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

MARCH 13-14, 1969

JUNE 10, 1969

WASHINGTON, D.C.

1969

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ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

Ernest C. Friesen, Jr.  
Director

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

### § 331. JUDICIAL CONFERENCE OF THE UNITED STATES

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

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

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

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

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

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

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

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# Report of the Proceedings of the Judicial Conference of the United States MARCH 13-14, 1969

The Judicial Conference of the United States convened on March 13, 1969, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. 331. The Conference continued in session on March 14. The Chief Justice presided and the following members of the Conference were present:

**District of Columbia Circuit :**

Chief Judge David L. Bazelon  
Chief Judge Edward M. Curran, District of Columbia

**First Circuit :**

Chief Judge Bailey Aldrich  
Judge Edward T. Gignoux, District of Maine

**Second Circuit :**

Chief Judge J. Edward Lumbard  
Chief Judge Sidney Sugarman, Southern District of New York

**Third Circuit :**

Chief Judge William Henry Hastie  
Chief Judge Wallace S. Gourley, Western District of Pennsylvania

**Fourth Circuit :**

Chief Judge Clement F. Haynsworth, Jr.  
Chief Judge Walter E. Hoffman, Eastern District of Virginia

**Fifth Circuit :**

Chief Judge John R. Brown  
Chief Judge G. Harrold Carswell, Northern District of Florida

**Sixth Circuit :**

Chief Judge Paul C. Weick  
Chief Judge Mac Swinford, Eastern District of Kentucky

**Seventh Circuit :**

Chief Judge Latham Castle  
Judge Edwin A. Robson, Northern District of Illinois

**Eighth Circuit :**

Chief Judge Martin D. Van Oosterhout  
Chief Judge Roy W. Harper, Eastern and Western Districts of Missouri

**Ninth Circuit :**

Chief Judge Richard H. Chambers  
Judge Albert C. Wollenberg, Northern District of California

**Tenth Circuit :**

Chief Judge Alfred P. Murrah  
Chief Judge Arthur J. Stanley, District of Kansas

**Court of Claims :**

Chief Judge Wilson Cowen

**Court of Customs and Patent Appeals :**

Judge Phillip B. Baldwin for Chief Judge Eugene Worley

Mr. Justice Tom C. Clark, United States Supreme Court (retired), Senior Circuit Judges Harvey M. Johnsen, Albert B. Maris, Circuit Judges Robert A. Ainsworth, Jr., George C. Edwards, Jr., Irving R. Kaufman, Edward A. Tamm, and District Judges William J. Campbell, William E. Doyle, Joe E. Estes and Edward Weinfeld attended all or some of the sessions.

The Attorney General, the Honorable John N. Mitchell, accompanied by the Deputy Attorney General, the Honorable Richard Kleindienst, attended the morning session of the second day of the Conference. The Attorney General addressed the Conference on matters of concern to the Department of Justice and the judiciary. The Honorable Joseph D. Tydings, Chairman of the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, United States Senate, attended the morning session of the first day of the Conference and also addressed the Conference.

Mr. Albert Figinski, Counsel for the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary of the United States Senate, Mr. John F. Davis, Clerk of the Supreme Court of the United States, and Mr. Hugh Nugent, Director of Education and Training of the Federal Judicial Center attended all or some of the sessions.

Ernest C. Friesen, Jr., Director of the Administrative Office of the United States Courts, William E. Foley, Deputy Director, William R. Sweeney, Assistant Director, and members of the Administrative Office staff were also in attendance.

#### ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Ernest C. Friesen, Jr., Director of the Administrative Office, United States Courts, reported to the Conference on the business in the Federal courts for the first half of fiscal year 1969.

Mr. Friesen noted that in the courts of appeals there was an increase of almost 8 percent in terminations over the same period in fiscal year 1968. Nonetheless, in the same period, the total number of cases docketed rose by 11.7 percent and, accordingly, filings outstripped dispositions by 925 cases and the pending caseload in the courts of appeals on December 31, 1968, reached an all-time high of 7,540.

Mr. Friesen expressed concern in the increase in the number of cases under submission in the courts of appeals and noted that the increase in new appeals around the country was spotty, with the

highest increases in filings in the District of Columbia and the Fifth and Sixth Circuits. He noted that while there was an 87 percent increase in filings in the courts of appeals over a 7-year period, the judicial manpower in these courts during the same period increased by 24 percent.

During the first half of fiscal year 1969, Mr. Friesen noted a 7.4 percent increase in civil actions commenced in the district courts. During the same period, the increased number of terminations failed to outstrip the filings so that at the close of calendar year 1968 pending civil actions reached a new high of 84,995. He pointed out, however, that the substantial increase in civil suits filed by the United States Government resulted almost entirely from the advent of a large number of suits filed by United States Attorneys under Title 3 of the Narcotic Addict Rehabilitation Act. In the first half of fiscal year 1968, 36 such actions were filed whereas in the first half of 1969, 823 suits were entered. Prisoner petitions continued to increase during the period. Filings by such proceedings increased 12.3 percent in the first 6 months of fiscal year 1969.

Mr. Friesen stated that criminal cases also increased to the extent that as of December 31, 1968, the pending caseload figure was 14 percent higher than at the same time a year earlier. The criminal caseload increase reflects, in part, the increases in the number of Assistant United States Attorneys. Mr. Friesen stressed that priority must be given to the criminal docket to insure each defendant his right to a speedy trial. While most courts are faithfully following this practice, Mr. Friesen urged all courts to do everything in their power to guarantee the right to a speedy trial in criminal cases.

In discussing the length of time from the start of a case until the completion of a jury trial, Mr. Friesen urged wise use of the inter-circuit assignment system. He also urged that the responsibility for calendar control rests with the judges rather than the prosecutors.

#### FEDERAL JUDICIAL CENTER

Mr. Justice Clark, Director of the Federal Judicial Center, reported to the Conference on the operations of the Center from the period July 1, 1968, to March 1, 1969.

Mr. Justice Clark discussed first the appropriations for the Center which for fiscal year 1968 totaled \$40,000 and for fiscal year 1969, \$300,000. For fiscal 1970, he stated that the Center is requesting \$875,000. The increase is directed to three areas—research, education and training, and personnel.

The Center sponsored and directly supervised a seminar for newly appointed judges for the first time in October 1968 and Justice Clark stated that in the future the Center will assume full responsibility for the seminars, both for newly appointed judges and for those being planned for more experienced judges. The Center is also planning seminars and training programs directed toward clerks of court, probation officers and referees in bankruptcy.

The first metropolitan court conference of chief judges and executive committees of eight districts was held at the Center in January and was devoted to many problems facing metropolitan courts, particularly backlogs and delays in the judicial process.

Other projects and programs of the Center in the process of implementation involve computerizing the dockets in the Southern and Eastern Districts of New York and the Eastern District of Pennsylvania, and completely reorganizing the Clerk's Office in the Eastern District of Louisiana; in developing crash programs in criminal cases and using pretrial techniques in the disposition of cases in several districts; in organizing intensive pretrial in individual calendar systems and trial pools in the central calendar systems; in helping districts switch from central to individual calendaring where that appears helpful; in screening cases in the courts of appeals; research in personal injury litigation and in developing postconviction remedy programs and creating a statewide data bank on habeas corpus-postconviction litigation; in selecting jury panels through automation and teaching the efficient utilization of juror time; in developing a punchcard probation report technique and instituting case aids in parole and probation surveillance and developing three types of publications to disseminate knowledge and techniques to the personnel of the judicial branch—a newsletter entitled "The Third Branch," "The Federal Judicial Center Report," and specialty manuals, such as "The Judges' Handbook" and the "Manual on Complex and Multidistrict Litigation."

#### ELECTION OF BOARD MEMBER

The Conference was advised that the 1-year term of Judge Wade H. McCree, Jr., as a member of the Board of the Federal Judicial Center would terminate on March 28. Inasmuch as Judge McCree is eligible to serve a full 4-year term as a member of the Board, the Conference voted to elect him, pursuant to Sections 621 and 629 of Title 28, United States Code.

## JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

Chief Judge Alfred P. Murrah, Chairman of the Judicial Panel on Multidistrict Litigation, reported on the activities of the Panel since its organization in the summer of 1968.

Judge Murrah stated that since its organization the Panel has formally considered, either on motion of a party or its own initiative, 16 groups of cases which, collectively, include more than 600 cases in 44 different Federal district courts. The Panel has determined that transfer under Section 1407 was appropriate in nine of these 16 groups of cases and 202 cases have been transferred to seven different federal district courts for coordinated or consolidated pretrial proceedings. Judge Murrah stated that the Panel's docket has been dominated by multiple (airline crashes) and treble damage antitrust litigation. These account for 14 of the 16 groups of matters considered by the Panel. Other multidistrict litigation considered thus far have involved patent infringement actions and a group of cases requesting infringement relief against the Postmaster General with regard to certain fourth class bulk mailing regulations. The Panel has thus far made the final determination in 10 of the 16 groups of cases and in only one has the motion to transfer been denied.

Judge Murrah stated that because of the volume of multidistrict litigation, the Panel has been meeting once each month, generally on the fourth Friday of the month. The staff of the Panel maintains a complete docket system and extensive files for all matters before the Panel.

## JUDICIAL APPROPRIATIONS

Chief Judge William J. Campbell, Chairman of the standing Committee of the Conference on the Budget, reported that hearings were held by the Subcommittee of the Appropriations Committee of the House of Representatives on March 12, 1969. Judge Campbell stated that the requests for fiscal year 1970 provided for the employment of 36 additional deputy clerks and 33 stenographers for the courts of appeals. Provision has been made for 205 deputy clerks for the district courts, 166 of whom are requested for the administration of the new random jury selection process. Thirty-nine are requested to cope with the general increase in the workload. The estimate also contemplates adjustments in the courts and salaries of law clerks and chief-law clerks based on the

new classification standards approved by the Conference at its September 1968 meeting (Conf. Rept., pp. 59-61). Also included in the request for appropriations for fiscal year 1970 are 27 additional positions in the Administrative Office. Three of these positions are designed to perform the duties required of the Director under the Crime Control and Safe Streets Act, four relate to the Jury Selection and Service Act, three are requested to coordinate the conduct of a survey of the courts required under the Federal Magistrates Act, three are requested in connection with newly created circuit judgeships, three for a proposed caseload management study and 11 relate to current functions and responsibilities of the Administrative Office.

Judge Campbell stated that no date has yet been set for hearings on the appropriations in the Senate. He noted, however, in the hearings before the House of Representatives Subcommittee, committee members were particularly critical of the action of certain judges in discontinuing the acceptance of passport applications. The Subcommittee, Judge Campbell stated, made its disapproval of such unilateral action clear and indicated that any further occurrences might compel the Subcommittee to make appropriate reductions in the supporting personnel of the judiciary.

#### COURT ADMINISTRATION

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

#### LEGISLATIVE MATTERS

Judge Ainsworth stated that the Senate Subcommittee on Improvements in Judicial Machinery had submitted for Conference consideration a proposed bill which would provide for the appointment of a court executive for each judicial circuit. The bill would provide that the court executive should exercise administrative powers and perform duties delegated to him by the circuit council. The bill then specifies in considerable detail some of the types of duties which the court executive would perform, including administrative control of all nonjudicial activities of the court personnel, budget administration, space management and property control, and the initiation of studies relating to the business and administration of the courts within the circuits.

The Conference voted to approve, in principle, legislation authorizing the judicial council to appoint court executives to exercise such duties as are delegated to him by the circuit council. The Conference was opposed, however, to the specificity as to duties and responsibilities in the original draft submitted for its consideration.

The Conference approved a bill proposed by the Department of Defense and submitted by the Bureau of the Budget which would amend Title 5, United States Code, to authorize civilians employed by the Department of Defense to administer oaths while conducting official investigations.

The Conference approved H.R. 7039, a bill to add Reading as a place of holding court in the Eastern District of Pennsylvania. Judge Hastie advised the Conference that both the district court judges and the Judicial Council of the Circuit had previously approved Reading as a place of holding court in the Eastern District of Pennsylvania.

The Conference considered and voted its disapproval of Senate Joint Resolution No. 3, 91st Congress, proposing an amendment to the Constitution to provide that when a vacancy occurs on the Supreme Court, the President shall convene a conference of the presiding judges of the highest appellate court of each state and the chief judge of each judicial circuit of the United States who shall transmit to the President the names of five or more persons deemed qualified to fill the vacancy and from this list the President is required to nominate a Justice of the Supreme Court.

#### AMERICAN LAW INSTITUTE STUDY

Judge Ainsworth advised the Conference that the American Law Institute study on the subject of division of jurisdiction between state and federal courts has not yet been printed but is expected to be available by the end of March 1969. After the study becomes available, the Committee, through its Subcommittee on Federal Jurisdiction, will submit summaries of these studies to the judges for comment. The Conference noted that its action in September 1968 (Conf. Rept., p. 82) in requesting reports from the chief judges of the circuits by July 1, 1969, created an unrealistic target date and, accordingly, the Conference agreed that such reports should be submitted prior to December 31, 1969.

## ADDITIONAL JUDGESHIPS

Judge Ainsworth advised the Conference that the Committee had studied S. 474, a bill to add an additional judge in the Western District of Tennessee, and had examined all relevant statistical data concerning this bill, as well as the recommendation of the Judicial Council of the Sixth Circuit approving the request for an additional judgeship in the Western District of Tennessee. The Conference agreed with the Committee recommendation that S. 474 be approved, with the suggestion that this additional judgeship be incorporated in S. 952, 91st Congress, a bill incorporating the recommendations for additional judgeships approved by the Judicial Conference in September 1968 (Conf. Rept., pp. 49-51).

Judge Ainsworth advised the Conference that his Committee had also noted requests for additional judgeships for the Western District of Missouri and for the District of Nebraska. The latter request is included in a bill now pending in the 91st Congress, S. 1036. Judge Ainsworth advised the Conference that the Committee did not believe the situation in either of these districts constituted an emergency and, accordingly, had requested its Subcommittee on Judicial Statistics to make a detailed study of these two districts. After discussion, Chief Judge Harper requested, and the Conference agreed, to the withdrawal from Committee and Subcommittee consideration of the judgeship requests in the Western District of Missouri and the District of Nebraska.

## SUPPORTING PERSONNEL

The Conference voted to reaffirm its support of legislation authorizing cost of living allowances for judicial employees stationed outside the continental United States or in Alaska. The Conference had approved prior bills on this subject in the 89th and 90th Congresses (Conf. Rept., Feb. 1968, p. 15; March 1965, pp. 15, 36).

The Conference reaffirmed its support of legislation approved at its February 1968 meeting (Conf. Rept., p. 31) that the Congress eliminate the maximum and minimum limitations on the annual salary which the Judicial Conference may fix for court reporters. The Conference noted that the situation which originally gave rise to this legislation has grown more acute since some state courts have authorized salaries substantially higher than those permitted to federal reporters.

Chief Judge Bazelon advised the Conference that the District Court of the District of Columbia had been handicapped in obtaining adequate court reporter services and, accordingly, proposed an amendment to Section 753 of Title 28, United States Code, to which the Conference agreed. This amendment would provide a new subsection (g) which would read:

If the judicial council of any circuit determines that the services of court reporters for any district court within the circuit should be provided the judges of such district courts (including the senior judges thereof when such senior judges are performing substantial judicial services for such court) on a contract basis, rather than by appointment of court reporters as otherwise provided in this section, and such judicial council notifies the Director of the Administrative Office, in writing, of such determination, the Director of the Administrative Office is authorized to and shall contract with any suitable person, firm, association or corporation for the providing of court reporters to serve such district court under such terms and conditions as the Director of the Administrative Office finds, after consultation with the chief judge of the circuit and the chief judge of the district court, will best serve the needs of such district court.

#### ADMINISTRATION

Chief Judge Brown addressed the Conference on the needs of an overall study looking toward improvement in court administration in the district courts and the courts of appeals and the utilization of modern machinery and techniques in order to fulfill the meaning of the courts. Judge Brown moved and the Conference agreed:

That the Committee on Court Administration, as a whole and through its subcommittees, in cooperation with the Administrative Office and the Federal Judicial Center, explore with diligence and without delay and report to the Conference next September on the availability of modern business methods to improve court administration in the district courts and in the courts of appeals and recommend to the Conference as to the utilization of modern machines and their costs, together with the needed personnel on a realistic basis that will get people on the task at the time they are needed.

#### CRIMINAL LAW

Judge George C. Edwards, Jr., Chairman, presented the report of the Committee on the Administration of the Criminal Law.

#### PERSONS ACQUITTED ON GROUNDS OF INSANITY

Judge Edwards reported that in the newly reconstituted committee he had reappointed Judge Zirpoli as chairman and Judges Larson and Spears as members of a subcommittee to study legis-

lative proposals providing for the commitment of persons acquitted on the grounds of insanity. The subcommittee is charged with continuing a survey of persons acquitted to determine how many had raised the defense of insanity at trial. The Administrative Office is preparing listings of all acquittal cases over a 2-year period and each chief judge of a district court is being asked to have the jackets and dockets in his clerk's office checked to ascertain in which cases acquittal was sought on the grounds of insanity.

The subcommittee is charged with meeting with representatives of the Probation Committee, as well as with representatives of the Department of Health, Education, and Welfare.

#### BAIL REFORM ACT

Judge Edwards advised the Conference that several bills have already been introduced in the 91st Congress proposing amendments to the Bail Reform Act. Some of these bills include proposals for preventive detention in lieu of release prior to trial and others relate to danger to the community as a basis for release. Judge Edwards presented a report by a subcommittee consisting of Judges Sobeloff, Bryant and Garrity which suggested that proposals to remedy the present crime problem by means of preventive detention are premature. The subcommittee agreed that the element of dangerousness to the community may properly be considered by the judicial officer in fixing release conditions other than the requirement of mandatory bail. The subcommittee would restrict consideration of dangerousness to nonfinancial release conditions. After considerable discussion of the subcommittee report, the Conference agreed to table the report at this time.

#### EXPEDITING CRIMINAL JUSTICE

Judge Edwards stated that his Committee sought Conference authorization to conduct a study of ways and means to expedite criminal justice, enlisting the help of the Federal Judicial Center in this endeavor and to report to the Conference at a later session. The Conference agreed with this request.

#### SENTENCING PROBLEMS

Judge Edwards reported to the Conference that the Committee had discussed, generally, problems of sentencing and of providing for treatment in Federal institutions after sentencing, with particular

reference to a need for diagnostic facilities and more adequate facilities for psychiatric treatment. The Conference agreed that the Committee should be authorized to study this subject, in depth, possibly in conjunction with the Bureau of Prisons, with a view to later report to the Conference.

### OPERATION OF THE JURY SYSTEM

Judge Irving R. Kaufman, Chairman of the Committee on the Operation of the Jury System, presented the Committee's report.

#### JURY SELECTION AND SERVICE ACT

Judge Kaufman noted to the Conference the provision of the Jury Selection and Service Act of 1968 which requires each district court to submit a report on the jury selection process within its jurisdiction to the Administrative Office of the United States Courts in such form and at such terms as the Judicial Conference of the United States may specify; the Conference is authorized to adopt rules and regulations governing the provisions and the operation of the plans formulated under the Act.

Judge Kaufman advised the Conference that the reviewing panels of the Fourth and Fifth Circuits on their own initiative have already instituted proceedings through sampling techniques to determine whether jury questionnaires addressed to persons whose names have been selected from voter lists are actually reaching a fair cross-section of the population of the district. In commending the action of the Fourth and Fifth Circuits, Judge Kaufman stated that his Committee recommends a series of resolutions to which the Conference agreed as follows:

- (1) That the Committee on the Operation of the Jury System undertake a study of the general system for the submission of periodic reports by the district courts on the operation of their respective jury selection systems as contemplated by 28 U.S.C. 1863(a), and that the Committee report on its recommendations and any proposed rules to the next session of the Conference.
- (2) That pending the outcome of such report by the Committee to the Conference, other Circuit Judicial Councils are requested to undertake circuit-wide programs for postauditing the various selection programs through sampling techniques patterned on the postaudit programs of the Fourth and Fifth Circuits and the district courts will furnish the Councils with such information and reports as they may require for such programs, and that when such reports are made to the Circuit Judicial Councils, copies should be sent to the Committee on the Operation of the Jury System.

- (3) That the Committee on the Operation of the Jury System and the Administrative Office of the United States Courts lend such assistance as may be available to the various district courts in implementing such postaudit program.
- (4) That the Committee be authorized to communicate with selected Chief Judges and solicit their views as to other characteristics of jurors selected under the new Act as compared with those called to serve previously; for example, average ages, economic status, ethnic group, conscientiousness, capability, etc. Such information would be helpful in appraising the impact of the policy of random selection of jurors on the Federal court system.
- (5) That authority be given for the immediate release to the courts of the contents of the foregoing paragraphs of this resolution.

Judge Kaufman stated further that his Committee had considered a problem relating to those courts which have commissioned state or other custodians of voter lists (including lists recorded manually or in computer readable form) to make the original random choice of names to be placed in the master jury wheel. The Committee is of the view that some such delegation under carefully prescribed directions is implied if data computers are to be used at all. Further, there are some districts where for a variety of reasons copies of juror lists are not available and the original manual selection of names for the master jury wheel must be made in the office of county clerks or of other custodians of voter lists.

Judge Kaufman said that since it would be expensive and time-consuming in some cases to use regular deputy clerks for this purpose, some temporary assistance has been sought to aid in making the original selection of names for the master wheel. Some persons so assisting have been temporary employees of the clerk's office while others have been state or municipal employees, usually the custodians of the original voter lists. Judge Kaufman advised the Conference that his Committee is of the view that the district plan should provide for written notification to a person deputized so that he will perform his duties as an agent of the district court and that he be furnished a detailed description of the methods and the formula he is to follow in making the selection, as well as a form of certificate of affirmation that he has complied in all particulars with the formula in making the name selection.

On recommendation of the Committee, the Conference agreed that all district courts which find it necessary to use persons other than a jury commission or members of the staff of the clerk's office for the original selection of names from voter lists for use in the selection of jurors in accordance with the Jury Selection and Service Act of 1968:

- (1) Review their district jury plans to determine whether they comply with the specificity requirements of 28 U.S.C., § 1863(b)(3) in describing the procedures to be followed by persons other than the jury commission or the clerk's office;
- (2) Undertake the preparation of appropriate forms advising such persons in detail of their responsibilities and of appropriate certification of compliance by them.

Judge Kaufman further advised the Conference that in implementing the Jury Selection and Service Act, the Committee had noted that some of the district jury plans have included in the listing of "groups of persons" or "occupational classes" whose members are entitled to be excused permanently from jury service on the request of a member of the class or group a provision for the excuses of individuals (rather than a class) on the basis of personal hardship. He stated that the Committee is of the view that a provision for excuse based on individual and personal hardship is improperly included in this part of the plan. The procedure for excusing individuals on a basis of a proper showing for personal hardship is contained in Section 1866(c) of Title 28, United States Code, and is a temporary rather than a permanent excuse. Accordingly, the Conference approved a Committee recommendation that each district court examine its jury selection plan to determine whether the "class" or "group" excuses listed pursuant to 28 U.S.C., § 1863(b)(5) may erroneously include temporary excuses based on personal hardship as defined in § 1866(c)(1), and, if so, to institute corrective procedures.

Judge Kaufman advised the Conference that one problem which had arisen in implementing the Act was in connection with the section requiring the United States marshal to mail summonses. He stated that in some large areas it is required that large bags of mail be carried to the United States marshal by the clerk merely for the purpose of handing the mail bags over to the post office—a mechanical and unnecessary step in the process of jury selection. Accordingly, the Committee recommended and the Conference approved the transmittal to the Congress of a draft bill which would allow mail service of juror summonses to be made by clerks and deputy clerks of court, as well as by United States marshals.

#### JUROR QUALIFICATION QUESTIONNAIRE

Judge Kaufman advised that the Committee is considering the present form of juror qualification questionnaire and many comments which have been received concerning its contents and format.

He stated that the Committee suggests to those courts which desire additional information for use at the voir dire that a second questionnaire be devised to be filled out at the time the prospective juror receives the summons or when he appears for jury service. This form could, for example, require that the prospective juror identify the nature of his occupation and the occupations of his near relatives, as well as require him to supply other information not relevant to qualification but valuable to the more efficient use of the juror and court time at the voir dire.

#### VOIR DIRE PROCEDURES

Judge Kaufman advised the Conference that the Committee will undertake a study of juror questioning procedures. Among the factors to be examined are appropriate methods for efficiently discovering necessary background information from prospective jurors; a comparison between systems in which the judge does all the questioning, in which the attorneys do the questioning and a combination of both; the validity of assumptions concerning probable juror behaviour and the validity of our present system of cause and preemptory challenges; the methods and order of challenge; the problems of delay in choosing jurors and the problem of separating alternates from other jurors.

#### COMPUTER SELECTION PROJECTS

Judge Kaufman described to the Conference the method being used in the Eastern District of New York whereby data computers are utilized for the selection process and for preparing and appraising questionnaires and summonses. The Conference agreed that each district court should study the feasibility of converting to a data computer system for the selection of jurors, and that the Administrative Office of the United States Courts should lend such help as may be available for this purpose. It also agreed that copies of the report of Norbert A. Halloran, Systems Analyst, describing the techniques and propriety of such a conversion and an extract from the Jury Plan of the Southern District of New York illustrating the integration of computer techniques into jury selection shall be sent to the chief judge of each district court without delay.

#### PILOT STUDY ON UTILIZATION OF JUROR TIME

Judge Kaufman reminded the Conference that at the September 1968 meeting he reported the commencement of a project under

auspices of the American Bar Foundation to be undertaken in the Western District of Missouri to determine utilization of juror time (Conf. Rept., p. 68). He stated that Mr. Frederick R. Merrill of the American Bar Foundation who had conducted the study has reported to the Committee on his findings which yielded valuable information and clear guides for extending the project to a large metropolitan district. The Conference agreed to extend its appreciation to the American Bar Foundation for this valuable study and expressed its approval of the proposal suggested in the preliminary report on the effective utilization of jurors by the American Bar Foundation that this research project be extended by the Foundation staff to a major metropolitan court center where the need for efficient utilization of jurors is most critical. The Conference agreed that this project should go forward without delay because of the urgent need to take early corrective measures in light of the recommendations to be contained in the final report of the American Bar Foundation.

#### JUROR HANDBOOKS

Judge Kaufman advised the Conference that the Petit Juror Handbook prepared in 1962 had not been distributed pending a study of existing handbooks but that his Committee had found that the jurors had benefited from using the existing handbook and, accordingly, the Conference agreed to approve the renewed distribution of the existing handbook if the district judge wished it. Judge Kaufman also advised the Conference that a handbook for grand jurors is under preparation.

#### PREJUDICIAL PUBLICITY

Judge Kaufman told the Conference that several district courts have not advised the Committee, through the Administrative Office, as to whether any changes in their existing rules were needed to comply with the action of the Conference at its September 1968 meeting (Conf. Rept., p. 66) in approving the Committee report on Free Press—Fair Trial. The Conference agreed that a district court which has taken no action with respect to the Conference recommendation that it enact rules relating to the Free Press—Fair Trial problem in accordance with a report made to the September 1968 meeting, now consider prompt implementation of that report and advise the Committee, through the Administrative Office, of the action taken.

## STIPULATIONS AS TO JURORS

Judge Kaufman stated that in a discussion of the more economical and efficient use of juries, it was suggested that all courts may not be utilizing the provisions of Rule 48 of the Federal Rules of Civil Procedure and Rule 23(b) of the Federal Rules of Criminal Procedure which allow a case to proceed by stipulation with a jury of less than 12. The Conference noted that the Committee will invite the attention of district courts to the feasibility of stipulations which would permit the calling of fewer than 12 jurors, the calling of fewer or no alternate jurors and to stipulations in civil cases to accept less than a unanimous verdict. The Committee agreed, on suggestion of Judge Harper, to study the possibility of uniformity in the methods of jury qualifications and challenges.

## BANKRUPTCY ADMINISTRATION

Judge Edward Weinfeld, Chairman of the standing Committee of the Conference on Bankruptcy Administration, presented the Committee's report.

## SALARIES OF REFEREES

Judge Weinfeld advised the Conference that the President's recommendations, based on a report of a commission authorized under Public Law 90-206, were transmitted to the Congress on January 16, 1969, and raised the maximum limit on salaries of full-time referees in bankruptcy from \$22,500 per annum to \$36,000 per annum and the limit on salaries of part-time referees in bankruptcy from \$11,000 per annum to \$18,000 per annum. After considering the recommendations of the Director of the Administrative Office, the Committee, the district courts and the judicial councils involved, the Conference agreed to the schedule of salaries, as recommended by the Director and approved by the Committee, set forth below. These salaries are to be effective on April 1, 1969. Not included below are the Districts of Northern Oklahoma, Western Oklahoma and Utah; the Chief Judge of the Tenth Circuit advised the Conference that recommendations relating to these three districts will be presented to the September 1969 meeting of the Conference.

District	Regular place of office	Type of position	Present authorized salary	Conference action	
				Type of position	Authorized salary
District of Columbia Circuit..	Washington .....	Full-time .....	\$22,500	Full-time .....	\$30,000
<i>FIRST CIRCUIT</i>					
Maine .....	Portland .....	do .....	22,500	do .....	30,000
	Bangor .....	do .....	20,000	do .....	30,000
Massachusetts .....	Boston .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
New Hampshire .....	Manchester .....	Part-time .....	11,000	Part-time .....	18,000
Rhode Island .....	Providence .....	Full-time .....	20,000	Full-time .....	30,000
Puerto Rico .....	San Juan .....	Part-time .....	7,500	Part-time .....	13,000
<i>SECOND CIRCUIT</i>					
Connecticut .....	Bridgeport .....	Full-time .....	22,500	Full-time .....	30,000
	Hartford .....	do .....	22,500	do .....	30,000
New York (N) .....	Utica .....	do .....	22,500	do .....	30,000
	Albany .....	do .....	22,500	do .....	30,000
New York (E) .....	Brooklyn .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
	Jamaica .....	do .....	22,500	do .....	30,000
	Mineola .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
New York (S) .....	New York .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
	Yonkers .....	Part-time .....	11,000	Part-time .....	18,000
	Poughkeepsie .....	do .....	11,000	do .....	18,000
New York (W) .....	Buffalo .....	Full-time .....	22,500	Full-time .....	30,000
	Rochester .....	do .....	22,500	do .....	30,000
Vermont .....	Rutland .....	Part-time .....	6,500	Part-time .....	18,000
	Burlington .....	do .....	6,500	(Discontinue)	
<i>THIRD CIRCUIT</i>					
Delaware .....	Wilmington .....	do .....	8,000	Part-time .....	10,000
New Jersey .....	Camden .....	Full-time .....	22,500	Full-time .....	30,000
	Trenton .....	do .....	22,500	do .....	30,000
	Newark .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
Pennsylvania (E) .....	Reading .....	do .....	20,000	do .....	25,000
	Philadelphia .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
Pennsylvania (M) .....	Wilkes-Barre .....	Part-time .....	8,500	Part-time .....	12,000
	Harrisburg .....	do .....	9,000	do .....	13,000
Pennsylvania (W) .....	Pittsburgh .....	Full-time .....	22,500	Full-time .....	30,000
	Johnstown .....	Part-time .....	11,000	Part-time .....	15,000
	Erie .....	Full-time .....	20,000	Full-time .....	30,000
<i>FOURTH CIRCUIT</i>					
Maryland .....	Baltimore .....	do .....	22,500	do .....	30,000
North Carolina (E) .....	Wilson .....	Part-time .....	7,500	Part-time .....	12,000
North Carolina (M) .....	Greensboro .....	do .....	11,000	do .....	15,000
North Carolina (W) .....	Charlotte .....	do .....	7,500	do .....	10,000
South Carolina .....	Columbia .....	Full-time .....	20,000	Full-time .....	25,000
Virginia (E) .....	Richmond .....	do .....	22,500	do .....	30,000
	Norfolk .....	do .....	22,500	do .....	30,000
	Alexandria .....	Part-time .....	10,000	Part-time .....	15,000
Virginia (W) .....	Lynchburg .....	Full-time .....	22,500	Full-time .....	30,000
	Roanoke .....	do .....	22,500	do .....	30,000
	Harrisonburg .....	Part-time .....	9,000	Part-time .....	12,000
West Virginia (N) .....	Grafton .....	do .....	8,000	do .....	12,000
	Wheeling .....	do .....	8,000	do .....	13,000
West Virginia (S) .....	Charleston .....	Full-time .....	22,500	Full-time .....	30,000
<i>FIFTH CIRCUIT</i>					
Alabama (N) .....	Birmingham .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000
	Decatur .....	Part-time .....	10,000	Part-time .....	15,000
	Anniston .....	Full-time .....	22,500	Full-time .....	30,000
	Tuscaloosa .....	Part-time .....	10,000	Part-time .....	12,000
Alabama (M) .....	Montgomery .....	Full-time .....	22,500	Full-time .....	30,000
	do .....	do .....	22,500	do .....	30,000
Alabama (S) .....	Mobile .....	do .....	22,500	do .....	30,000
	do .....	do .....	22,500	do .....	30,000

See footnotes at end of table.

District	Regular place of office	Type of position	Present authorized salary	Conference action	
				Type of position	Authorized salary
Florida (N)	Tallahassee	Part-time	\$8,500	Part-time	\$12,000
Florida (M)	Jacksonville	do	8,500	do	15,000
	Tampa	Full-time	22,500	Full-time	30,000
Florida (S)	Miami	do	22,500	do	30,000
	do	do	22,500	do	30,000
Georgia (N)	Atlanta	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Rome	do	20,000	do	25,000
Georgia (M)	Columbus	do	22,500	do	30,000
	Macon	do	22,500	do	30,000
Georgia (S)	Savannah	do	22,500	do	30,000
Louisiana (E)	New Orleans	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Baton Rouge	Part-time	9,500	Part-time	13,000
Louisiana (W)	Shreveport	Full-time	22,500	Full-time	30,000
Mississippi (N)	Houston	Part-time	8,000	Part-time	12,000
Mississippi (S)	Jackson	Full-time	22,500	Full-time	30,000
Texas (N)	Lubbock	Part-time	11,000	Part-time	15,000
	Dallas	Full-time	22,500	Full-time	30,000
	Fort Worth	do	22,500	do	30,000
Texas (E)	Tyler	Part-time	10,000	Part-time	13,000
Texas (S)	Houston	Full-time	22,500	Full-time	30,000
	Corpus Christi	Part-time	10,000	Part-time	13,000
Texas (W)	San Antonio	Full-time	20,000	Full-time	25,000
	El Paso	Part-time	11,000	Part-time	13,000
<i>SIXTH CIRCUIT</i>					
Kentucky (E)	Lexington	Full-time	22,500	Full-time	30,000
Kentucky (W)	Louisville	do	22,500	do	30,000
	do	do	22,500	do	30,000
Michigan (E)	Detroit	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Flint	do	22,500	do	30,000
Michigan (W)	Marquette	Part-time	6,000	Part-time	10,000
	Grand Rapids	Full-time	22,500	Full-time	30,000
	do	do	22,500	do	30,000
Ohio (N)	Cleveland	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Toledo	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Akron	do	22,500	do	30,000
	Canton	do	22,500	do	30,000
	Youngstown	do	22,500	do	30,000
Ohio (S)	Dayton	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Cincinnati	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Columbus	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
Tennessee (E)	Knoxville	do	22,500	do	30,000
	Chattanooga	do	22,500	do	30,000
Tennessee (M)	Nashville	do	22,500	do	30,000
	do	do	22,500	do	30,000
Tennessee (W)	Memphis	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
<i>SEVENTH CIRCUIT</i>					
Illinois (N)	Dixon	do	22,500	do	30,000
	Chicago	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
Illinois (E)	Danville	Part-time	9,000	Part-time	15,000
	East St. Louis	Full-time	20,000	Full-time	30,000
Illinois (S)	Springfield	do	22,500	do	30,000
	Peoria	do	22,500	do	30,000
Indiana (N)	Gary	do	22,500	do	30,000
	South Bend	do	22,500	do	30,000
Indiana (S)	Indianapolis	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Evansville	do	22,500	do	30,000

See footnotes at end of table.

District	Regular place of office	Type of position	Present authorized salary	Conference action	
				Type of position	Authorized salary
Wisconsin (E)	Milwaukee	do	\$22,500	do	\$30,000
	do	do	22,500	do	30,000
Wisconsin (W)	Eau Claire	Part-time	10,000	Part-time	15,000
	Madison	Full-time	20,000	Full-time	30,000
<i>EIGHTH CIRCUIT</i>					
Arkansas (E-W)	Little Rock	do	22,500	do	30,000
Iowa (N)	Cedar Rapids	do	22,500	do	30,000
Iowa (S)	Des Moines	do	22,500	do	30,000
Minnesota	Minneapolis	do	22,500	do	30,000
	do	do	22,500	do	30,000
	St. Paul	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Duluth	Part-time	11,000	Part-time	15,000
Missouri (E)	St. Louis	Full-time	22,500	Full-time	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
Missouri (W)	Kansas City	do	22,500	do	30,000
	do	do	22,500	do	30,000
Nebraska	Omaha	do	22,500	do	30,000
North Dakota	Fargo	do	20,000	do	25,000
South Dakota	Sioux Falls	Part-time	6,500	Part-time	12,000
<i>NINTH CIRCUIT</i>					
Alaska	Anchorage	do	11,000	do	18,000
Arizona	Tucson	Full-time	22,500	Full-time	30,000
	Phoenix	do	22,500	do	30,000
	do	do	22,500	do	30,000
California (N)	Eureka	do	22,500	do	30,000
	San Francisco	do	22,500	do	30,000
	Oakland	do	22,500	do	30,000
	do	do	22,500	do	30,000
	San Jose	do	22,500	do	30,000
	do	do	22,500	do	30,000
California (E)	Sacramento	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Modesto	do	22,500	do	30,000
	Fresno	do	22,500	do	30,000
California (C)	Los Angeles	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	San Bernardino	do	22,500	do	30,000
	do	do	22,500	do	30,000
	Santa Ana	do	22,500	do	30,000
	do	do	22,500	do	30,000
California (S)	San Diego	do	22,500	do	30,000
	do	do	22,500	do	30,000
Hawaii	Honolulu	Part-time	9,000	Part-time	13,000
Idaho	Boise	Full-time	22,500	Full-time	30,000
Montana	Great Falls	Part-time	8,500	Part-time	12,000
	Butte	do	9,000	do	12,000
Nevada	Las Vegas	Full-time	22,500	Full-time	30,000
	Reno	Part-time	11,000	Part-time	15,000
Oregon	Portland	Full-time	22,500	Full-time	30,000
	do	do	22,500	do	30,000
	Corvallis	do	22,500	do	30,000
	Pendleton	Part-time	7,000	Part-time	10,000
	Eugene	Full-time	22,500	Full-time	30,000
Washington (E)	Spokane	do	22,500	do	30,000
Washington (W)	Tacoma	do	22,500	do	30,000
	Seattle	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
<i>TENTH CIRCUIT</i>					
Colorado	Denver	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
	do	do	22,500	do	30,000
Kansas	Topeka	do	22,500	do	30,000
	Wichita	do	22,500	do	30,000
New Mexico	Albuquerque	do	22,500	do	30,000
Oklahoma (E)	Okmulgee	Part-time	7,000	Part-time	10,000
Wyoming	Cheyenne	do	11,000	do	15,000

<sup>1</sup> Recommended for full-time service at \$30,000 as soon as District Court can make necessary arrangements.  
<sup>2</sup> Both part-time positions to be discontinued and a full-time referee authorized for entire district at Wheeling at salary of \$25,000 per annum as soon as District Court can make necessary arrangements.

## CHANGES IN REFEREE POSITIONS

Judge Weinfeld stated that the Committee next considered recommendations in the survey report of the Director of the Administrative Office for continuation of referee positions and changes in arrangements in certain districts. Judge Weinfeld noted that the recommendations had received the approval of the district courts involved and of the circuit councils. The Conference agreed to the proposed recommendations, to be effective April 1, 1969, subject to the availability of funds, as follows:

## FIRST CIRCUIT

*District of Maine*

- (1) Established district-wide concurrent jurisdiction for the full-time referees of this district.

*District of Puerto Rico*

- (1) Authorized the continuance of the part-time referee position for this district in which the term of office will expire on May 31, 1969, for a new 6-year term, effective June 1, 1969, at the annual salary of \$13,000, the regular place of office, territory and places of holding court to remain as at present.

## SECOND CIRCUIT

*Northern District of New York*

- (1) Authorized the continuance of the full-time referee position at Utica in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.
- (2) Authorized the continuance of the full-time referee position at Albany in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.

*Southern District of New York*

- (1) Authorized the continuance of the full-time referee position at New York City in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.
- (2) Authorized the continuance of the part-time referee position at Poughkeepsie in which the term of office will expire on July 7, 1969, for a new 6-year term, effective July 8, 1969, at an annual salary of \$18,000, the regular place of office, territory and places of holding court to remain as at present.
- (3) Authorized that the part-time referee positions at Yonkers and Poughkeepsie be changed to a full-time basis at salaries of \$30,000 per year, to become effective as soon as the district court can make the necessary arrangements, the regular places of office, territories and places of holding court to remain as at present.

- (4) Established district-wide concurrent jurisdiction for the district, to become effective when the part-time referee positions at Yonkers and Poughkeepsie have been changed to full-time positions.

*District of Vermont*

- (1) Authorized the discontinuance of the part-time referee position at Burlington.
- (2) Established the extension of the territory of the referee position at Rutland to include the entire District of Vermont, with designated places of holding bankruptcy court at Rutland, Burlington, Brattleboro, Montpelier, Bennington, and St. Johnsbury.

THIRD CIRCUIT

*District of Delaware*

- (1) Authorized the continuance of the part-time referee position at Wilmington in which the term of office will expire on September 30, 1969, for a new 6-year term, effective October 1, 1969, at an annual salary of \$10,000, the regular place of office, territory and places of holding court to remain as at present.

*Eastern District of Pennsylvania*

- (1) Authorized the continuance of the full-time referee position at Reading in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$25,000, the regular place of office, territory and places of holding court to remain as at present.

FOURTH CIRCUIT

*Eastern District of Virginia*

- (1) Authorized the discontinuance of Suffolk and Cape Charles as places of holding court for the full-time referee at Norfolk.
- (2) Established that the description of the territory of the Norfolk referee be changed to eliminate Norfolk County and substitute therefor the city of Chesapeake, to eliminate Princess Anne County and substitute therefor the city of Virginia Beach, and to eliminate Warwick County and substitute therefor the city of Newport News.

*Western District of Virginia*

- (1) Authorized the continuance of the full-time referee position at Lynchburg in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.

*Northern District of West Virginia*

- (1) Authorized the discontinuance of the two part-time referee positions at Wheeling and Grafton and the establishment of a new full-time referee position to serve the entire district, to become effective as soon as the District Court can make the necessary arrangements.
- (2) Established that the regular place of office of the new full-time referee be at Wheeling, with Wheeling, Parkersburg, Clarksburg, Martinsburg, Elkins, and Fairmont designated as places of holding bankruptcy court.

## FIFTH CIRCUIT

*Northern District of Alabama*

- (1) Authorized the continuance of the full-time referee position at Birmingham in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.

*Middle District of Florida*

- (1) Authorized the continuance of the full-time referee position at Tampa in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.

*Northern District of Texas*

- (1) Authorized the continuance of the full-time referee position at Dallas in which the term of office will expire on June 30, 1969 for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.

## SIXTH CIRCUIT

*Eastern District of Michigan*

- (1) Authorized the continuance of the full-time referee position at Detroit in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.

*Western District of Michigan*

- (1) Authorized the continuance of the part-time referee position at Marquette in which the term of office will expire on June 30, 1969 for a new 6-year term, effective July 1, 1969, at an annual salary of \$10,000, the regular place of office, territory and places of holding court to remain as at present.

*Eastern District of Tennessee*

- (1) Authorized the continuance of the full-time referee position at Knoxville in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$30,000, the regular place of office, territory and places of holding court to remain as at present.

## EIGHTH CIRCUIT

*District of South Dakota*

- (1) Authorized the continuance of the part-time referee position at Sioux Falls in which the term of office will expire on June 30, 1969, for a new 6-year term, effective July 1, 1969, at an annual salary of \$12,000, the regular place of office, territory and places of holding court to remain as at present.

## FEES IN ASSET AND ARRANGEMENT CASES

Judge Weinfeld informed the Conference that the total expenses of operating the bankruptcy system has exceeded the annual re-

ceipts into the Referees' Salary and Expense Fund for each of the past three fiscal years. He proposed and the Conference approved an amendment to the schedule of fees and charges in asset and arrangement cases to provide increased payments into the Referees' Salary and Expense Fund. Accordingly, Items I and II of the Schedule of Fees and Charges now read:

I. Fees to be Charged in Asset and Nominal Asset Cases

Three percent on net realization in straight bankruptcy cases filed from July 1, 1947, to December 31, 1953, inclusive.

Two percent on net realization in straight bankruptcy cases filed from January 1, 1954, to December 31, 1956, inclusive.

Cases filed on and after January 1, 1957, through June 30, 1969, two and one-half percent on the first \$50,000 of net realization and two percent on the balance of net realization with a minimum charge of \$5.

Cases filed on and after July 1, 1969, three percent on the first \$50,000 of net realization and two and one-half percent on the balance of net realization with a minimum charge of \$5.

II. Fees to be Charged in Arrangement Cases filed under Chapter XI

One and one-half percent on total obligations paid or extended in Chapter XI cases filed from July 1, 1947, to December 31, 1953, inclusive.

One percent on total obligations paid or extended in Chapter XI cases filed from January 1, 1954, through December 31, 1965.

One percent on the first \$100,000 of total obligations paid or extended in Chapter XI cases and one-half of one percent on the balance in all cases filed from January 1, 1966, through June 30, 1969.

Cases filed on and after July 1, 1969, two percent on the first \$100,000 of total obligations paid or extended in Chapter XI cases and one-half of one percent on the balance.

In approving the foregoing, the Conference noted that the additional sum to be raised by the change of fees will still fall far short of raising the total payments into the fund to the level of annual obligations against it.

The Conference agreed with the Committee's view that the principle of a self-supporting bankruptcy system is outdated and that it

is no longer possible to maintain adequate payments into the fund without placing an inordinate burden upon bankrupts and the assets of bankrupt estates. The Conference approved a statement of policy that the legal limitation imposed in the Bankruptcy Act should be removed and that the concept of the Referee's Salary and Expense Fund should be abandoned.

#### NEW CASE FILINGS

In fiscal year 1968 the total number of cases filed was 197,792, a decline of 10,537 cases, or 5.1 percent. In the first half of fiscal year 1969 a total of 89,076 cases was filed as compared with 97,634 in the comparable period of the prior year, an 8.8 percent decline.

#### LEGISLATION

The Conference noted that its views have been requested on H.R. 16711, 90th Congress, a bill to amend Section 57(n) of the Bankruptcy Act to provide that the claims of creditors of corporate bankrupts without notice of the bankruptcy proceedings and not filed within the 6-month limitation now required may be filed at any time before the date of the referee's order allowing final distribution. The Conference disapproved the proposed legislation in that it does not exclude from those who may be permitted to file late claims those creditors who are in fact scheduled by the bankrupt. Further, the Conference was of the view that permitting the filing of late claims up to the time of final distribution is too unlimited and disruptive of orderly and expeditious administration of estates. The Conference took the position that the proposed legislation would be a windfall to the creditor who does not file until he determines that there are assets and that it would encourage such dilatory practices.

The amendment further would be detrimental to compromises and settlements for which there must be a certainty as to the amount of claims that are to be paid.

#### RETIREMENT AND TENURE OF REFEREES

The Conference took note of legislation which had been pending in the 90th Congress (H.R. 6240, H.R. 9718, and S. 1316), all regarding tenure and retirement benefits of referees. The Conference considered the recommendations of the Committee and agreed to certain changes in these proposed bills to provide for 12-year terms for full-time referees and 6-year terms for part-time referees.

Referees who reach the age of 70 and have completed 5 years of service are automatically separated on the last day of the month on which the referee becomes 70 years of age or completes 5 years if he has already reached 70. The proposed bill provides for the payment of retirement benefits from the Civil Service Retirement and Disability Fund and makes provision for the computation of annuities. In general, the retirement plan for referees, as proposed, would be comparable to the retirement benefits now provided for members of Congress.

#### AUDIT OF STATISTICAL REPORTS

In the audit of statistical reports of closed asset and arrangement proceedings successfully concluded under Chapter XI during the first 6 months of fiscal year 1969, 270 inquiries have been made by the Audit Unit of the Bankruptcy Division. The audit program continues to reveal more overpayments to the Referee's Salary and Expense Fund than underpayments. The audit has also revealed a number of overpayments of commissions to receivers or trustees and has succeeded in recovering \$788 for the benefit of creditors. Six cases involving overpayments totaling \$36,466 are still pending.

#### MATTERS UNDER SUBMISSION

Of 209 referees reporting for the quarter ending December 31, 1968, a total of 50 matters were being held without decision by 23 referees. The Conference noted that it is the view of the Bankruptcy Division that this number appears to be normal and represents marked improvement over previous reports.

#### DEVELOPMENTS IN THE USE OF CHAPTER XIII

Judge Weinfeld stated that the Administrative Office reports that a total of 31,065 Chapter XIII cases was filed in 1968. This is 898 cases below the 1967 level, a decline of 2.8 percent.

Judge Weinfeld advised that Chapter XIII guidelines heretofore promulgated by the Judicial Conference are generally being complied with by the bankruptcy courts. Cost study tables of Chapter XIII trustees' operations distributed to the judges and referees for fiscal year 1968 are bringing about a closer examination of expenses of Chapter XIII trustees and have resulted in some reduction in these costs.

## SEMINARS FOR REFEREES

Judge Weinfeld advised the Conference that regional 2-day seminars for referees in bankruptcy have been held in St. Paul, Minn., Portland, Oreg., Athens, Ga., and Birmingham, Ala. Additional seminars are planned in succeeding months in Los Angeles, Dallas, Cincinnati, Chicago, and New York City. Judge Weinfeld expressed the view that these regional programs are constantly improving and that those innovations introduced at recent seminars have proved valuable. He stated that the sixth national seminar for newly appointed referees is now being planned for Washington, D.C., in September 1969. Approximately 15 referees appointed since the last national seminar in March 1968 will participate.

## FEES AND CHARGES IN REOPENED PROCEEDINGS

Judge Weinfeld advised the Conference that a number of referees have recommended that the Conference regulations requiring payment of a new filing fee upon reopening of a closed bankruptcy case be amended so that under certain circumstances courts may reopen closed cases without the payment of a new filing fee. In many closed proceedings certain creditors regularly sue bankrupts on discharged debts in state courts. These suits in state courts are brought after the cases are closed and no relief can be granted to the debtor except upon the payment of a new filing fee and reopening of the case. After consideration of the Committee recommendation, the Conference approved an amendment to its regulations to provide:

There shall be deposited with the clerk, at the time a petition is filed to reopen any closed bankruptcy proceeding (a) \$37 for each estate for the referees' salary and expense fund; (b) \$10 for each estate for the trustee's fee; (c) \$3 for each estate for the clerk's filing fee: *Provided, however,* That the court may waive the payment of the filing fee when a closed bankruptcy proceeding is reopened for the purpose of issuing restraining orders or for other proceedings in connection with a discharge granted in the original proceeding.

## ADMINISTRATION OF THE PROBATION SYSTEM

Chief Judge Walter E. Hoffman, Chairman of the standing Committee of the Conference on the Administration of the Probation System, presented the Committee's report.

## SENTENCING INSTITUTE

Judge Hoffman advised that the Third Judicial Circuit is contemplating a sentencing institute to be held at Morgantown, W. Va., in October 1969. The agenda will be submitted for Conference approval at the September 1969 meeting. Upon recommendation of the Committee, the Conference approved the proposed sentencing institute.

## RESIDENTIAL COMMUNITY TREATMENT CENTERS

The Conference considered H.R. 2175, 91st Congress, a measure to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole or mandatorily released from Federal institutions. The Conference noted that it had approved similar legislation pending in the 90th Congress, H.R. 10511 (Conf. Rept., September 1967, p. 82). The Conference reaffirmed its approval of this legislation by endorsing H.R. 2175.

## UNITED STATES CORRECTIONS SERVICE

Judge Hoffman advised the Conference that H.R. 2169 was introduced in the 91st Congress on January 6, 1969. He stated that this measure is identical with H.R. 5038 and S. 916, 90th Congress, bills previously disapproved by the Conference (Conf. Rept., March 1967, p. 37). These bills would remove from court control the supervision of persons on probation and would place that responsibility under the jurisdiction of the Attorney General. The Conference voted its disapproval of H.R. 2169, 91st Congress, and reaffirmed its opposition to placing the probation service under the jurisdiction and control of the Department of Justice (Conf. Rept., March 1966, p. 15). In so doing, the Conference reaffirmed its disapproval of the substance of this and prior legislation (H.R. 5038 and S. 916, 90th Cong.) and reaffirmed its approval of an amended draft of S. 916 which would make changes within the correctional organization of the Department of Justice and would provide a strengthened corrections council but would not divide or dislocate the probation service (Conf. Repts., March 1967, p. 37, and February 1968, p. 30).

## DEFERRED PROSECUTION

Judge Hoffman advised the Conference that pursuant to the authority of the Conference at its September 1968 meeting (Conf. Rept., p. 69), he and Judge Stephens, a former member of the Committee, had met with the Director of the Federal Judicial Center with a view toward the possibility of a study, in depth, of the problem of deferred prosecution by the Center. At the suggestion of Mr. Justice Clark, Judge Hoffman stated that he had appointed a subcommittee to work on this matter with the Center.

## INTERCIRCUIT ASSIGNMENTS

Judge Edward A. Tamm, Chairman of the standing Committee of the Conference on Intercircuit Assignments, presented the Committee's report.

Judge Tamm stated that the reconstituted committee held its organizational meeting on February 17, 1969 and considered several policy matters for the future operation of the committee. These matters remain under study for future report to the Conference.

Judge Tamm stated that the Committee had disapproved the request for the intercircuit assignment of a district court judge to try two lengthy cases in Toledo, Ohio, on the basis that existing calendaring problems throughout the country made it appear desirable that the situation in Toledo be handled on an intracircuit basis.

He stated that as a general policy the Committee had adopted as a measure of the need for outside assignment calendaring situations in which a district court is delinquent more than 6 months in the disposition of its criminal docket and/or delinquent 1 year or more in the disposition of its civil calendar. He stated that the Committee had also approved as a general policy the proposal that each judge assigned to an intercircuit assignment should be permitted to take with him on that assignment a secretary and a law clerk, as well as a court reporter if a full-time reporter is not available in the district where the visiting district judge is to sit.

Judge Tamm stated that these and other policy considerations will guide the Committee for the present pending further study of them and submission of them to the Judicial Conference for approval.

## TRIAL PRACTICE AND TECHNIQUE

Chief Judge Joe E. Estes, Chairman of the standing Committee of the Conference on Trial Practice and Technique, advised the Conference that his Committee was organized too late to present a formal report to the Conference. He stated that the Committee had met only the prior week for the first time but that it had decided that priority will be given by the Committee to developing and disseminating through manual materials and seminars—

- (1) Techniques on effective calendaring, pretrial and trial, with immediate consideration of
  - (a) The "Omnibus Hearing" procedures in criminal cases,
  - (b) Pretrial procedures in the complex criminal case, and
  - (c) The handling of postconviction remedy problems;
- (2) Assistance in annotating, updating and furnishing new materials for incorporation in manuals heretofore approved by the Conference; and
- (3) Jury instructions, including sample forms for submissions on special interrogatories under Rule 49, Federal Rules of Criminal Procedure.

## IMPLEMENTATION OF FEDERAL MAGISTRATES ACT

Judge William E. Doyle, Chairman of the standing Committee of the Conference to Implement the Federal Magistrates Act, presented the Committee's report.

The Committee to Implement the Federal Magistrates Act was created, with the assent of the Conference, subsequent to the enactment of the statute on October 17, 1968 (Public Law 90-578) which provides for the establishment in place of the United States commissioner system the office of United States magistrate.

Judge Doyle advised the Conference that his Committee has met twice and has also conferred by letter and telephone on several occasions in preparing the first recommendations of the Committee to the Conference and in assisting the Director of the Administrative Office of the United States Courts in connection with his immediate responsibilities under the Act of conducting within 1 year of the enactment of the statute a careful survey of conditions in judicial districts to determine the number of appoint-

ments of full-time and part-time magistrates required for the expeditious and effective administration of justice, the locations at which such officers shall serve, and their respective salaries.

#### PILOT PROGRAM

Judge Doyle advised the Conference that the Committee was agreed that because of the need for experience in establishing the offices of full-time and part-time United States magistrates, the pilot program was desirable to assist in the transition from the commissioner system to the magistrate system. He stated that the Committee was of the view that such a program should be instituted at the earliest possible date and no later than May 1, 1969, so that the Director of the Administrative Office would have the benefit of the experience of this pilot program prior to the time when his surveys must be completed, namely, October 17, 1969.

The Conference considered the recommendations of the Committee and agreed to the establishment of five pilot districts—the District of Columbia, the District of New Jersey, the District of Kansas, the Southern District of California, and the Eastern District of Virginia. It was noted that the district courts and the circuit councils involved in these five areas were in agreement with the establishment of the program.

Judge Doyle advised the Conference that the Director and the Committee had proposed these five areas because each represented a different type of problem with which Federal magistrates would be concerned. He pointed out to the Conference that the magistrate, in addition to assuming all powers and duties heretofore conferred upon commissioners, would also have the authority to conduct trials in minor offense cases, serve as a special master in appropriate civil actions, assist a district judge in the conduct of pretrial or discovery proceedings in civil or criminal actions, and conduct preliminary reviews of applications for posttrial relief made by individuals convicted of criminal offenses.

The Conference agreed to the following recommendations for magistrate positions in the five pilot districts:

<i>District and location</i>	<i>Type of position</i>	<i>Salary</i>
District of Columbia:		
Washington.....	Full-time.....	\$22, 500
Do.....	do.....	22, 500

<i>District and location</i>	<i>Type of position</i>	<i>Salary</i>
New Jersey:		
Trenton.....	Full-time (also to serve at Camden and Newark).	\$22, 500
Newark.....	Part-time.....	1, 000
Camden.....	do.....	5, 000
Asbury Park.....	do.....	5, 000
Atlantic City.....	do.....	500
Jersey City.....	do.....	750
Newton.....	do.....	200
Virginia, Eastern:		
Alexandria.....	do.....	10, 000
Do.....	Full-time.....	22, 500
Norfolk.....	do.....	22, 500
Richmond.....	Part-time.....	11, 000
Petersburg.....	do.....	5, 500
California, Southern:		
San Diego.....	Full-time.....	22, 500
Do <sup>1</sup> .....	Part-time <sup>1</sup> .....	10, 000
El Centro.....	Part-time.....	8, 000
Kansas:		
Kansas City.....	Full-time.....	20, 000
Wichita.....	do.....	20, 000
Leavenworth.....	Part-time.....	200
Lawrence.....	do.....	200
Parsons.....	do.....	200
Topeka.....	do.....	300
Junction City.....	do.....	500
Salina.....	do.....	200
Hutchinson.....	do.....	100
Hays.....	do.....	100
Garden City.....	do.....	100
Colby.....	do.....	100

<sup>1</sup> This part-time position to be full-time at a salary of \$22,500, if certain narcotic cases can no longer be diverted to local courts.

#### STANDARDS FOR SELECTION

The Conference considered tentative standards suggested by the Committee and agreed that these standards for appointment of magistrates needed further study and requested the Committee to report to the September 1969 meeting of the Conference. The Conference was in agreement, however, that as to the pilot districts, it was important that the appointees to positions in the pilot program be the subject of a check prior to appointment by the Federal Bureau of Investigation. The Conference also agreed with the principle that the maximum salaries of magistrates should be on a parity with maximum salaries paid to referees in bankruptcy.

## JURISDICTION OF MAGISTRATES

Judge Doyle advised the Conference that he had appointed a subcommittee to study, in depth, the various duties and responsibilities which may be assigned to magistrates and any possible constitutional limitations on such delegations. A preliminary report by the subcommittee was concerned largely with the problem of how minor offenses would be channeled to the magistrate and, particularly, to a question left silent in the Act relating to the problem of whether the Government had to give its prior consent to trial before the magistrate. The Conference noted that the subcommittee will continue its study, with particular reference to the practical and permissible scope of judicial functions which may be delegated to the magistrate.

In approving the preliminary report of the subcommittee, the Conference agreed to a proposal to circularize the chief judges of the district courts to canvass their ideas on this subject.

## CONFLICT OF INTEREST RULES

Judge Doyle pointed out to the Conference that part-time magistrates may under the Act engage in the practice of law, except that they may not serve as counsel in any criminal action in any court of the United States and that they may not act in any capacity that is under such regulations as the Conference may establish as inconsistent with the proper discharge of their office. Judge Doyle advised that he had appointed a subcommittee to make recommendations to the Conference on this subject and that the subcommittee had recommended six regulations to define the conduct of part-time magistrates, their partners and associates in those instances where a conflict of interest may arise. These six regulations were approved by the Conference as follows:

1. A part-time magistrate, his partners and associates, may appear as counsel in any civil action in any court or governmental agency, including matters in which the United States is a party or has a direct and substantial interest, but they may not appear in cases in which the part-time magistrate has been involved in connection with his official duties.
2. A part-time magistrate, his partners or associates, may appear as counsel in any matter before the Internal Revenue Service, other than in those matters in which the part-time magistrate has been involved in connection with his official duties.

3. A part-time magistrate may appear as counsel in a criminal action in any state court, but is precluded from appearing as counsel in any criminal action in any court of the United States.
4. A part-time magistrate's partners and associates may appear as counsel in any criminal action in any state court and in any federal court other than in the district in which the part-time magistrate serves, provided that the part-time magistrate has not been involved in such criminal proceeding in connection with his official duties.
5. A part-time magistrate is precluded from using his official office to refer cases to his partners, associates or to others.
6. Generally, a part-time magistrate represents conflicting interests when, in behalf of the Government, it is his official duty to take certain action or contend for that which duty to another would require him to oppose.

#### FORFEITURE OF COLLATERAL

Judge Doyle advised the Conference that statistics show that some of the busiest United States commissioners have heretofore earned their fees by handling traffic cases on Federal enclaves and that the great majority of these are disposed of without trial. He said that the Committee was of the view that if the process of routinely arresting these petty offenders could be dispensed with in favor of a more uniform adoption of a system of collateral forfeiture, this would, in large part, obviate the necessity of bringing petty offenders before a judicial officer, thus freeing the magistrate for duties of more substantial benefit to the district courts. He advised that the Committee has urged the Administrative Office to continue its study of various systems for collateral forfeiture with a view to submitting a plan which can be adopted under the magistrates system.

#### ADMINISTRATIVE REGULATIONS

Judge Doyle pointed out that the Federal Magistrates Act authorized the Administrative Office, with the approval of the Judicial Conference, to promulgate certain rules and regulations for the administration of the various provisions of the Act. As a result, the Administrative Office has prepared regulations on an experimental basis designed to serve as interim regulations in ad-

ministering the pilot program. These include regulations governing expenses of full-time magistrates, including compensation of secretarial and clerical assistants, regulations governing payment of compensation of part-time magistrates and reimbursement for expenses, including secretarial and clerical assistance, and regulations governing the recording and transcriptions of proceedings before magistrates. He stated also that the Administrative Office has devised certain interim financial proceedings for the collection of collateral, fines, proceeds from the sale of transcripts or tapes and for the handling of other receipts and disbursements incident to the administration of the pilot program.

The Conference approved the adoption of the interim regulations for use in the pilot program.

#### SEAL

On Committee recommendation, the Conference approved a seal similar to that now used by United States commissioners except that the words "United States Magistrate" shall be substituted for "United States Commissioner."

#### RULES OF PRACTICE AND PROCEDURE

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

#### CRIMINAL RULES

Judge Maris advised the Conference that in view of the recommendation of the Committee to Implement the Federal Magistrates Act to establish pilot districts, now approved by the Conference, the Advisory Committee on Criminal Rules had prepared and the standing Committee has approved a set of interim rules to govern the procedure of the magistrates in the five pilot districts. These rules of procedure for magistrates are designed only as interim rules in order to make it possible for the magistrates to function in the trial of minor offenses in the pilot districts. The Advisory Committee on Criminal Rules will continue to study rules of practice and procedure before United States magistrates with a view to making more complete recommendations at an appropriate time in the future.

The Conference considered and approved these proposed interim rules for magistrates and authorized transmission of them to the

Supreme Court in accordance with authority granted in Section 3402 of the Magistrates Act.

Judge Maris advised the Conference that the Advisory Committee on Criminal Rules is also continuing its work on other phases of criminal procedure which will be the subject of report to the Conference at a forthcoming meeting.

#### CIVIL RULES

Judge Maris stated that the Advisory Committee on Civil Rules was expected to meet in April to consider the comments of the bench and bar on proposed amendments to the civil rules, largely relating to discovery, which were published in November 1967. Unless the Committee decides in its action at the April meeting that they will require resubmission to the bench and bar, it is anticipated that the proposed discovery rules will be submitted to the standing Committee at its July meeting and be ready for Conference action at the September 1969 meeting of the Conference.

#### ADMIRALTY RULES

The Advisory Committee on Admiralty Rules, Judge Maris reported, is continuing its consideration of the operation of the unified civil rules with respect to maritime cases, as well as the supplemental admiralty rules, and is working on draft legislation to amend the Federal statutes relating to admiralty procedure in order to bring them into conformity with the procedure and nomenclature of the unified rules.

#### BANKRUPTCY RULES

The Advisory Committee on Bankruptcy Rules has substantially completed its task of preparing uniform rules for bankruptcy cases and Judge Maris reported that the Committee is now at work on rules of procedure under Chapters X, XI, XII, and XIII of the Bankruptcy Act. The Committee is also working on necessary amendments to the Act to eliminate the procedural provisions which will be covered by the rules.

#### RULES OF EVIDENCE

Judge Maris stated that the Advisory Committee on Rules of Evidence had completed its preliminary draft on uniform rules of evidence for the Federal courts and that distribution of this draft to the bench and bar for comments and suggestions is expected in early April.

## APPELLATE RULES

Following the adoption of the appellate rules and the discharge of the Advisory Committee on Appellate Rules, Judge Maris said that the standing Committee has undertaken to follow the operation of the rules and to report upon such modifications, if any, as seem to be needed as a result of experience.

## IMPLEMENTATION OF THE CRIMINAL JUSTICE ACT

In the absence of the Committee Chairman, Judge John S. Hastings, Judge Harvey M. Johnsen presented the report of the special Committee of the Conference to Implement the Criminal Justice Act.

## APPOINTMENTS AND PAYMENTS

Judge Johnsen advised that the Administrative Office had submitted a report of activities relating to the Criminal Justice Act through December 31, 1968. The report showed cumulative net disbursements under the Act from its effective date, August 20, 1965, through December 31, 1968, as \$8,103,346. The report shows a sharp increase in the volume of vouchers submitted and forecasts the possibility that for the first time it may be necessary to seek a supplemental appropriation for fiscal year 1968. In fiscal year 1968, payments for services rendered to defendants aggregated \$3,877,266 as compared with \$1,569,278 in 1967 and \$729,278 in 1966.

The Committee noted that the chief judges of the courts of appeals have approved 67 claims for protracted representation payable out of the 1968 appropriation. The Committee also observed that the bulk of the authorizations for investigative, expert and other services fell into three categories—investigative services, services of psychiatrists, and services of interpreters.

The Conference approved the recommendation of the Committee that the Director of the Administrative Office be authorized to distribute copies of the report to all Federal judges, as well as to the Chief Judges of the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Court of Appeals.

## GUIDELINES

Judge Johnsen advised the Conference that a subcommittee was continuing its work of preparing guidelines of general application

to assist Federal judges, commissioners, and clerks of court. He stated that the subcommittee will also draft proposed changes of general application to district court plans which will be necessitated by the Federal Magistrates Act.

#### JUVENILE COURT OF THE DISTRICT OF COLUMBIA

Judge Johnsen advised the Conference that, pursuant to a communication from Chief Judge Bazelon of the District of Columbia Circuit, the Committee had studied the question of the applicability of the Criminal Justice Act to the Juvenile Court of the District of Columbia. The Committee noted that just as there are United States Cases in the Court of General Sessions, so also the Juvenile Court has jurisdiction over certain United States Cases. Accordingly, the Committee was of the view that the reasoning of the Comptroller General in his opinion of June 12, 1966 relating to United States Cases in the Court of General Sessions was also applicable to counsel assigned in any United States Case in the Juvenile Court of the District of Columbia provided that the plan for the District of Columbia encompasses representation for defendants charged with felonies or misdemeanors, other than petty offenses, in the Juvenile Court.

#### TRANSCRIPTS IN PETTY OFFENSE CASES

Judge Johnsen advised the Conference that the Committee was apprised of a letter from the General Accounting Office requesting its views as to whether payment might be made under the Criminal Justice Act for a transcript in a United States Case in the Court of General Sessions of the District of Columbia involving a petty offense. Judge Johnsen stated that the Committee was unanimously of the view that the Act expressly excludes representation in petty offense cases for all purposes, whether for fees, expenses or other services.

#### STATUTORY AMENDMENTS

The Conference noted that the recommendations for amendments to the Criminal Justice Act, which the Conference had approved at its September 1968 meeting (Conf. Rept., pp. 71-73), were the subject of a bill introduced in the 90th Congress by Senator Hruska and reintroduced on January 27, 1969 in the 91st Congress as S. 650. The Conference voted to reaffirm its endorsement of these proposals by endorsing S. 650.

The Conference also noted that subsequent legislation had been introduced carrying out recommendations of the former Deputy Attorney General relating to the utilization of a public defender system. The Conference agreed with the Committee recommendation that these legislative proposals required further study, in conjunction with the study of a report to be submitted by the Department of Justice as required by the Congressional Conference Committee in 1964. This report, which is to be made in collaboration with the Judicial Conference, is to deal with comparative merits of an assigned counsel system versus a public defender system.

#### PRETERMISSION OF TERMS OF COURTS OF APPEALS

At the request of Chief Judge Clement F. Haynsworth, Jr., the Conference, pursuant to 28 U.S.C. 48, consented to the pretermission of the term of the Court of Appeals for the Fourth Circuit scheduled to be held at Asheville in June 1969.

At the request of Chief Judge Van Oosterhout, the Conference, pursuant to 28 U.S.C. 48, consented to the pretermission of the terms of the Court of Appeals for the Eighth Circuit to be held at Kansas City, Omaha, and St. Paul in 1969.

#### RELEASE OF CONFERENCE ACTION

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

EARL WARREN,  
*Chief Justice of the United States.*

APRIL 30, 1969.

# Report of the Proceedings of the Special Meeting of the Judicial Conference of the United States

JUNE 10, 1969

The Judicial Conference of the United States met on June 10, 1969, in special session pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. 331. The Chief Justice presided and the following members of the Conference were present:

**District of Columbia Circuit:**

Chief Judge David L. Bazelon

Judge John J. Sirica (designated in place of Chief Judge Edward M. Curran who was unavoidably absent)

**First Circuit:**

Chief Judge Bailey Aldrich

Judge Edward T. Gignoux, District of Maine

**Second Circuit:**

Chief Judge J. Edward Lumbard

Chief Judge Sidney Sugarman, Southern District of New York

**Third Circuit:**

Chief Judge William Henry Hastie

Chief Judge Wallace S. Gourley, Western District of Pennsylvania

**Fourth Circuit:**

Chief Judge Clement F. Haynsworth, Jr.

Chief Judge Walter E. Hoffman, Eastern District of Virginia

**Fifth Circuit:**

Chief Judge John R. Brown

Chief Judge G. Harrold Carswell, Northern District of Florida

**Sixth Circuit:**

Chief Judge Paul C. Weick

Chief Judge Mac Swinford, Eastern District of Kentucky

**Seventh Circuit:**

Chief Judge Latham Castle

Judge Edwin A. Robson, Northern District of Illinois

**Eighth Circuit:**

Chief Judge Martin D. Van Oosterhout

Chief Judge Roy W. Harper, Eastern and Western Districts of Missouri

**Ninth Circuit:**

Chief Judge Richard H. Chambers

Judge Albert C. Wollenberg, Northern District of California

**Tenth Circuit:**

Chief Judge Alfred P. Murrah

Chief Judge Arthur J. Stanley, District of Kansas

Court of Claims:

Chief Judge Wilson Cowen

Court of Customs and Patent Appeals:

Chief Judge Eugene Worley

Circuit Judge Robert A. Ainsworth, Jr., Chairman of the Committee on Court Administration, and the entire membership of the Committee attended the session of the Conference.

The Honorable Joseph D. Tydings, Chairman of the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, United States Senate, and Mr. Albert Figinski, Counsel for the Subcommittee, attended the opening of the session and Senator Tydings addressed the Conference on pending legislation of interest to the federal judiciary.

Mr. Justice Tom C. Clark, United States Supreme Court (retired), Director of the Federal Judicial Center, Mr. Ernest C. Friesen, Jr., Director of the Administrative Office of the United States Courts, Mr. William E. Foley, Deputy Director, Mr. William R. Sweeney, Assistant Director, and members of the Administrative Office staff were also in attendance.

#### COURT ADMINISTRATION

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

After discussion of the report, which began at 10 a.m. and continued until 3:30 p.m., with a forty-five minute break for lunch, the Conference voted to adopt the following resolutions:

- I. A judge in regular active service shall not accept compensation of any kind, whether in the form of loans, gifts, gratuities, honoraria or otherwise, for services hereafter performed or to be performed by him except that provided by law for the performance of his judicial duties. Provided however, the judicial council of the circuit (or in the case of courts not part of a circuit, the judges of the court in active service) may upon application of a judge approve the acceptance of compensation for the performance of services other than his judicial duties upon a determination that the services are in the public interest or are justified by exceptional circumstances and that the services will not interfere with his judicial duties. Both the services to be performed and the compensation to be paid shall be made a matter of public record and reported to the Judicial Conference of the United States.
- II. Each judge shall file annually (commencing May 15, 1970 for the preceding calendar year) with the Judicial Conference of the United States, on forms to be approved by the Judicial Conference, a statement of his investments and other assets held by him at any time during the year as well as a statement of income, including gifts and bequests, from any source, identifying the source, and a statement of liabilities.

The statements shall be kept on file with the Judicial Conference and available for such use as the Conference and the Judicial Councils of the circuits may require, as well as for public disclosure as determined by the Judicial Conference to be in the public interest, pursuant to regulations promulgated by the Conference.

The Committee on Court Administration shall submit to the Judicial Conference of the United States at its September 1969 session a progress report on the preparation of forms and regulations necessary to implement this resolution.

III. The Committee on Court Administration shall submit to the Judicial Conference of the United States at its September 1969 session a progress report on the formulation of standards of judicial conduct for federal judges.

IV. The Committee on Court Administration shall draft proposed legislation to submit to the Judicial Conference at its September session to ensure that the Conference is able to enforce the resolutions set forth above.

The Conference authorized the Chief Justice to release the foregoing resolutions at once and to make distribution of them to all federal judges.

EARL WARREN,  
*Chief Justice of the United States.*

JUNE 12, 1969.

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