minimum Sentences.....	39
Advisory Commission on Narcotic and Drug Abuse.....	40
Payment of Compensation to Counsel Appointed to Represent Poor Persons Accused of Crime.....	41
Protracted Criminal Cases.....	42
The Administration of the Probation System.....	42
Supporting Personnel.....	43
Court Reporters.....	43
Federal Employees' Salary Reform Act.....	44
Personnel in the Eastern District of New York.....	44
Court Reporter-Secretary.....	44
Draft Deferment of Law Clerks.....	45
Additional Personnel.....	45
Judicial Statistics.....	45
Disposition of Civil Cases Pending over Three Years.....	46
Additional Judgeship.....	47
Statistical Tables.....	47
Weighted Caseload.....	47
Criminal Offender Statistics.....	48
Other Matters.....	48
Pretrial Procedure.....	48
Seminar for New District Judges.....	48
Subcommittee for Multiple Litigation.....	49
Operation of the Jury System.....	49
Fees of Jurors.....	49
Jury Commission Bill.....	50
Other Legislation.....	50
Pretermission of Terms of the Courts of Appeals.....	51
Places of Holding Court in Vermont.....	51
Release of Conference Action.....	51
Index.....	52

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

MARCH 11—12, 1963

The Judicial Conference of the United States convened on March 11, 1963 pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. 331, and continued in session on March 12. The Chief Justice presided and the following members of the Conference were present:

District of Columbia Circuit:

Chief Judge David L. Bazelon

Chief Judge Matthew F. McGuire, District of Columbia

First Circuit:

Chief Judge Peter Woodbury

Judge Francis J. W. Ford, District of Massachusetts

Second Circuit:

Chief Judge J. Edward Lumbard

Chief Judge Sylvester J. Ryan, Southern District of New York

Third Circuit:

Chief Judge John Biggs, Jr.

Chief Judge Thomas M. Madden, District of New Jersey

Fourth Circuit:

Chief Judge Simon E. Sobeloff

Chief Judge Roszel C. Thomsen, District of Maryland

Fifth Circuit:

Chief Judge Elbert Parr Tuttle

Chief Judge Bryan Simpson, Middle District of Florida

Sixth Circuit:

Chief Judge Lester L. Cecil

Chief Judge Marion S. Boyd, Western District of Tennessee

Seventh Circuit:

Chief Judge John S. Hastings

Chief Judge William E. Steckler, Southern District of Indiana

Eighth Circuit:

Chief Judge Harvey M. Johnsen

Chief Judge John E. Miller, Western District of Arkansas

Ninth Circuit:

Chief Judge Richard H. Chambers

Chief Judge William J. Lindberg, Western District of Washington

Tenth Circuit:

Chief Judge Alfred P. Murrah

Judge Ewing T. Kerr, District of Wyoming

Court of Claims:

Chief Judge Marvin Jones

Court of Customs and Patent Appeals:

Chief Judge Eugene Worley

Senior Judge Albert B. Maris; Circuit Judges Jean S. Breitenstein, Oliver D. Hamlin, Jr., and William F. Smith; District Judges William J. Campbell, Theodore Levin and Luther W. Youngdahl; and Judge Sam E. Whitaker of the Court of Claims attended all or some of the sessions.

The Attorney General, Honorable Robert F. Kennedy, accompanied by Salvador A. Andretta, Administrative Assistant Attorney General, and Edwin O. Guthman, Director of Public Information, attended the morning session of the first day of the Conference.

Honorable Olin D. Johnston, Chairman of the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary of the United States Senate, attended the afternoon session of the first day of the Conference, and addressed the Conference briefly.

William R. Foley, Counsel of the Committee on the Judiciary of the House of Representatives; Hubert H. Finzel, Counsel of the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary of the United States Senate; and John F. Davis, Clerk of the Supreme Court of the United States, attended all or some of the sessions.

Warren Olney III, Director of the Administrative Office of the United States Courts; Will Shafroth, Deputy Director; and members of the Administrative Office staff attended the sessions of the Conference.

ANNOUNCEMENT OF THE DEATH OF SENIOR JUDGE SOPER

The Conference directed that the following statement by Chief Judge Sobeloff concerning the death of Senior Judge Morris A. Soper be included in the minutes of the Conference:

I bring to the Conference the sad news that last night Senior Judge Morris A. Soper died at his home in Baltimore at the age of ninety years, after a short illness.

Judge Soper's judicial service spanned almost a half century. It began in 1914 when he became Chief Judge of the

Supreme Bench of Baltimore City. He was appointed United States District Judge in 1923, and was elevated to the Court of Appeals for the Fourth Circuit, where he served for more than thirty years. For a time, while Judge Parker was in attendance at the Nuremberg trials, Judge Soper was the acting Chief Judge of the Circuit and a member of this Conference.

Although Judge Soper took qualified retirement in 1955, he continued without interruption his activity as a judge of our Court, shouldering a full share of its burden. During the manpower shortage we could not possibly have kept abreast of the docket without his steady help.

Judge Soper was a man of extraordinary ability and indefatigable industry. His unflagging interest was the court and he devoted himself not only to the writing of opinions but was the source of wise and invaluable counsel in the administration of the court. His colleagues appreciated him as a warm friend and elder brother. The Judge endeared himself to a wide circle by his great wit and personal charm.

To me personally the death of Judge Soper is a grievous loss, for our friendship began more than forty-five years ago when I, still a law student, became his law clerk. Through the intervening years I had the privilege of association with him in different capacities. I practiced before him in the District Court as United States Attorney and later as a member of the bar of the Court of Appeals. Although I became nominally his successor on the Court, actually by reason of his continued physical and mental health and vigor, I had the advantage of the constant guidance and help of a brilliant and experienced senior colleague. His undiminished activity endured till only a few weeks ago—a career rarely matched in American judicial history.

REPORT OF THE ATTORNEY GENERAL

Attorney General Robert F. Kennedy, on invitation of the Chief Justice, spoke to the Conference informally on matters relating to the work of the Department of Justice. He informed the Conference that the caseload of Government litigation has increased over-all about fifteen per cent this year and that tax cases had increased more than thirty per cent. However, the disposition of cases, partic-

ularly land condemnation cases, has been expedited in many courts and the number of open tracts in pending land condemnation cases has been reduced in the last year from 37,000 to 24,000.

The Attorney General called attention to the problem of the payment of the fees of commissioners appointed in land condemnation cases and requested the Conference to give further consideration to this problem. He also called attention to the proposed Criminal Justice Act of 1963, previously distributed to the members of the Conference. This proposed Act would provide for the representation of indigent criminal defendants in the federal court system in somewhat the same manner as legislation previously recommended by the Conference. The Attorney General requested that the proposed legislation be considered by the Conference.

SURVEY OF JUDICIAL BUSINESS

The Conference received reports from the Chief Judge of the Court of Claims, the Chief Judge of the Court of Customs and Patent Appeals, and from the Chief Judges of the respective circuits concerning the state of the dockets in their courts and circuits. These reports were supplemented by the district judges who presented additional details concerning the business of the district courts of the circuits. The Conference was informed that in accordance with the plan and policy adopted by the Conference in September 1961 and renewed at its session in September 1962, progress had been made in the disposition of civil actions pending more than three years. Many district courts are completely current in the disposition of these cases.

COURT ADMINISTRATION

The Chairman of the Committee on Court Administration, Chief Judge John Biggs, Jr., presented the report of the Committee.

GEOGRAPHICAL ORGANIZATION

Chief Judge Biggs informed the Conference that the Subcommittee on the Geographical Organization of the Courts had met with Mr. William R. Foley, General Counsel for the Judiciary Committee of the House of Representatives, and with representatives of the Columbia University Project for Effective Justice last November. Preliminary plans for a complete study and an historical analysis concerning the residences of parties and the places where causes of action arose have been discussed. At the request of Judge Biggs, the Committee was granted leave to consider the matter further and to report to a later session of the Conference.

CONSOLIDATION OF JUDICIAL DISTRICTS IN SOUTH CAROLINA

The Conference was informed that the Judicial Council of the Fourth Circuit had recommended the consolidation of the Eastern and Western Districts of South Carolina, including the elimination of certain places of holding court. The Conference was also informed that in the proposed consolidation an employee of the district court in one district who is related to a district judge in the other district would be exempted from the provisions of 28 U.S.C. 458. After a full discussion of the proposal, the Conference voted to approve the consolidation in principle with the understanding that the employee who is related to a judge will continue to serve the court in a different area of the state and will not work on the same matters as the judge to whom he is related. Chief Judge Biggs was authorized to prepare a draft bill for introduction in the Congress.

DIVISIONS IN THE SOUTHERN DISTRICT OF TEXAS

S. 721 and H.R. 2538, 88th Congress, would transfer the Counties of Austin, Fort Bend and Wharton from the Galveston Division to the Houston Division of the Southern

District of Texas. Upon recommendation of the Committee, the Conference approved the bills.

JUDICIAL SURVIVORS' ANNUITY FUND

The Committee had been requested by the Chief Justice to review the Judicial Survivors' Annuity System in the light of the actuarial evaluation of the system prepared by Mr. Bertram Oppel of the Office of the Actuary, Social Security Administration. The study indicated that the Judicial Survivors' Annuity System is insufficiently funded, as is the Civil Service Retirement System. The problem was discussed at length by the Conference, and the Committee was authorized to consider the entire matter further and to report at a future session of the Conference.

DIVISION OF CLERKS' OFFICES

The Federal Court Clerks Association had recommended the establishment in the Administrative Office of the United States Courts of a separate division dealing exclusively with the administration of offices of clerks of court. The Committee had considered the proposal at length and had concluded that the establishment of such an office would have little value to the clerks in the administration of their offices, that the duties of the clerks are of very wide range and are covered by a number of existing divisions of the Administrative Office, and that the creation of a new division within the Administrative Office would create serious personnel problems. Upon recommendation of the Committee, the Conference disapproved the proposal.

CLERKS' FEES

The Conference in March 1962 (Conf. Rept., p. 6) had directed the Administrative Office to undertake a study of the existing fee schedules for clerks of court and to report any suggested changes in fees to the Committee. However, due to the pressure of business and lack of personnel,

the Administrative Office has not completed these studies. The Committee was thereupon granted leave to consider the matter further and report at the next session of the Conference.

SELECTION OF CHIEF JUDGES

The Conference at its September 1962 session (Conf. Rept., p. 16) had directed the Committee to consider further the proposal contained in S. 1268, 87th Congress, relating to (1) the selection of chief judges of the circuits and of multiple-judge district courts; (2) the terms of service of chief judges; and (3) the powers and responsibilities of chief judges with respect to the general administrative superintendence of the business of the circuit and district courts. The Committee reported that the proposal contained in S. 1268 has not been introduced in the 88th Congress, and that the Committee has formulated no recommendation concerning the bill. The Committee was accordingly granted leave to consider the matter further and to report at a later session of the Conference.

DISBURSEMENT OF JUDICIARY FUNDS

The Department of Justice has proposed that the clerks of the courts of appeals and district courts, subject to regulations prescribed by the Director of the Administrative Office, shall disburse appropriated funds for the maintenance and operation of the courts rather than United States marshals. The Committee had previously reported that it endorses the plan in principle but that it had been unable to ascertain the cost to the judiciary of assuming this function. The Committee has now been informed by the Director that serious consideration is being given to the introduction of computers in the Administrative Office which could take care of all the disbursing functions for the entire judicial system. The Committee, therefore, requested and was granted leave to consider the matter further.

PRETRIAL EXAMINERS

In accordance with the direction of the Conference in September 1962 (Conf. Rept., p. 18) the Administrative Office prepared for the Committee a report and a statistical analysis of the operation of the pretrial examiner systems in the United States District Court for the District of Columbia and the United States District Court for the Southern District of New York. Thereafter, the Institute of Judicial Administration, upon request of the Committee, made an independent survey of the pretrial examiner systems, but the report was not received in time for consideration by the Committee. Upon recommendation of the Committee, the Conference directed that the matter be referred to both the Committees on Pretrial Procedure and Court Administration for consideration and report at the next session of the Conference. The Conference further directed that copies of the report of the Institute of Judicial Administration, together with any written comments by Chief Judge McGuire or Chief Judge Ryan, be circulated to all members of the Conference and to the chief judges of the large multiple-judge district courts.

DISQUALIFICATION FOR BIAS OR PREJUDICE

The Conference, upon recommendation of the Committee, reaffirmed its approval of the proposal contained in H.R. 3008, 88th Congress, to amend 28 U.S.C. 144 with respect to the disqualification of a judge for bias or prejudice. The bill is identical with S. 2478 and H.R. 10776, 87th Congress, which contained the proposal approved by the Conference at its March 1962 session (Conf. Rept., p. 7)

The Conference specifically disapproved H.R. 3325, 88th Congress, which would also amend 28 U.S.C. 144.

ADDITIONAL DISTRICTS AND DIVISIONS

H.R. 311, 88th Congress, would amend 28 U.S.C. 85 and 133, to divide the State of Colorado into two judicial dis-

tricts. It was the view of the Committee that the bill would make no contribution to the efficient working of the judicial system, and the Conference thereupon disapproved H.R. 311, or any similar bill.

H.R. 51, 88th Congress, would amend 28 U.S.C. 90 to provide a new division in the Northern District of Georgia and establish Griffin as an additional place of holding court in the new division. The bill would also waive the provisions of 28 U.S.C. 142 in regard to the furnishing of quarters and accommodations for the court at Griffin. Upon recommendation of the Committee, the Conference disapproved the bill.

REPRESENTATION OF DISTRICT JUDGES ON THE JUDICIAL COUNCILS OF THE CIRCUITS

S. 979 and H.R. 2841, 88th Congress, would amend 28 U.S.C. 332 to provide for the inclusion of district judges or a district judge on the Judicial Council of each circuit. These bills are identical with S. 1933 and H.R. 6690, 87th Congress, previously approved by the Conference. The recommendation of the Committee that the Conference reaffirm its approval of the proposal contained in these bills was not approved by the Conference.

RETIREMENT OF TERRITORIAL JUDGES

S. 272, 88th Congress, would provide that the amendment to 28 U.S.C. 373, made by Section 5 of the Act of February 10, 1954, 69 Stat. 13, should apply to any judge of the United States District Court for the District of Hawaii who retired under Section 373 before February 10, 1954, as if such amendment had been in effect on the date of retirement of the judge. The bill is identical with H.R. 1782, 87th Congress, which was disapproved by the Conference in March 1962 (Conf. Rept., p. 6). Upon recommendation of the Committee, the Conference reaffirmed its disapproval of the proposal contained in this bill.

ELECTRONIC SOUND RECORDINGS

The Conference had previously directed the Committee to draft and seek a clarifying amendment to 28 U.S.C. 753 (b) to authorize court reporters to file electronic sound recordings of proceedings on arraignment, plea and sentences in criminal cases, in lieu of transcripts as presently required. Upon recommendation of the Committee, the Conference approved the following proposal to amend the first three paragraphs of 28 U.S.C. 753 (b) :

One of the reporters appointed for each such court shall attend at each session of the court and at every other proceeding designated by rule or order of the court or by one of the judges, and shall record verbatim by shorthand, by mechanical means or by electronic sound recording subject to regulations promulgated by the Judicial Conference: (1) all proceedings in criminal cases had in open court; (2) all proceedings in other cases had in open court unless the parties with the approval of the judge shall agree specifically to the contrary; and (3) such other proceedings as a judge of the court may direct or as may be required by rule or order of court or as may be requested by any party to the proceeding. The Judicial Conference may prescribe the types of mechanical and electronic sound recording means which shall be used by the reporters for recording court proceedings.

The reporter shall attach his official certificate to the original shorthand notes or other original records so taken and promptly file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefor, or of a judge of the court, the reporter shall promptly transcribe the original records or the requested parts of the proceedings and attach to the transcript his official certificate, and deliver the same to the party or judge making the request. He shall also transcribe and certify all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording as provided in this subsection and the original records so taken have been certified by him and filed with the clerk as hereinabove provided in this subsection.

He shall also transcribe and certify such other parts of the record of proceedings as may be required by rule or order of court.

COURT REPORTERS' TRANSCRIPTS

The Conference in September 1961 (Conf. Rept., p. 100) had approved an amendment to 28 U.S.C. 753(f) to authorize the payment by the United States of the cost of a transcript for an indigent person in a proceeding to vacate sentence brought under 28 U.S.C. 2255. The Chairmen of the Committees on Court Administration and the Administration of the Criminal Law were authorized to cooperate in presenting to Congress this recommendation and the recommendation to amend 28 U.S.C. 753(b).

A proposal to increase the court reporter's fee for the use of a transcript in the preparation or perfection of an appeal from twenty-five cents to thirty cents per page, which was referred to the Committees on Court Administration and Supporting Personnel for study at the previous session of the Conference (Conf. Rept., Sept. 1962, p. 15), was postponed to the next session of the Conference.

PAYMENT OF COURT REPORTERS WHO FAIL TO FILE TRANSCRIPTS OF PLEAS AND SENTENCING PROCEEDINGS IN CRIMINAL CASES AS REQUIRED BY 28 U.S.C. 753(b)

The Director of the Administrative Office had previously requested instructions from the Conference with respect to paying court reporters who failed to file transcripts of pleas and sentences in criminal cases as required by 28 U.S.C. 753(b). (See Conf. Rept., Sept. 1961, p. 70). The Director, at that time, was authorized to continue salary payments to the court reporters, but was directed to instruct all court reporters that hereafter they must either file a complete transcript of all proceedings in connection with arraignment, pleas, and imposition of sentence in criminal cases, or file an adequately authenticated electronic sound recording of such proceedings, and that they

should certify to the Director of the Administrative Office quarterly or at such other suitable intervals as might be fixed by him, that in all such proceedings heard within the quarterly or other period ended six months prior to the certificate either a transcript or an adequately certified electronic sound recording had been filed with the clerk.

The Committees on Court Administration and Supporting Personnel reported that many court reporters have failed to comply with the regulations set forth in Administrative Office Bulletin No. 255, dated January 9, 1962. Upon recommendation of the Committees, the Conference resolved

That the Director is authorized and directed to withhold the payment of salaries of court reporters who have not transcribed and filed arraignments, pleas, and sentences in criminal cases as required by Section 753(b), or have not filed electronic sound recordings of arraignments, pleas, and sentences in criminal cases as provided in Administrative Office Bulletin No. 255, by September 30, 1963, and in due course thereafter.

PRECEDENCE OF JUDGES

There had been referred to the Committee on Court Administration the request of Chief Judge Lumbard of the Second Circuit for an expression of views by the Conference as to the precedence of judges in the situation where the permanent commission of a judge is dated prior to the permanent commission of another judge but post-dates the recess appointment of that judge. It was the view of the Committee that when a permanent commission is issued after a recess appointment, the permanent commission supersedes the recess appointment. The Conference, after full consideration of the report of the Committee, adopted the following resolution:

Resolved that in the opinion of the Judicial Conference the precedence of judges of the United States under sections 45(b), 136(b), 172, 212 and 253 of title 28 of the United States Code should be determined by reference to the dates of

the respective commissions, whether recess or permanent, under which the judges concerned are actually serving at the time as of which the question of precedence arises, or if such commissions bear the same date by reference to the respective ages of the judges concerned.

Accordingly the date of a recess commission ceases to have significance for purposes of precedence after the judge named therein has received his permanent commission and has begun service thereunder.

REVISION OF THE LAWS

Senior Judge Albert B. Maris, Chairman of the Committee on Revision of the Laws, submitted the report of the Committee.

REMOVAL JURISDICTION

The Conference, upon recommendation of the Committee, approved an amendment to 28 U.S.C. 1446(b) to increase from 20 to 30 days the period of time authorized for filing a petition for removal after receipt by the defendant of a copy of the complaint or after service of summons, and directed that a bill to accomplish the amendment be transmitted to the Congress.

JUDICIAL REFERRALS TO THE INTERSTATE COMMERCE COMMISSION

The Department of Justice had requested the views of the Conference on a proposal to amend 28 U.S.C. 1336 and 1398 with respect to cases referred to the Interstate Commerce Commission by district courts or the Court of Claims, to establish jurisdiction and venue in appeals from the Commission's orders in such cases in the courts of referral, and to establish a limitation of 30 days within which appeals can be taken from rulings by the Commission in reference cases. It was the view of the Committee that the proposal is a proper one to meet a procedural difficulty which needs correction. Upon recommendation of the Committee, the Conference approved the proposal.

SEIZURE OF AMERICAN PROPERTY ABROAD

The Committee on the Judiciary of the United States Senate had requested the views of the Conference on S. 576, 88th Congress, to amend Title 28 U.S.C., to provide means of redress for unlawful seizure of American property by foreign governments. The bill would authorize the district courts to adjudicate actions involving, or arising out of, acts of foreign states in violation of general principles of international law, or of a treaty, even though the action is brought against a foreign state without its consent or involves the validity of official acts of the foreign state. It was the view of the Committee that the bill involves problems of international law and treaty rights which directly affect the foreign relations of the United States and which are primarily questions of public policy. Upon recommendation of the Committee, the Conference directed that the Committee on the Judiciary of the United States Senate be informed that the Conference expresses no opinion on the proposal contained in the bill.

DIRECT ACTION STATUTES

S. 103 and H.R. 1997, 88th Congress, would amend 28 U.S.C. 1332, to eliminate from the diversity jurisdiction of the district courts suits on tort claims in which the plaintiff and alleged tortfeasor are local residents, but which under a state "direct action" statute may be brought directly against a foreign insurance carrier without joining the local tortfeasor as a defendant. It was the view of the Committee that while these "direct action" cases are within the letter of the diversity jurisdiction, they are not within its spirit or intent and should be eliminated from the heavy caseloads in the districts to which the "direct action" statutes apply. The bill would have its principal effect on litigation in the district courts in Louisiana and Wisconsin. Upon recommendation of the Committees on Court Administration and Revision of the

Laws, the Conference approved H.R. 1997, 88th Congress, which is the preferred draft.

COMMISSION AND ADVISORY COMMITTEE ON
INTERNATIONAL RULES OF JUDICIAL PROCEDURE

The Bureau of the Budget had requested the views of the Conference on a draft bill to improve judicial procedures for serving documents, obtaining evidence and proving documents in litigation with international aspects, which had been prepared and submitted to the President by the Commission and Advisory Committee on International Rules of Judicial Procedure, appointed pursuant to the Act of September 2, 1958, Public Law 85-906. The purposes of the proposal are to improve United States judicial procedures for (1) serving documents abroad in aid of actions pending in the United States, (2) serving documents in the United States in connection with proceedings before foreign and international tribunals, (3) obtaining evidence abroad in connection with proceedings in the United States, (4) obtaining evidence in the United States in connection with proceedings before foreign and international tribunals, (5) proving foreign official documents, (6) subpoenaing witnesses in foreign countries, and (7) transmitting letters rogatory between the United States and foreign and international tribunals. The proposed legislation supplements the Commission's recommendations for amendments to the Rules of Civil Procedure, which were considered by the Conference Committee on Rules of Practice and Procedure and incorporated in amended Rules 4 and 28 of the Federal Rules of Civil Procedure, adopted by the Supreme Court on January 21, 1963.

Judge Maris stated that the Committee is in agreement that the draft bill will effect important improvements in the procedure applicable to litigation having international aspects in situations in which at present the procedure is

inadequate and unrealistic in the light of the laws and procedure of many foreign countries. The bill would implement in this regard reforms in that procedure which have already been in part adopted by the Supreme Court. Upon recommendation of the Committee, the Conference approved the bill and directed that the Bureau of the Budget be so informed.

OTHER LEGISLATION

The Conference, on the joint recommendation of the Committees on Court Administration and Revision of the Laws, gave its specific approval, to the extent indicated, to the following bills pending in the 88th Congress, which would carry out proposals approved, in whole or in part, at previous sessions by the Conference.

(a) H.R. 697, 88th Congress, to extend the provisions of 28 U.S.C. 1963, for the registration of judgments to the district courts of the Virgin Islands, Guam and the Canal Zone and to provide for the registration of that portion of divorce decrees providing for the payment of money or the transfer of property. (Conf. Rept., Mar. 1961, p. 18).

(b) H.R. 700, 88th Congress, to provide for the publication before entry of decrees, judgments, and orders entered by consent upon the merits of civil antitrust proceedings in the district courts and in proceedings by any board or commission for the enforcement of any provision of the Clayton Act or the Federal Trade Commission Act. (Conf. Rept., Sept. 1961, p. 76).

(c) H.R. 2832, 88th Congress, to withdraw from the district courts jurisdiction of suits brought by fiduciaries who have been appointed for the purpose of creating diversity of citizenship between the parties. This bill embodies a proposal made by the Conference in September 1959 (Conf. Rept., p. 8).

(d) H.R. 2835, 88th Congress, to clarify the status of circuit and district judges retired from regular active

service. The bill embodies a proposal made by the Conference in September 1959 (Conf. Rept., p. 9).

(e) S. 299 and H.R. 2985, 88th Congress, to amend 28 U.S.C. 1391, to permit an action on a tort claim to be brought in the judicial district in which the act or omission complained of occurred. (Conf. Rept., March 1961, p. 19).

(f) H.R. 2840, 88th Congress, to amend 28 U.S.C. 1391(a) and (b) to authorize a civil action to be brought in the district in which the claim arose, as well as in the district of the residence of a party. The proposal contained in the bill would apply to every civil action and is not limited to tort cases. It is thus broader in scope than the proposal contained in S. 299 and H.R. 2985, 88th Congress, above recommended. H.R. 2840 is preferred by the Conference and, if enacted, would render unnecessary the enactment of S. 299 and H.R. 2985.

(g) H.R. 2844, 88th Congress, to provide life tenure for judges hereafter appointed to the United States District Court for the District of Puerto Rico. (Conf. Rept., Sept. 1961, p. 77).

(h) H.R. 2845, 88th Congress, to provide that the district courts shall always be open for certain purposes, to abolish terms of court and to regulate the sessions of the courts for transacting judicial business. (Conf. Rept., Sept. 1961, p. 76).

(i) H.R. 2846, 88th Congress, to amend the Judicial Survivors' Annuity Act to bring it into conformity with the provisions of the revised Civil Service Retirement Act with respect to annuities for survivors of Members of Congress. The bill embodies a proposal made by the Conference in March 1960 (Conf. Rept., p. 36).

(j) H.R. 2859, 88th Congress, to provide for the promulgation of rules of practice and procedure under the Bankruptcy Act. (Conf. Rept., Sept. 1961, p. 88).

ADMISSIONS TO THE BAR

H.R. 698, 88th Congress, would amend Title 28 U.S.C., with respect to the eligibility of members of the Bar of the Supreme Court of the United States to practice before all courts of appeals and district courts. The proposal would deprive the lower courts of all control over the admission to their bars of lawyers who had been previously admitted to the Bar of the Supreme Court. The bill is identical with H.R. 842 and H.R. 1260, 87th Congress, disapproved by the Conference in March 1961 (Conf. Rept., p. 22). The Conference reaffirmed its disapproval of the proposal contained in this bill.

COURT OF VETERANS' APPEALS

H.R. 932, H.R. 1806, H.R. 2162 and H.R. 3531, 88th Congress, would establish a Court of Veterans' Appeals and prescribe its jurisdiction and functions. The Conference was of the view that the question whether judicial review of the denial of veterans' claims should be accorded is a matter of public policy which is solely within the province of Congress to decide and that the judiciary should take no position thereon. If, however, Congress should decide to grant such review, the Conference believed that review by a Court of Veterans' Appeals, with local hearings by commissioners of the court, would provide a more suitable form of review than by the district courts, the courts of appeals or the Court of Claims. Accordingly, the Conference approved the type of review proposed by H.R. 932, H.R. 1806, H.R. 2162 and H.R. 3531, 88th Congress, except as to the provisions of H.R. 932 and H.R. 1806 which would amend 28 U.S.C. 451 and 610 to include the proposed court among the courts of the United States and which would have required the Director of the Administrative Office to assume certain responsibility for its administrative affairs. These latter provisions were specifically disapproved by the Conference.

H.R. 538, 88th Congress, would confer jurisdiction upon the Court of Claims to review *de novo* claims for benefits and payments under laws administered by the Veterans' Administration and H.R. 148, H.R. 2911, H.R. 2354, H.R. 2695, 88th Congress, would permit judicial review of compensation and pension claims by the district courts. The Conference disapproved the types of review proposed by these bills, since they are inconsistent with review by a Court of Veterans' Appeals, as above proposed, and would impose an unwarranted burden of work upon these courts.

RETIREMENT OF TERRITORIAL JUDGES

The Conference in March 1960 (Conf. Rept., p. 38), had approved a proposal to reduce from 10 to 8 years the length of judicial service required of a territorial judge in order to entitle him to receive a retirement pension. Upon recommendation of the Committees on Court Administration and Revision of the Laws, the Conference reaffirmed its approval of this proposal and directed that a bill to amend 28 U.S.C. 373 be prepared and submitted to the Congress.

RULES OF PRACTICE AND PROCEDURE

Senior Judge Albert B. Maris, Chairman of the standing Committee on Rules of Practice and Procedure, presented to the Conference the recommendations of the Committee and a report on the activities of the standing and advisory Committees on Rules of Practice and Procedure. He informed the Conference that Mr. Will Shafroth, Deputy Director of the Administrative Office, had been appointed Secretary of the standing Committee, and *ex officio* Secretary of the Advisory Committees, succeeding Mr. Aubrey Gasque, who resigned. The Committee has adopted a resolution expressing its gratitude for the excellent service Mr. Gasque had rendered for and with the Committee as its Secretary in the improvement of federal judicial procedure.

SPECIAL COMMITTEE ON RULES OF EVIDENCE

The Special Committee appointed to consider the feasibility and desirability of formulating uniform rules of evidence for the federal courts had presented to the standing Committee its final report stating the view of the Special Committee that " it is feasible and desirable to formulate uniform rules of evidence to be adopted by the Supreme Court for the United States District Courts." The standing Committee accordingly recommended that an advisory committee on rules of evidence be appointed by the Chief Justice, consisting of approximately 15 members broadly representative of all segments of the profession, with special emphasis on trial lawyers and trial judges, and that a reporter, or reporters, to the advisory committee be appointed by the Chief Justice. The Committee suggested, however, that the appointment of the advisory committee and reporter be deferred until after the Supreme Court has indicated informally its approval of proceeding with the project. The recommendations of the Committee were approved by the Conference, and the special Committee on Evidence, at its request, was discharged with the appreciation of the Conference for the splendid service performed.

ADVISORY COMMITTEE ON CRIMINAL RULES

Judge Maris reported that the Advisory Committee on Criminal Rules had given tentative approval to amendments to various rules of criminal procedure and that, with the approval of the standing Committee, these amendments were printed and circulated widely. The bench and bar of the country have been requested to submit their comments and suggestions concerning these proposed amendments to the standing Committee not later than December 31, 1963. Meanwhile, the Advisory Committee is proceeding with its study of the remaining rules of criminal procedure and hopes to have its recommendations

with respect to those rules formulated within the coming year.

ADVISORY COMMITTEES ON CIVIL, ADMIRALTY, BANKRUPTCY, AND APPELLATE RULES

The Advisory Committees on Civil, Admiralty, Bankruptcy and Appellate Rules are giving active consideration to the study and formulation of amendments to the rules of procedure within their jurisdiction and each Committee has held a meeting since the last session of the Conference. The Advisory Committees on Civil and Admiralty Rules and their reporters are working closely together on the program of unifying the civil and admiralty rules and substantial progress is being made. The Committees expect to be able to agree on the amendments to the civil rules that are necessary for this purpose. None of the Committees, however, has at this time formulated definitive amendments for submission to the bench and bar.

AMENDMENTS TO THE RULES OF CIVIL PROCEDURE

The Committee recommended to the Conference that the amendments to the Federal Rules of Civil Procedure, adopted by the Supreme Court on January 21, 1963, should be made effective on July 1, 1963, the beginning of the next fiscal year, so as to facilitate the change in the clerks' offices to new procedures which the amendments require and so as to give more ample opportunity for the bench and bar to familiarize themselves with those procedures. This recommendation was approved by the Conference.

JUDICIAL APPROPRIATIONS

The Chairman of the Committee on the Budget, Chief Judge William J. Campbell, reported that hearings before the Appropriations Subcommittee of the House of Representatives on the appropriation requests for the fiscal year 1964 had been held on January 28, 1963, but that a

report from the Appropriations Committee was not expected for some time. With respect to the current fiscal year 1963, the appropriations appear adequate, although it has been necessary to request supplemental funds to cover increased costs under the Salary Reform Act of 1962 and to purchase West's Modern Federal Practice Digest.

The Conference was informed that the Department of Justice had not included in its appropriation estimates for the fiscal year 1964 funds for the payment of land commissioners appointed under Rule 71 A (h) of the Federal Rules of Civil Procedure. It was pointed out that if the Department of Justice does not request the necessary funds, no payments to land commissioners can be authorized beyond June 30, 1963. The Conference thereupon adopted the following resolution reaffirming its action at the March 1962 session:

Be it resolved, That the Judicial Conference of the United States requests the Attorney General to include in the 1964 budget estimates for the Department of Justice and in the budget of the Department in subsequent years the item for land commissioners' fees, as in prior years, and continue such budgeting until the Davis Select Subcommittee on Real Property Acquisition has completed its studies and made its report, recommendations and legislative proposals.

At the appropriations hearings on the requests of the General Services Administration for funds for the purchase of furniture and furnishings for the courts during the fiscal year 1964, a question arose as to the validity of the estimates submitted by GSA. Through the cooperation of the subcommittee chairman, the Administrative Office reviewed the estimates and found them to be much too high, and the Committee was so advised.

BANKRUPTCY ADMINISTRATION

The Chairman of the Committee on Bankruptcy Administration, Circuit Judge Oliver D. Hamlin, Jr., presented

to the Conference the following resolution with respect to the service of Circuit Judge Albert V. Bryan, who has resigned from the Committee. The Conference concurred unanimously in the resolution and directed that it be transmitted to Judge Bryan.

WHEREAS the Judicial Conference at its September 1942 session authorized the Chief Justice of the United States to appoint a committee to consider and report on matters of bankruptcy administration, and

WHEREAS pursuant to this authorization a standing bankruptcy committee was created, and

WHEREAS the Honorable Albert V. Bryan, then a United States District Judge for the Eastern District of Virginia, was appointed by Chief Justice Fred M. Vinson as a member of that committee in September 1948, and Judge Bryan has served continuously and with distinction as a member of the Bankruptcy Committee from the date of his appointment, continuing in this capacity after his elevation to the United States Court of Appeals for the Fourth Circuit in August 1961, and has exhibited unlimited energy and high legal skill in dealing with the solution of difficult problems relating to bankruptcy, and

WHEREAS Judge Bryan through his efforts has contributed greatly to the improvement of bankruptcy administration of the federal court system,

NOW THEREFORE BE IT RESOLVED, that we here record our sincere appreciation for his services to the Bankruptcy Committee and to the improvement of bankruptcy administration.

Judge Hamlin also presented the following resolution with respect to the service of Honorable Edwin L. Covey, who retired as Chief of the Bankruptcy Division of the Administrative Office of the United States Courts on December 31, 1962. The Conference concurred unanimously in the resolution and directed that it be transmitted to Mr. Covey.

WHEREAS Honorable Edwin L. Covey was appointed the first Chief of the Bankruptcy Division upon its creation in 1942 and served continuously in that capacity for more than 20 years, and

WHEREAS through the transition from a fee system of Referees in Bankruptcy to the present salary system of bankruptcy courts Mr. Covey made continuous important contributions to the drafting of necessary legislation and the organization and management of the present system of bankruptcy administration, and

WHEREAS through his untiring devotion to duty and the exercise of consummate skill in the supervision of the affairs of the bankruptcy courts substantial improvement has been accomplished in the past two decades in the economical and prompt administration of bankruptcy cases.

NOW THEREFORE BE IT RESOLVED that we express our profound appreciation to Mr. Covey for his service to the Federal Judiciary and extend to him our gratitude and best wishes for health and happiness in his retirement.

SALARIES AND POSITIONS OF REFEREES

The Conference was informed that the Committee had met and considered the recommendations contained in the report of the Director of the Administrative Office, dated January 25, 1963, relating to the continuance of referee positions to become vacant by expiration of term, for changes in salaries of referees, changes in arrangements, and the creation of new referee positions. The Committee also considered the recommendations of the district judges and the judicial councils of the circuits concerned.

The Conference considered fully the Committee's report and the recommendations of the Director, judicial councils and the district judges. On the basis of the report and recommendations, the Conference took the action shown in the following table relating to changes in salaries and the creation of new referee positions, and directed that, unless otherwise shown, this action become effective on July 1, 1963, or as soon thereafter as appropriated funds are available:

District	Regular place of office	Type of position	Present salary	Conference action	
				Type of position	Authorized salary
<i>Third Circuit</i>					
Pennsylvania (W).....	Erie.....	Part-time	\$7,500	Full-time	\$15,000
Pennsylvania (W).....	Johnstown.....	do	6,000	Part-time	7,000
<i>Fifth Circuit</i>					
Alabama (N).....	Decatur.....	do	5,000	do	6,000
Alabama (N).....	Tuscaloosa.....	do	5,000	do	6,000
Florida (S).....	Fort Lauderdale.....	New Position	-----	do	7,500
Georgia (S).....	Savannah.....	Full-time	13,750	Full-time	15,000
Mississippi (N).....	Houston.....	Part-time	3,000	Part-time	4,000
<i>Seventh Circuit</i>					
Indiana (S).....	Indianapolis.....	New Position	-----	Full-time	15,000
Wisconsin (W).....	Madison.....	Full-time	12,500	do	15,000
<i>Eighth Circuit</i>					
Arkansas (E&W).....	Little Rock.....	do	13,750	do	15,000
Nebraska.....	Omaha.....	do	13,750	do	15,000
<i>Ninth Circuit</i>					
Arizona.....	Phoenix.....	New Position	-----	do	15,000
Idaho.....	Boise.....	Part-time	7,500	do	15,000
Oregon.....	Pendleton.....	do	5,000	Part-time	6,000
<i>Tenth Circuit</i>					
Utah.....	Salt Lake City.....	Full-time	13,750	Full-time	15,000

The Conference deferred action on a proposal to change the position of the referee in the Northern District of Iowa from a part-time to a full-time position and to transfer the regular place of office of the referee from Fort Dodge to Cedar Rapids.

VACANCIES IN REFEREE POSITIONS AND CHANGES IN ARRANGEMENTS

The Conference took the following action with regard to changes in arrangements for both new and existing referee positions and in regard to the filling of referee positions to become vacant by expiration of term, and

directed that, unless otherwise noted, the changes become effective July 1, 1963, or as soon thereafter as appropriated funds are available:

FIRST CIRCUIT

District of Rhode Island

- (1) Authorized the filling of the part-time referee position at Providence to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of six years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

District of Puerto Rico

- (1) Authorized the filling of the part-time referee position at San Juan to become vacant by expiration of term on May 31, 1963, on a part-time basis for a term of six years, effective June 1, 1963, at the present salary, the regular place of office, territory, and place of holding court to remain as at present.

SECOND CIRCUIT

Northern District of New York

- (1) Authorized the filling of the full-time referee positions at Albany and Utica to become vacant by expiration of term on June 30, 1963, on a full-time basis for terms of six years, effective July 1, 1963, at the present salaries, the regular places of office, territories, and places of holding court to remain as at present.

Eastern District of New York

- (1) Authorized the filling of the full-time referee position at Brooklyn to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Southern District of New York

- (1) Authorized the filling of the full-time referee positions at New York City to become vacant by expiration of term on June 30, 1963, on a full-time basis for terms of 6 years, effective July 1, 1963, at the present salaries, the regular places of office, territory, and places of holding court to remain as at present.

District of Vermont

- (1) Authorized the filling of the part-time referee position at Burlington to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

THIRD CIRCUIT

District of Delaware

- (1) Authorized the filling of the part-time referee position at Wilmington to become vacant by expiration of term on September 30, 1963, on a part-time basis for a term of 6 years, effective October 1, 1963,

at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Eastern District of Pennsylvania

- (1) Authorized the filling of the full-time referee position at Reading to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Western District of Pennsylvania

- (1) Changed the part-time referee position at Erie to full-time at a salary of \$15,000 per annum.
- (2) Transferred Greene County from the territory of the part-time referee at Johnstown to the territory of the full-time referee at Pittsburgh.

FOURTH CIRCUIT

Eastern District of South Carolina

- (1) Authorized the filling of the part-time referee positions at Charleston and Columbia to become vacant by expiration of term on June 30, 1963, on a part-time basis for terms of 6 years, effective July 1, 1963, at the present salaries, the regular places of office, territories, and places of holding court to remain as at present.

Western District of South Carolina

- (1) Authorized the filling of the part-time referee position at Spartanburg to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Western District of Virginia

- (1) Authorized the filling of the part-time referee position at Lynchburg to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

FIFTH CIRCUIT

Northern District of Alabama

- (1) Authorized the filling of the full-time referee position at Birmingham to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Middle District of Florida

- (1) Authorized the filling of the full-time referee position at Tampa to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Southern District of Florida

- (1) Authorized an additional part-time referee position at Fort Lauderdale at a salary of \$7,500 per annum.
- (2) Fixed the regular place of office for the new referee at Fort Lauderdale.
- (3) Transferred the counties of Broward, Palm Beach, Martin, St. Lucie, Indian River, and Okeechobee from the territory of the referee at Miami to the territory of the new referee at Fort Lauderdale.
- (4) Designated Fort Lauderdale and West Palm Beach as places of holding court for the part-time referee at Fort Lauderdale.
- (5) Discontinued Fort Lauderdale and West Palm Beach as places of holding court for the referee of Miami.

Southern District of Mississippi

- (1) Designated Biloxi as an additional place of holding bankruptcy court for the referee in this district.
- (2) Discontinued Gulfport as a place of holding bankruptcy court in the district.

Northern District of Texas

- (1) Authorized the filling of the full-time referee position at Dallas to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Western District of Texas

- (1) Authorized the filling of the part-time referee position at El Paso to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of 6 years, effective July 1, 1963, at the present part-time salary of \$7,000 per annum, but with the temporary designation as full-time at a salary of \$15,000 per annum for a period of one year as previously authorized by the Conference. (Conf. Rept., Sept. 1962, p. 27).

SIXTH CIRCUIT

Eastern District of Michigan

- (1) Authorized the filling of the full-time referee position at Detroit to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Western District of Michigan

- (1) Authorized the filling of the part-time referee position at Marquette to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

Southern District of Ohio

- (1) Authorized the filling of the full-time referee position at Columbus to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the pres-

ent salary, the regular place of office, territory, and places of holding court to remain as at present.

Eastern District of Tennessee

- (1) Authorized the filling of the full-time referee position at Knoxville to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

SEVENTH CIRCUIT

Southern District of Indiana

- (1) Authorized an additional full-time referee position at Indianapolis at a salary of \$15,000 per annum.
- (2) Established concurrent jurisdiction in the Indianapolis Division for the referee positions at Indianapolis.

EIGHTH CIRCUIT

Northern District of Iowa

- (1) Authorized the filling of the part-time referee position at Fort Dodge to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of 6 years, effective July 1, 1963, at the present salary.
- (2) Designated Cedar Rapids as an additional place of holding bankruptcy court for the part-time referee at Fort Dodge.

District of Minnesota

- (1) Authorized the filling of the full-time referee position at St. Paul to become vacant by expiration of term on September 16, 1963, on a full-time basis for a term of 6 years, effective September 17, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

District of North Dakota

- (1) Authorized the filling of the part-time referee position at Fargo to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of 6 years, effective July 1, 1963 at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

District of South Dakota

- (1) Authorized the filling of the part-time referee position at Sioux Falls to become vacant by expiration of term on June 30, 1963, on a part-time basis for a term of 6 years, effective July 1, 1963 at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

NINTH CIRCUIT

District of Arizona

- (1) Authorized an additional full-time referee position at Phoenix at a salary of \$15,000 per annum.
- (2) Established concurrent district-wide jurisdiction for the three full-time referees in the district.

Southern District of California

- (1) Established concurrent jurisdiction for the full-time referees at Los Angeles and Fresno in the territory comprising San Luis Obispo, Ventura, and Santa Barbara Counties.

District of Idaho

- (1) Changed the part-time referee position in this district to full-time at a salary of \$15,000 per annum, the regular place of office, territory, and places of holding court to remain as at present.

Western District of Washington

- (1) Authorized the filling of the full-time referee position at Seattle to become vacant by expiration of term on June 30, 1963, on a full-time basis for a term of 6 years, effective July 1, 1963, at the present salary, the regular place of office, territory, and places of holding court to remain as at present.

APPROPRIATIONS

The Conference was informed that the appropriation for salaries of referees for the fiscal year 1963 and the estimates submitted for the fiscal year 1964 will be adequate for the salaries of referee positions now authorized, but that a supplemental appropriation of approximately \$77,500 will be needed for salary increases and the additional referee positions authorized by the Conference at this session. Upon recommendation of the Committee, the Director of the Administrative Office was authorized to seek the necessary supplemental appropriation for the fiscal year 1964.

The Conference was also informed that the appropriation for the expenses of the offices of referees for the fiscal year 1963 and the appropriation estimates for fiscal year 1964, if approved by the Congress, will be adequate.

The Committee noted that appropriations from the Referees' Salary and Expense Fund during 1963 may exceed estimated receipts by approximately \$100,000 and that obligations in 1964 may exceed estimated receipts by approximately \$700,000. Presently the fund has a balance in excess of nine million dollars. In view of the possibility of an increase in the salary limitations for full-time and part-time referees, the Committee was of the view that consideration of a change in the fees and special charges

for the support of the fund should be deferred until the impact of a referees' salary increase can be determined.

LEGISLATION

The Conference, upon recommendation of the Committee, reaffirmed its approval of the following bills pending in the 88th Congress, which contain proposals previously approved by the Conference:

(1) *Priority Claims, Liens and Title to Property*: H.R. 394, 88th Congress, would amend sections 1, 17a, 57j, 64a (5), 67b, 67c, and 70c of the Bankruptcy Act, 11 U.S.C. 1, 35(a), 93(j), 104(a)(5), 107(b), 107(c) and 110(c), relating to priority claims, statutory liens, and title to property. The bill would preserve the present position of the costs of administration and of wages in the distribution of the assets of a bankrupt, and at the same time, would enable valid contractual liens such as chattel mortgages, conditional sales contracts, trust receipts, and the like, to retain their position ahead of statutory liens on personal property unaccompanied by possession.

(2) *Dischargeability of Debts*: H.R. 1047, 88th Congress, would amend Section 2a of the Bankruptcy Act, 11 U.S.C. 11(a), by adding at the end thereof a new subsection which would give to the bankruptcy court jurisdiction to determine the dischargeability or nondischargeability of provable debts.

(3) *Claims in Chapter XI Cases*: H.R. 1049, 88th Congress, would amend various sections of the Bankruptcy Act and add a new section requiring the filing of claims in Chapter XI cases and limiting the time within which claims may be filed to the time prescribed by Section 57n of the Bankruptcy Act, 11 U.S.C. 93(n).

(4) *Attorneys' Fees*: H.R. 2833, 88th Congress, would amend Section 60d of the Bankruptcy Act, 11 U.S.C. 96(d), to give the bankruptcy court authority on its own motion to re-examine attorneys' fees paid or to be paid in a bankruptcy proceeding.

(5) *Summary Jurisdiction*: H.R. 2848, 88th Congress, would amend Sections 60b, 67e and 70e, of the Bankruptcy Act, 11 U.S.C. 96(b), 107(e), and 110(e), to give the bankruptcy court summary jurisdiction in actions brought under those sections involving preferences, liens and fraudulent transfers, and the trustee's title to property.

(6) *Deposit of Bankruptcy Funds*: H.R. 2849, 88th Congress, would authorize the deposit of funds of bankrupt estates in interest-bearing accounts under proper safeguards.

(7) *Rules of Practice and Procedure*: H.R. 2859, 88th Congress, would provide for the promulgation of rules of practice and procedure under the Bankruptcy Act, by the Supreme Court of the United States.

The Conference, upon recommendation of the Committee, took no action on the following bills, relating to claims for wages and other related claims, which are pending in the 88th Congress and which appear to involve questions of public policy:

(1) H.R. 66 to increase the amount of wages entitled to priority to \$1,800 and to provide that pension and welfare benefits earned by an employee shall have the same priority as direct wages;

(2) H.R. 549 and H.R. 710 to amend the Bankruptcy Act with respect to the priority of debts owed by a bankrupt to workmen, servants, clerks and certain salesmen;

(3) H.R. 1052 to amend Section 64 (a) (2) of the Bankruptcy Act; and

(4) H.R. 1784 to increase the amount of wages entitled to priority to \$2,000, to provide that pension, welfare, and other fringe benefits shall be treated as wages, and to increase the priority period from three months to twelve months with respect to certain wage components.

REFEREES' RETIREMENT AND SALARY BILL

H.R. 2556, 88th Congress, would amend the Bank-

ruptcy Act and the Civil Service Retirement Act, generally, to provide:

- (a) Terms of twelve years for full-time referees;
- (b) An increase in the maximum salary limitation for a full-time referee from \$15,000 to \$20,000 per annum, and for a part-time referee from \$7,500 to \$10,000 per annum;
- (c) A salary for the chief of the Bankruptcy Division of the Administrative Office at an amount which is not less than the maximum rate of compensation of a full-time referee;
- (d) A more liberal retirement annuity for referees, in general, comparable to the retirement benefits now provided for members of Congress and mandatory retirement for referees at age 75 under certain conditions.

Upon recommendation of the Committee the Conference approved the bill.

SALARY OF THE REFEREE IN THE WESTERN DISTRICT OF LOUISIANA

The Conference in March 1962 changed the referee position authorized for the Western District of Louisiana from a part-time basis to a full-time basis, effective July 1, 1962, or as soon thereafter as appropriated funds were available. Pursuant to this authorization, the part-time referee closed his private law practice and entered on full-time duty as a referee on July 1, 1962. The Appropriation Act, however, was not approved until October 18, 1962, and during this period of approximately three and one-half months the referee performed full-time service, but continued to receive compensation as a part-time referee. The Conference was informed that the judges of the Western District of Louisiana have urged that steps be taken to bring about the payment to the referee of the difference between the salary of a full-time and a part-time referee for the service performed during this period.

The Committee reported that a special bill of relief will be introduced in Congress and recommended that the Conference express its approval of such bill. This recommendation was approved by the Conference.

AUDIT OF STATISTICAL REPORTS

The Administrative Office had reported to the Committee that there had been a marked improvement in the situation with respect to the matter of errors in the computation of amounts due the salary and expense fund and overpayments of compensation to receivers and trustees.

In view of this improved situation, the Committee reported that it had restudied the resolution presented to the Conference at its session in September 1962 in regard to the accountability of referees, receivers, and trustees for administrative errors. Upon recommendation of the Committee, the Conference adopted the following amended resolution:

Resolved, That the Administration Office be authorized and directed to continue the policy of requiring referees to cause a thorough audit to be made of all accounts of receivers and trustees and to require strict compliance by them with all the provisions of the Bankruptcy Act relating thereto; that the Administrative Office continue its policy of auditing the statistical reports of closed cases; that receivers and trustees shall be held personally accountable for any errors in the computation of receivers' and trustees' compensation; and that referees shall be held personally accountable for administrative, as distinguished from judicial, errors in the computation of such compensation and of charges for the Referees' Salary and Expense Fund disclosed by the audit of statistical reports of closed cases; provided that while the Administrative Office is required to call all such errors to the attention of the referees concerned, steps to enforce the personal accountability of referees may be taken only after the expressed approval of the Bankruptcy Committee of the Judicial Conference.

DEVELOPMENTS IN THE USE OF CHAPTER XIII

The Committee reported that for the past two years the Administrative Office has required detailed reports on Chapter XIII cases which, after careful analysis, reveal a marked lack of uniformity in the operation of the offices of trustees in the following respects:

- (1) Allowance of fees to attorneys for debtors;
- (2) Compensation of Chapter XIII trustees;
- (3) Allowances for trustees' expenses;
- (4) Over-all costs of administration;
- (5) Record-keeping systems;
- (6) Trustees' bonds.

The Chairman of the Committee has, therefore, appointed a subcommittee consisting of Chief Judge Seybourn H. Lynne, Chairman, and District Judges Edward Weinfeld and Wesley E. Brown, to study and recommend guidelines for all phases of the administration of Chapter XIII cases.

EXAMINATION OF BANKRUPTS

In some districts, it appears that certain hearings in bankruptcy cases are held in so-called examining rooms out of the presence of the referee. These proceedings may or may not be recorded and counsel for the bankrupt may or may not be present. It was the view of the Committee that every proceeding in a bankruptcy court should be conducted in open court with a judge or referee presiding. Upon the recommendation of the Committee, the Conference thereupon adopted the following resolution:

Resolved, That it is the sense of the Conference that all first meetings of creditors and continuations thereof should be conducted in the presence of the referee to whom the case has been referred.

MATTERS UNDER ADVISEMENT

It had been brought to the attention of the Committee that some referees have held submitted matters under advisement for excessively long periods. At present there is

no system for obtaining reports on submitted matters similar to the system of reporting by district judges. The Conference was informed that the matter is currently under consideration by the Committee, and that Judge Wesley E. Brown has been requested to formulate recommendations and report to the Committee at its next meeting.

INTERCIRCUIT ASSIGNMENT OF JUDGES

The Chairman of the Advisory Committee on Intercircuit Assignments, Judge Jean S. Breitenstein, reported on the processing of requests for intercircuit assignments. Since its last report the Committee has recommended favorably on 22 intercircuit assignments. No adverse recommendation has been made. The judges receiving intercircuit assignments during the period include 4 circuit judges, 5 senior circuit judges, 5 district judges, 5 senior district judges, and 2 senior judges of the special courts. The Committee reported that the situation in the Court of Appeals for the Fifth Circuit, due to a heavy caseload and the illness of 2 judges, has required special attention. Two active and two retired circuit judges from out of the circuit have been assigned to that Court for a total of 6 weeks' service during the winter and spring of 1963.

The Committee had previously informed the Conference that it would undertake a further study and evaluation of intercircuit assignments in the light of the filling of the judgeship positions created by the Act of May 19, 1961. On the basis of the study, the Committee concluded that the assignment of judges among the circuits and the special courts is a substantial and important benefit to the federal judicial system and should be continued. Upon recommendation of the Committee, the Conference approved the following principles and procedures for intercircuit assignments:

- (1) The business of any court in the first instance should be handled by the judges appointed to it or

by senior judges from within or without the circuit. Assistance for a circuit or district court should be secured by an intracircuit assignment if reasonably possible. Resort should be had to an assignment of an active judge from another circuit or special court only when the assistance cannot be supplied from within the circuit or by the service of a senior judge from without the circuit.

- (2) When an assignment is needed from another circuit or to or from a special court, consideration should be given to the relative availability of the judges whose services might be secured and to the travel costs incidental to the assignment.
- (3) Requests for intercircuit assignments or for assignments to the special courts shall be made by the Chief Judge of the circuit or special court in need, shall be addressed to the Chief Justice, and shall be accompanied by:
 - (a) A certificate of need together with a statement of the reason for the need and, except on requests from a special court, of the inability to supply that need by an intracircuit assignment;
 - (b) In the case of an active judge, a consent to the assignment by the chief judge of the circuit or special court from which the assignment is to be made together with a statement of the availability of the judge to be assigned; and,
 - (c) In the case of a senior judge, a statement from him expressing his willingness to serve.

ADMINISTRATION OF THE CRIMINAL LAW

The Chairman of the Committee on the Administration of the Criminal Law, Judge William F. Smith, presented the report of the Committee.

LEGISLATION

The Conference, upon recommendation of the Committee, reaffirmed its approval of the proposals contained in the following bills introduced in the 88th Congress, which had been previously approved by the Conference:

(1) H.J. Res. 24, 88th Congress, to authorize the Attorney General to establish an Institute of Corrections for the training and instruction of corrections personnel selected by states and their municipal subdivisions in the field of correctional methods and techniques. (Conf. Rept., Sept. 1961, p. 97)

(2) H.R. 2847, 88th Congress, to amend 28 U.S.C. 633 to prescribe a new schedule of fees payable to United States commissioners and to increase the maximum allowance from \$10,500 to \$12,500 per annum. (Conf. Rept., Sept. 1961, p. 93)

(3) H.R. 2838, 88th Congress, to amend 28 U.S.C. 753 (f) to authorize the payment of fees for transcripts furnished indigent defendants in proceedings under 28 U.S.C. 2255. (Conf. Rept., Sept. 1961, p. 100)

(4) H.R. 2834, 88th Congress, to amend 18 U.S.C. 751 and 752 to provide a lesser punishment for the crimes of escape, where the person in custody is a committed juvenile delinquent. (Conf. Rept., Sept. 1961, p. 96.)

(5) H.R. 1634, 88th Congress, to amend the Criminal Code to protect any person in his right to accept and hold federal office and to discharge the duties thereof free from coercion, threats and intimidation. (Conf. Rept., Sept. 1961, p. 99.)

(6) H.R. 1833, 88th Congress, would amend 18 U.S.C. 3401(a) and (b) to enlarge the trial jurisdiction of specially designated United States commissioners. Under the bill, the authority of such commissioners would be defined as "jurisdiction to try and sentence a person committing an offense punishable by imprisonment for not more than one year or by a fine of not more than \$1,000 or both." The

bill retains the provision that a defendant may elect to be tried before the district court, but eliminates the present statutory requirement that he be apprised of his right to a trial in the district court, and sign a written consent to trial before the commissioner. The bill is identical with H.R. 3094, 87th Congress, approved by the Conference in September 1961 (Conf. Rept., p. 95) with an amendment restoring the requirement that the United States commissioner apprise the defendant of his right to elect to be tried before the district court and prohibiting him from proceeding to try the case unless the defendant, after being so apprised, signs a written consent to be tried before the commissioner. The Conference reaffirmed its approval of the proposal contained in H.R. 1833 as thus amended.

(7) H.R. 2842, 88th Congress, to amend 18 U.S.C. 3238 to establish trial venue as to crimes not committed in any district. (Conf. Rept., Mar. 1960, p. 25)

MANDATORY MINIMUM SENTENCES

S. 863, 88th Congress, would amend the Federal Youth Corrections Act by adding the following new section:

Sec. 5027. The provisions of this chapter shall be applicable to all persons otherwise eligible, who are convicted of violations of any Federal penal law relating to narcotics notwithstanding the fact that a mandatory penalty is prescribed for any such violation.

The proposed legislation would not only make available the provisions of the Federal Youth Corrections Act in criminal cases involving violations of the narcotics laws, and particularly the sentencing alternatives available under 18 U.S.C. 5010, but would also make available the same provisions to a young adult offender, 18 U.S.C. 4209, upon a determination by the court that there is reasonable ground to believe that the defendant will benefit from treatment under the Federal Youth Corrections Act.

S. 794, 88th Congress, would also amend the criminal code in regard to mandatory minimum sentences in nar-

cotics cases. Section 1 of the bill would authorize the imposition of sentence under 18 U.S.C. 4208(e) on a defendant convicted of a violation of the narcotics laws, if at the time of the offense he "was an addict as defined in section 2(k) of the Public Health Service Act," 42 U.S.C. 201(k) and "if the court finds that there is reasonable ground to believe that the defendant will benefit from the treatment provided under section 4208." Section 2 would amend 18 U.S.C. 4209 to authorize the imposition of sentence under the Federal Youth Corrections Act on a "young adult offender" if at the time of the offense he "was an addict" and "if the court finds that there is reasonable ground to believe that the defendant will benefit from the treatment provided under section 4209." Section 3 would add a subdivision (d) to 26 U.S.C. 7237 to make the mandatory minimum penalties inapplicable in the case of an addict "if the court finds that there is reasonable ground to believe that the defendant will benefit from treatment provided under Sections 4208 and 4209."

The proposals contained in S. 794 are identical with those contained in S. 2619, 87th Congress, approved by the Conference in March 1962 (Conf. Rept., p. 20). It was the view of the Committee that the proposed amendment to 18 U.S.C. 4209 is more restrictive than the amendment proposed by S. 863, *supra*, in that it is limited to young adult offenders who are "addicts" and does not cover the young adult first offender. Upon recommendation of the Committee, the Conference approved S. 863 and S. 794 insofar as it does not conflict with S. 863.

ADVISORY COMMISSION ON NARCOTIC AND DRUG ABUSE

Judge Smith advised the Conference that the President's Advisory Commission on Narcotic and Drug Abuse is presently engaged in a study of the federal narcotics laws to determine what new legislation and what amendments

to existing legislation may be desirable. In this respect, the views of the Conference on existing laws as to the desirability of mandatory minimum sentences and the existing prohibition against probation and parole have been requested. The Committee was authorized to cooperate with the Advisory Commission and to report to the Conference on proposals formulated by the Commission.

PAYMENT OF COMPENSATION TO COUNSEL APPOINTED
TO REPRESENT POOR PERSONS ACCUSED OF CRIME

The Deputy Attorney General had recently brought to the attention of the Committee a proposed "Criminal Justice Act of 1963" prepared by the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice of which Professor Francis Allen is the Chairman. This draft bill contains features not contained in the bill previously approved by the Conference, S. 2900, 87th Congress, and not included in S. 63, H.R. 1027 and H.R. 3504, which have been introduced in the 88th Congress.

The Committee had previously discussed with representatives of the Allen Committee (a) the desirability of legislation to meet adequately the many problems presented by the indigent defendant; (b) the relative merits of S. 63, 88th Congress (which is similar to S. 2900, 87th Congress) and the proposed Criminal Justice Act; (c) the status of legal aid societies and others in the operation of a plan; and (d) the problems of administration under S. 63 and the proposed Criminal Justice Act. It was the view of the Committee that these matters required further study. After full discussion, the Conference thereupon authorized the Committee to reconsider S. 63, 88th Congress, and other pending legislation to provide for the payment of compensation to counsel representing indigent defendants in the light of the most recent developments and to cooperate with representatives of the Attorney General and with the members of the Allen Committee.

PROTRACTED CRIMINAL CASES

There had been brought to the attention of the Committee the request of Chief Judge Lumbard for the consideration of certain problems presented in protracted criminal cases. Upon recommendation of the Committee, the Conference referred to the standing Committee on Rules of Practice and Procedure the following proposals:

- (1) That the number of alternate jurors permitted in a criminal case be increased from 4 to 8; and
- (2) That the courts be authorized to substitute an alternate juror for a juror who becomes ill or disabled during deliberations.

The proposal that provision be made for the substitution of a judge for another who becomes ill or disabled during the trial of a protracted case was referred to the Committees on Court Administration and Revision of the Laws for study and report to the Conference.

THE ADMINISTRATION OF
THE PROBATION SYSTEM

Judge Luther W. Youngdahl, Chairman of a Special Committee appointed by the Chief Justice to consider the recommendation of the Director of the Administrative Office for the creation of a standing Committee of the Conference on the Administration of the Probation System, reported that the Committee had met and considered suggestions and comments from representatives of the Department of Justice and the chairmen of Judicial Conference Committees whose responsibilities touch on the administration of the probation system. It was the consensus of the Committee that the needs and problems of the probation system may best be met through a permanent standing Committee of the Judicial Conference.

The Judicial Conference accepted the report of the Special Committee and authorized the creation of a standing Committee on the Administration of the Probation

System with additional responsibility for organizing institutes and joint councils on sentencing.

SUPPORTING PERSONNEL

The Chairman of the Committee on Supporting Personnel, Chief Judge Theodore Levin, submitted the report of the Committee to the Conference.

COURT REPORTERS

The Conference was informed that the Committee had considered, jointly with the Committee on Court Administration matters pertaining to the court reporting system, and that the Committee had concurred in the recommendations of the Committee on Court Administration presented above.

The Conference in September 1962 (Conf. Rept., p. 37) had authorized the Committee to consider further the advisability of altering the present policy of providing one court reporter for each district judge. The Committee reported that the situation in the district court from which the request had emanated has now been alleviated and that there are no further requests pending. The Conference accordingly approved the recommendation of the Committee that there be no change in the present policy.

The Committee also reported that it had received a request from the Chief Judge of the District of Oregon for a change in the designation of the court reporters in that district from nonmetropolitan to metropolitan. It was the view of the Committee that, while the request appears to have merit, the situation in other districts should also be considered. Accordingly the Committee requested and was granted leave to study the question of whether or not the two categories of court reporters should be combined and to report thereon to the Conference at its next session.

FEDERAL EMPLOYEES' SALARY REFORM ACT

The Federal Employees' Salary Reform Act of 1962 authorized salary increases to Government employees generally. Salaries of court reporters, however, are fixed by the Conference and salaries of National Park Commissioners must be approved by the Conference. In view of the long period of delay which would have been required to await action by the Conference, a meeting of the Advisory Committee of the Conference was held to consider the recommendations of the Director of the Administrative Office which would permit salary increases to these employees similar to those provided in the salary increase act. Upon recommendation of the Committee, the Conference affirmed the action of the Advisory Committee in approving the recommendations of the Director.

The Conference also affirmed the action of the Advisory Committee in approving the changes in the within-grade promotional plan for the supporting personnel recommended by the Director.

PERSONNEL IN THE EASTERN DISTRICT OF NEW YORK

At the request of the Administrative Office, a study was made of the personnel situation in the office of the clerk in the Eastern District of New York by an examiner of the Department of Justice. The report of the examiner which indicates no emergency need for additional personnel was received shortly prior to the Committee's recent meeting and a copy has been forwarded to the court. While the court has not had an opportunity for a full study of the report, it was the view of the Committee that no recommendation need be made on its part, nor is any action required unless further representations are made by the court.

COURT REPORTER-SECRETARY

The Conference, upon recommendation of the Committee, increased the salary of the combination court reporter-

secretary to the District Judge in the Canal Zone to \$8,310 per annum, which is the same as the salary authorized for other combination positions of this type.

DRAFT DEFERMENT OF LAW CLERKS

It was brought to the attention of the Committee that some law clerks to judges had obtained deferments from draft boards, while others were denied deferments. In view of the differentiation in treatment of deferments for law clerks, the Committee requested the advice of the Director of the Selective Service System, General Lewis B. Hershey, and obtained from him a letter explaining the situation. It was the view of the Committee that, on the basis of General Hershey's letter, the matter is one for individual determination by individual judges. Upon recommendation of the Committee, the Director of the Administrative Office was authorized to transmit a copy of the letter from General Hershey to all judges.

ADDITIONAL PERSONNEL

Several requests have been received for additional permanent positions in various court offices. However, in view of the decision of the Conference at its September 1962 session that the request for funds for additional personnel should be deferred pending congressional action on funds to implement the judicial salary plan, no action has been taken by the Committee. The Administrative Office, however, has reported that it has been in a position to supply temporary personnel in every instance where the need appeared to be urgent.

JUDICIAL STATISTICS

The Chairman of the Committee on Judicial Statistics, Chief Judge Harvey M. Johnsen, presented the report of the Committee to the Conference.

DISPOSITION OF CIVIL CASES PENDING OVER THREE YEARS

Chief Judge Johnsen reported that the Committee had reviewed the results of the efforts of the district courts during the past year to effect disposition of the civil cases pending for more than three years, in relation to the resolution of the Conference in September 1961 (Conf. Rept., p. 63) declaring it "to be the policy of the judiciary that every case pending three years or more and appropriate for trial be regarded as a judicial emergency by all the judges of any circuit where such cases are to be found." The statistics developed by the Committee and reported to the Conference are indicative that a special effort was made during the fiscal year 1962 to deal with these cases, although the plan was not effective throughout the entire year. It was the view of the Committee that it would serve no real purpose to continue to urge the program of dealing with these cases on an emergency basis beyond the present fiscal year.

The Committee, therefore, recommended that the district courts be requested to deal with all such cases during each fiscal year hereafter in regular programmed effort; that this programmed effort be directed at attempting to effect disposition of such cases as are left in that category at the end of the preceding fiscal year and as many as possible of those which will reach that category during the current fiscal year; that to assist in this task the Division of Procedural Studies and Statistics be directed to continue the procedure of the past two years, while the emergency program has been in effect, of sending to the Chief Judge of each circuit after the close of each fiscal year lists of the cases pending in each of the district courts of the circuit more than three years, for transmittal to such courts; that a general table showing the number of such cases pending and of the terminations made during each fiscal year be included in the Annual Report of the Director; that such general table, for comparative purposes,

be cumulatively made to show the figures commencing with fiscal 1961, when the emergency program began; and that the Division of Procedural Studies and Statistics be further directed to prepare tables of greater detail for the use of the Judicial Council of each Circuit in reviewing the nature of such suits. This recommendation was approved by the Conference.

ADDITIONAL JUDGESHIP

The Committee had been requested to review the need for an additional district judgeship in the Southern District of Alabama which, in the opinion of the district judge and the judicial council of the Fifth Circuit, is needed. The Committee reported that the situation in the district remains essentially the same as it existed prior to and at the time of the consideration of the Omnibus Judgeship Act of 1961, and was of the view that such help as is currently needed in the district ought to be able to be provided by judicial assistance from other districts in the circuit. The Committee concluded, therefore, that it ought not at this time recommend to the Conference creation of an additional judgeship for the district. The Conference concurred in the views of the Committee.

STATISTICAL TABLES

The Conference upon recommendation of the Committee approved the omission of Table C 8, showing the length of civil and criminal trials by nature of suit, from the Annual Report of the Director for the fiscal year 1962. The revision of Table C 10, relating to the median time interval from issue to trial, by the addition of percentiles thereto to show the range of time intervals for the middle 80 per cent of all civil cases tried was also approved by the Conference.

WEIGHTED CASELOAD

The Committee had been informed by the Administrative Office that further tests of the weighted caseload

table, authorized to be published in the Annual Report of the Director for 1962 (Conf. Rept., Sept. 1962, p. 41) were of such a general consistency as to lend support to the over-all ratios used in determining the weighted case-load. It was found, however, that the weighted values used in relation to total filings cannot be given application to evaluate the workload of the cases reaching the trial calendar.

CRIMINAL OFFENDER STATISTICS

The Conference was informed that the Division of Procedural Studies and Statistics is now obtaining from the probation officers additional information concerning defendants sentenced and convicted during the fiscal year 1963. The Division is also receiving through the Federal Bureau of Investigation copies of criminal record sheets on all defendants under probation or parole supervision.

OTHER MATTERS

The Committee reported that the Division of Procedural Studies and Statistics is undertaking this year to distribute certain standardized statistical tables for use at some of the Judicial Conferences of the Circuits as a convenient means for general consideration and discussion of the situations of the courts of the circuits. These compilations are being provided on an experimental basis and their desirability will be further considered by the Committee.

PRETRIAL PROCEDURE

The Chairman of the Committee on Pretrial Procedure, Chief Judge Alfred P. Murrah, presented an oral report to the Conference.

SEMINAR FOR NEW DISTRICT JUDGES

The Conference in September 1962 (Conf. Rept., p. 43) had authorized the Committee on Pretrial Procedure

to conduct an annual seminar commencing in 1963 for recently appointed district judges. Judge Murrah informed the Conference that plans were being formulated for a seminar this year in Denver, Colorado, to be held at the University of Denver during the week of July 28. Approximately 25 recently appointed district judges, including a few who were unable to attend a seminar last year, will be invited to participate. While the details of the program have not been worked out, the format will remain approximately the same as in prior seminars.

SUBCOMMITTEE FOR MULTIPLE LITIGATION

The Subcommittee of the Pretrial Committee, appointed to consider discovery problems arising in multiple litigation with common witnesses and exhibits, has continued its efforts toward the solution of problems presented by the antitrust treble damage actions which arose out of the criminal antitrust proceedings in the electrical equipment industry in Philadelphia in 1961. At a meeting of the judges having responsibility for the litigation, which was held in San Antonio in February, the status of the litigation in all districts was reviewed and plans were formulated for completing the discovery phase of the litigation and for the disposition of certain basic legal issues prior to the setting of these cases for trial and disposition. The first series of nationwide depositions has been completed and a second series, begun in March, is expected to be completed in July. A detailed report of the activities of the subcommittee was presented to the Conference.

OPERATION OF THE JURY SYSTEM

Chief Judge Sylvester J. Ryan, on behalf of Chief Judge Harry E. Watkins, Chairman of the Committee on the Operation of the Jury System, submitted the report of the Committee.

FEES OF JURORS

The Committee reported that judges and jurors had expressed concern regarding the inadequacy of compensation to jurors. In view of the prevailing wage scales and the increased cost of living, the Committee accordingly recommended that the per diem allowance of grand and petit jurors be increased from \$7.00 to \$10.00 per day and where any juror is requested to attend more than 30 days in hearing one case, that the per diem fee of such juror, to be paid in the discretion of and upon certification by the trial judge, be increased from \$10.00 to \$14.00 for each day in excess of 30 days the juror is required to hear such case.

Upon recommendation of the Committee, the Conference approved the proposal and directed that the proposed increase in the per diem for jurors be combined with the previous recommendation of the Conference for an increase in the subsistence allowance of jurors from \$7.00 to \$10.00 as set forth in H.R. 5616, 87th Congress. A revised bill to amend 28 U.S.C. 1871, which includes these recommendations, was approved by the Conference.

JURY COMMISSION BILL

Chief Judge Ryan reported that the Jury Commission Bill, approved by the Conference in September 1962 (Conf. Rept., p. 47), had been introduced as H.R. 3284 in the 88th Congress.

OTHER LEGISLATION

The following bill containing a proposal previously approved by the Conference has also been introduced in the 88th Congress: H.R. 2839 to increase the fees of jury commissioners from \$5.00 to \$10.00 per day.

H.R. 544, 88th Congress, would provide that in a civil case the number of jurors required to constitute a jury and the number who must agree for a valid verdict, shall be determined by the law of the state in which the action

is tried. The proposal contained in this bill had previously been disapproved by the Conference.

PRETERMISSION OF TERMS OF THE COURTS OF APPEALS

At the request of Chief Judge Harvey M. Johnsen, the Conference, pursuant to 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 fiscal year commencing July 1, 1963.

At the request of Chief Judge Murrah, the Conference consented that terms of the Court of Appeals of the Tenth Circuit at places other than Denver and Oklahoma City be pretermitted during the fiscal year commencing July 1, 1963.

At the request of Chief Judge Simon E. Sobeloff, the Conference consented to the pretermission of the term of court of the Court of Appeals of the Fourth Circuit scheduled at Asheville in June 1963, if the Court so decides.

PLACES OF HOLDING COURT IN VERMONT

On motion of Chief Judge J. Edward Lumbard the Conference approved a proposal to add Montpelier and St. Johnsbury as additional places of holding court in the District of Vermont.

RELEASE OF CONFERENCE ACTION

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

For the Judicial Conference of the United States.

EARL WARREN,
Chief Justice

April 9th, 1963.

INDEX OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

	<i>Page</i>
Additional Districts and Divisions:	
Consolidation of judicial districts in South Carolina.....	5
Southern District of Texas.....	5
Administrative Office of the United States Courts,	
Division of clerks' offices.....	6
Appropriations:	
Additional Personnel.....	45
Bankruptcy appropriations.....	30
Budget Committee, report of.....	21
Disbursement of judiciary funds.....	21
Fees of land commissioners.....	22
Judicial appropriations.....	21
Attorney General, report of.....	3
Bankruptcy Administration:	
Appropriations.....	30
Arrangements, changes in.....	25
Attorneys' fees.....	31
Audit of Statistical reports.....	34
Chapter XI, filing of claims.....	31
Chapter XIII, developments in the use of.....	35
Deposit of bankruptcy funds.....	32
Dischargeability of provable debts.....	31
Examination of bankrupts.....	35
Priority of claims, liens, title to property.....	31
Priority of wage claims.....	31
Referees:	
Changes in arrangements.....	25
Matters under advisement.....	35
Retirement and salary bill.....	32
Salaries and positions.....	24
Vacancies.....	25
Resolutions:	
Judge Albert V. Bryan.....	23
Mr. Edwin L. Covey.....	23
Conference:	
Call of.....	1
Release of action.....	51
Court Administration:	
Additional districts and divisions:	
Consolidation of judicial districts in South Carolina.....	5
Southern District of Texas.....	5
Bias or prejudice, disqualification for.....	8
Chief judges, selection of.....	7
Clerks' fees.....	6
Committee on, report of.....	4

	<i>Page</i>
Court reporter transcripts.....	11
Disbursement of judiciary funds by clerks.....	7
Division of clerks' offices, proposal for.....	6
Electronic sound recordings.....	10
Failure to file transcripts.....	11
Judicial Councils, representation of district judges.....	9
Judicial Survivors' Annuity System:	
Judicial Survivors' Annuity Act.....	17
Judicial Survivors' Annuity Fund.....	6
Places of holding court in Vermont.....	51
Pretrial examiners.....	8
Retirement of territorial judges.....	9
Transcripts in proceedings under 28 U.S.C. 2255.....	38
Courts:	
Places of holding court in Vermont.....	51
Pretermission of terms of courts of appeals.....	51
Criminal Law Administration:	
Committee on, report of.....	37
Escape involving juveniles.....	38
Federal officers, protection of.....	38
Indigent defendants:	
Appointment of counsel for.....	41
Payment of transcript fees.....	38
Institute of Corrections.....	38
Offenses not committed in any district.....	39
Protracted cases, problem of.....	42
Sentences; mandatory, minimum.....	39
Transcripts in proceedings under 28 U.S.C. 2255.....	38
Expedition of judicial Business.....	46
Fees:	
Clerks.....	6
U. S. commissioners.....	38
Indigent defendants:	
Appointment of counsel for.....	41
Payment of transcript fee.....	38
Intercircuit assignments of judges:	
Committee on, report of.....	36
Judges:	
Bias or prejudice, disqualification for.....	8
Judicial councils, representation of district judges.....	9
Precedence of judges.....	12
Retired judges, status of as member of court.....	16
Selection of chief judge.....	7
Seminar for new district court judges.....	48
Territorial judges, retirement of.....	9
Judicial Survivors' Annuity System:	
Judicial Survivors' Annuity Act.....	17
Judicial Survivors' Annuity Fund.....	6
Jurisdiction and Venue:	
Direct action statute.....	14
Diversity of citizenship, actions by fiduciaries.....	16

	<i>Page</i>
Interstate Commerce Commission, referrals to.....	13
Removal jurisdiction.....	13
Tort actions.....	17
Jury System:	
Committee on the Operation of, report of.....	49
Jury commission, establishment of.....	50
Jury commissioners, compensation of.....	50
Jury fees.....	49
Subsistence and mileage of jurors.....	50
Verdicts less than unanimous.....	50
Memorial:	
Judge Morris A. Soper.....	2
Multiple Litigation.....	49
Pretrial Procedure:	
Committee on, report of.....	48
Examiners.....	8
Seminar for new district judges.....	48
Subcommittee on multiple litigation.....	49
Puerto Rico, life tenure for district judges.....	17
Release of Conference action.....	51
Revision of the Laws:	
Admission to the bar.....	18
Antitrust cases, consent judgments, and decrees.....	16
Committee on, report of.....	13
Court of veterans' appeals.....	18
Direct action statute.....	14
Diversity of citizenship, actions by fiduciary.....	16
International rules of judicial procedure.....	14
Interstate Commerce Commission, judicial referrals to.....	13
Puerto Rico, life tenure for district judges.....	17
Registration of judgments.....	16
Removal jurisdiction.....	13
Retired judge, status of as member of the court.....	16
Seizure of American property abroad.....	14
Tort actions.....	17
Rules of Practice and Procedure:	
Admiralty rules.....	21
Appellate rules.....	21
Bankruptcy rules.....	21
Civil rules.....	21
Criminal rules.....	20
Rules of evidence.....	20
Secretary, appointment of.....	19
Statistics, Judicial:	
Additional judgeships.....	47
Committee on, report of.....	45
Criminal offender.....	48
Disposition of three-year old cases.....	46
Statistical tables.....	47
Weighted caseloads.....	47

	<i>Page</i>
Supporting Personnel:	
Additional positions.....	45
Committee on, report of.....	43
Court reporters.....	43
Court reporter-secretary.....	44
Law clerks, draft deferment of.....	45
National Park commissioners.....	44
Personnel in Eastern District of New York.....	44
Salaries of.....	44
U. S. commissioners:	
Fees and allowances.....	38
Jurisdiction of.....	38
Veterans appeals, court of.....	18