

REPORT OF THE JUDICIAL CONFERENCE.

SEPTEMBER SESSION, 1942.

The Judicial Conference, pursuant to 28 U. S. C. § 218, convened on September 29, 1942, and continued in session four days. The following judges were present in response to the call of the Chief Justice:

First Circuit, Senior Circuit Judge Calvert Magruder.
Second Circuit, Senior Circuit Judge Learned Hand.
Third Circuit, Senior Circuit Judge John Biggs, Jr.
Fourth Circuit, Senior Circuit Judge John J. Parker.
Fifth Circuit, Senior Circuit Judge Samuel H. Sibley.
Sixth Circuit, Senior Circuit Judge Xenophon Hicks.
Seventh Circuit, Senior Circuit Judge Evan A. Evans.
Eighth Circuit, Senior Circuit Judge Kimbrough Stone.
Ninth Circuit, Senior Circuit Judge Curtis D. Wilbur.
Tenth Circuit, Senior Circuit Judge Orle L. Phillips.
District of Columbia, Chief Justice D. Lawrence Groner.

Judge Sibley was unable to attend the session on the fourth day.

The Attorney General, with his aides, was present at the opening of the Conference.

The Director of the Administrative Office of the United States Courts, Henry P. Chandler, the Assistant Director, Elmore Whitehurst, the Chief of the Division of Procedural Studies and Statistics, Will Shafroth, and other members of the staff of the Administrative Office were in attendance.

By invitation of the Conference, Senator Frederick Van Nays, Chairman of the Senate Judiciary Committee, Senator Joseph C. O'Mahoney, Chairman of one of its Subcommittees, and Representative Hatton W. Summers, Chairman of the Judiciary Committee of the House of Representatives, attended part of the session so that there could be an interchange of views upon pending and prospective legislation affecting the work of the courts.

By invitation of the Conference, District Judge Paul J. McCormick attended part of the session, and discussed with the Conference the subject of the representation of district judges in circuit councils.

Death of Judge Foster.—The Chief Justice announced to the Conference the death of Senior Circuit Judge Rufus E. Foster, of the Fifth Circuit, on August 23, 1942. The Conference adopted the following minute:

“The members of the Judicial Conference regretfully record the absence of the late Rufus E. Foster who for eight successive years attended these meetings and contributed much to their deliberations.

“Long and wide were his experiences. As United States District Attorney, as United States District Judge and as a Judge of the United States Circuit Court of Appeals, he gathered wisdom from his varied experiences. This Conference was the beneficiary of those experiences and wise counsel.

“He loved the work of the judiciary and was justifiably proud of his participation in its activities. We, too, are proud of the part he played in its history. Judicial work was his master and he was its willing servant.

“We will miss his wholesome advice, the wisdom of his ripe experience, his kindly genial personality and his optimistic, cheerful nature. We all unite in sending to Mrs. Foster our sympathy in the loss of her husband and our friend.”

Statement of the Attorney General.—The Attorney General addressed the Conference upon various matters of current interest in the work of the courts. He emphasized the importance of filling judicial vacancies promptly if the courts are to perform their duties with despatch; he called attention to problems arising within the Department of Justice as a result of its rapid growth during the past three years; he stressed the desirability of the courts' taking appropriate measures to expedite hearings and appeals in cases where prompt decision is of immediate concern to the conduct of the war; and he suggested the

need of continuing or adjourning certain types of cases whose preparation and presentation would absorb too much time of army, navy, or civilian personnel essential in war work, or might disclose valuable information to the enemy.

The Attorney General suggested that federal judges might in appropriate cases undertake to render special services in connection with the war, outside the scope of their judicial duties and consistent with them. He stated that in his opinion a judge who enters the armed forces as an officer, and accepts the salary attached to the commission, must, under the provisions of 5 U. S. C. § 62, be deemed automatically to surrender his judicial office; and he urged that any federal judge inclined to resign in order to undertake active military duty should weigh the importance of his present work and consider carefully whether he should abandon it.

The Attorney General also referred to problems arising out of the performance of the functions of United States commissioners, and the status of bailiffs in the federal courts. He urged the speedy adoption of the pending court reporter bill, and endorsed the recommendations of the report of the Conference's committee on punishment for crime, and those of the committee on standards of qualifications of probation officers. He suggested that the Conference appoint committees to study the prevailing practice of imprisonment of defendants in criminal cases for the failure to pay their fines, and the treatment accorded to insane defendants charged with crime in the federal courts. He also stressed the importance of conducting proceedings in naturalization cases in a more dignified manner than is generally the case at present, and urged that all district courts should regularly entertain petitions for naturalization.

The Administration of the United States Courts.—Report of the Director.—The Director submitted to the Conference his third annual report, reviewing the activities of the Administrative Office for the fiscal year ending June 30, 1942, and presenting detailed statistical data concerning

the work of the federal courts. The Conference approved the Director's report, and ordered it to be released immediately for publication.

State of the Dockets.—Number of Cases Begun, Disposed of, and Pending, in the District Courts.—The Director's annual report contains statistical comparisons of the state of the dockets of the federal courts for the fiscal year ended June 30, 1942, with those of previous years. In addition, each senior circuit judge presented to the Conference reports and comments on the statistics submitted by the Director with respect to the work of the courts in his circuit.

As the following table indicates, the number of civil cases pending in the district courts on June 30, 1942, (exclusive of the Canal Zone and the Virgin Islands) remained at about the same level as in each of the two preceding years:

<i>Fiscal Year</i>	<i>Commenced</i>	<i>Terminated</i>	<i>Pending</i>
1939	33,531	37,463	31,940
1940	34,200	36,893	29,259
1941	37,826	37,914	29,171
1942	37,419	37,664	28,926

In the last half of the fiscal year 1942 nineteen hundred less civil cases were filed than during the same period in 1941, despite the fact that there were a thousand more land condemnation cases than in the comparable period for 1941. These condemnation cases are the most striking single feature of the district court dockets at the present time. The total number of such pending cases approaches 5,000, the total number of tracts involved 55,000, and the total acreage 10½ million.

The war has caused a sharp increase in the number of petitions for naturalization filed in the federal courts. The number of pending bankruptcy cases has declined more than five per cent. On the other hand, pending criminal cases in the 84 districts in the states increased 22 per cent to 10,659. The total number of criminal cases filed in these same districts was 30,577, five per cent more than last

year, an increase caused largely by prosecutions for violation of the Selective Service Act.

Delays in the Disposition of Cases.—Additional Judges.—During the past year the Administrative Office has acted as a clearing house for information with respect to the availability of judges for assignments to districts in which the dockets are congested, and has cooperated with the Chief Justice in securing the necessary consents for the assignments made. Arrearages have been reduced considerably, but in a small number of districts there remains congestion which can be overcome only by the appointment of additional judges. After considering the report of the Director, and the statements of the respective senior circuit judges, the Conference recommended that an additional district judge be provided for the District of New Jersey, and one for the Eastern District of Pennsylvania, by legislation providing that in the case of each office the first vacancy occurring shall not be filled. The Conference also recommended the passage of H. R. 4318, which would provide an additional district judge for the Northern District of Alabama, and it renewed the recommendation it has made for the last two years for the passage of H. R. 137, to provide an additional district judge for the Eastern District of Missouri.

The Conference also recommended legislation to create an additional circuit judgeship in the Fifth Circuit, and it urged the passage of S. 412 to create an additional circuit judgeship in the Seventh Circuit.

Salaries for Law Clerks, Secretaries, and other Personnel of the Courts.—By invitation of the Conference, Associate Justice Justin Miller of the United States Court of Appeals for the District of Columbia discussed with the Conference the level of salaries of law clerks and secretaries to the district and circuit judges, and also of librarians in the circuit courts of appeals. He urged that a complete reclassification of such personnel be undertaken, with a view to bringing their salaries more into harmony with those prevailing in other branches of the government for

comparable types of service. After discussion of this proposal, the Conference authorized the Chief Justice to appoint a committee to make a survey, with the aid of the Director, of the salary scale of law clerks, secretaries and librarians, and also of probation officers, clerks' office employees and other supporting personnel of the federal courts, and to that end, with the cooperation of the Director, to seek the aid and advice of the Civil Service Commission, and to report its recommendations to the Conference at its early convenience. The committee appointed consists of Judge Biggs, Chairman, Associate Justice Miller, Circuit Judges Harvey M. Johnson and Morris A. Soper, and District Judges Wayne G. Borah, John E. Miller and J. F. T. O'Connor.

Pending the completion of such a survey, the Conference authorized the Director to fix the annual salaries of secretaries to district and circuit judges within a range of \$2300 to \$2900, and of law clerks to district and circuit judges within a range of \$2600 to \$3000, as soon as funds are available, and to include in his budget estimates under the item "Miscellaneous Salaries, United States Courts" an amount sufficient to carry that policy into effect.

Law Clerks to District Judges.—Section 128 of 28 U. S. C. authorizes each United States district judge to appoint a law clerk when he deems this to be necessary and when the senior circuit judge shall certify to the necessity of the appointment. The annual appropriation acts, however, have limited to three the number of law clerks to district judges who can be appointed within any one circuit. This limitation has operated in many instances to deprive district judges of the assistance which they need in discharging their duties, and in the more congested areas it is in part responsible for the difficulty in clearing the dockets. Accordingly, the Conference adopted the following resolution:

That the senior circuit judges be requested to make immediate inquiry of all district judges in their respective circuits to ascertain which district judges deem

the appointment of a law clerk to be necessary, and in appropriate cases to certify to the necessity of the appointment, pursuant to 28 U. S. C. § 128; that the senior circuit judges shall forward such certifications to the Director of the Administrative Office not later than October 12, 1942; that the Director shall then be authorized to include in his budget estimate for the year 1944 an amount sufficient to pay the salaries of all law clerks thus certified.

The Conference also authorized the Chief Justice to appoint a committee of district judges to assist the Director in presenting to Congress the need for additional law clerks. The committee appointed consists of District Judge John C. Knox, Chairman, and District Judges J. Cullen Ganey, Johnson J. Hayes, Arthur D. Healey and Frank L. Klobb.

Budget Estimates.—As required by the Administrative Office Act, the Director submitted to the Conference estimates of expenditures and appropriations necessary for the maintenance of the United States courts and the Administrative Office for the fiscal year 1944, and a deficiency estimate for clerks' salaries and expenses for the fiscal year 1943. The Conference approved the estimates submitted, together with such additional amounts as may be required for 1944 for reclassifications and increases in salary for secretaries and law clerks as authorized by the Conference, and for salaries of law clerks to district judges upon compliance by the Director with the resolution already quoted with respect to such law clerks.

The Punishment for Crime.—At its October 1940 session the Conference recommended the passage of an indeterminate sentence law for the federal courts. In view of criticism of the bill at several circuit conferences, this Conference last year appointed a committee of circuit and district judges to make a further study of the indeterminate sentence and generally of the subject of punishment for crime in the federal courts, including the treatment of youthful offenders. The committee appointed consisted of Judges Parker, Hand and Phillips, and District Judges Carroll C. Hincks, John C. Collet, Paul J.

McCormick and Bolitha J. Laws. After careful study, the committee submitted a report recommending certain fundamental changes in the legislation governing federal punishment for crime. The more important recommendations of the report are as follows:

“(1) Retain in the trial judge full power to fix the length of all sentences and to admit to probation.

“(2) Where the sentence, in the opinion of the judge, should be for more than one year, require that a sentence for the maximum term be initially imposed, with power in the judge to modify the sentence later.

“(3) Provide a Board of Corrections with power to make recommendations to the judges as to sentence in cases where sentence is for more than one year, but with power in the judge to fix the sentence notwithstanding the recommendation of the Board.

“(4) Provide, in the case of offenders under 24 years of age, that the judge in his discretion, instead of imposing an ordinary sentence of imprisonment on them, may commit them to the custody of the Youth Authority Division of the Board of Corrections for correctional treatment.

“(5) Provide for the confinement in prison camps, farms, and other institutions of minimum or medium security, instead of in jails and prisons, of offenders on whom short terms of imprisonment are imposed.

“(6) Provide an adequate period of supervision under parole of not less than two years in all cases where the sentence is for more than one year.

“(7) Provide for waiver of indictment and jury trial, so that persons accused of crime may not be held in jail needlessly pending trial.”

By invitation of the Conference District Judge Bolitha J. Laws, a member of the committee, was present and participated in the discussion of the committee's report. The Conference adopted the report presented by the committee, and urged the passage of the bills proposed by the report. Judge Stone recorded his objection to Title 2 of the proposed bill, relating to prison sentences for more than one year. The Conference continued the committee with instructions to render such assistance as it may deem advisable in securing passage of the proposed legislation.

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Probation Officers and Merit System for Personnel in Clerks Offices.—At the last session of the Conference the subject of appropriate standards of qualifications of probation officers, and the advisability of bringing the personnel of clerks offices under a merit system, were referred to a committee consisting of Judges Magruder, Sibley, Stone, Circuit Judge Augustus N. Hand, and District Judges F. Ryan Duffy, William H. Kirkpatrick and Adolphus F. St. Sure. With respect to the standards of qualifications of probation officers, the Conference adopted the following resolution proposed by the report of the committee:

That the Conference reaffirms the resolution adopted at its meeting in October, 1940, expressing the sense of the Conference that in view of the responsibility and volume of their work, probation officers should be appointed solely on the basis of merit without regard to political considerations; and that training, experience, and traits of character appropriate to the specialized work of a probation officer should in every instance be deemed essential qualifications.

That the Conference recommends to the various district courts that in all future appointments of probation officers the appointee should be required to possess the following qualifications:

- (1) Exemplary character.
- (2) Good health and vigor.
- (3) An age at the time of appointment within the range of 24 to 45 years inclusive.
- (4) A liberal education of not less than collegiate grade, evidenced by a bachelor's degree (B.A. or B.S.) from a college of recognized standing, or its equivalent.
- (5) Experience in personnel work for the welfare of others of not less than two years, or two years of specific training for welfare work (a) in a school of social service of recognized standing, or (b) in a professional course of a college or university of recognized standing.

That the Conference recommends to the various district courts that future appointments of probation officers should be for a probationary period of six months, the appointment to become permanent at the

end of that period if the service is deemed satisfactory by the court.

That the Conference calls the attention of the various district courts to the availability of the Administrative Office for the service of analyzing the qualifications of applicants for appointment with a view to determining whether such qualifications measure up to the recommended standards, and for the service of conducting competitive examinations, if desired by the court.

Concerning the advisability of bringing the personnel of clerks offices under a merit system, a majority of the same committee reported that although they found no evidence of abuses which would render the proposal a matter of great urgency, they were in favor of bringing the personnel of the clerks offices, except the clerks themselves and their chief deputies, within the classified civil service. A minority of the committee reported that in their opinion no change was necessary or desirable. The Conference adopted the minority report.

Court Reporters.—Last year the Conference urged enactment of comprehensive legislation to provide for official court reporters in the federal courts, recommended by a committee consisting of Judges Parker, Hicks and Phillips. As a result of criticisms by officials in the Bureau of the Budget and by representatives of court reporters and others, the committee recommended that the following changes be made in the bill:

“(1) Where the reporter is required to attend upon the court more than 30 weeks annually, the salary may, in the discretion of the Judicial Conference, be fixed in an amount not to exceed \$5000.

“(2) The provision for contract letting is eliminated.

“(3) In pauper appeals in civil cases [unlike criminal cases] the cost of the transcript shall be paid by the United States only when the trial judge certifies that the appeal is not frivolous but presents a substantial question, and the amounts so paid by the United States are to be taxed in its favor as costs in the case.

“(4) Provision is made for the delivery to the clerk of the court, without charge, of a copy of any transcript made.

“(5) The provision for taxing a reporter’s fee of \$5.00 in the bill of costs in each case, to be covered into the Treasury of the United States, is eliminated.”

The bill as redrafted to incorporate these changes has the approval of the Bureau of the Budget and its enactment was recommended by the Conference.

Specially Constituted Statutory Courts.—In accordance with the report of the committee consisting of Judges Evans, Stone and Phillips, the Conference recommended that legislation be adopted to provide a uniform method of assembling specially constituted district courts of three judges, and that such legislation provide that the senior circuit judge shall name the associates to sit with the district judge in such cases. The Conference requested the committee to draft a bill, with the cooperation of the Director, to carry out this recommendation, and to present the bill to Congress as the bill approved by the Conference. The Conference directed that Circuit Judge Albert B. Maris be added to the committee.

Special Court of Patent Appeals.—The Conference adopted the report of the committee, consisting of Judges Biggs, Hand, Hicks, Evans and Phillips, recommending that no action be taken at this time to establish a special court of patent appeals. The Conference directed that the committee be continued.

Jury Selection.—Last year a committee of district judges, consisting of District Judges John C. Knox, Harry E. Watkins, Walter C. Lindley, Colin Neblett and James M. Proctor, was appointed to study the methods of jury selection in the federal courts. The committee presented to the Conference a comprehensive report recommending important changes in the mode of selecting juries, and requested that the report be distributed to all federal judges, clerks of court, jury commissioners, and other

persons interested in the subject. Accordingly the Conference directed that the committee be continued, that the report be circulated as requested, and that suggestions or criticisms concerning it be invited for submission to the committee.

Civil Disabilities Legislation.—The Conference approved the report of the committee, consisting of Judges Phillips, Biggs and Wilbur, recommending appropriate legislation to free from civil disabilities probationers who have been found by the court to have met the condition of their probation, and the Conference recommended enactment of the bill proposed by the committee.

United States Commissioners.—Last year the Conference requested the Administrative Office to make a study of the commissioner system and report to the Conference. The Director presented his report, which considered in detail the operation of the commissioner system throughout the federal courts. The Conference authorized the Chief Justice to appoint a committee of district judges to consider this subject and, with the assistance of the Administrative Office, to make a report with recommendations to the next session of the Conference. The committee appointed consists of District Judge Carroll C. Hincks, Chairman, and District Judges W. Calvin Chestnut, James A. Fee, Gunnar H. Nordbye, John F. Symes and George C. Taylor.

Public Defenders.—In past years the Conference has recommended that provision be made by appropriate legislation for the appointment of public defenders in districts where there is a large volume of criminal trials. The subject was again considered, and the Conference urged the enactment of H.R. 6628, which would authorize the establishment of such a public defender system. The Conference also recommended that H.R. 6628 be amended to provide for a public defender in both criminal cases and in habeas corpus cases in which the petitioner is proceeding in forma pauperis. The Conference withdrew its rec-

ommendation of last year that, in districts where no public defender system has been established, the trial court be authorized by legislation to compensate, in a limited amount, attorneys appointed to represent indigent defendants.

Clerks' Fees.—The committee, consisting of Judges Biggs and Evans and Chief Justice Groner, which had studied the proposal for the adoption of flat fee systems in the district and circuit courts, reported that the present system of fees is antiquated and unwieldy, resulting in a waste of time, much unnecessary bookkeeping, and difficulties in auditing. The committee recommended the enactment of a bill establishing a flat fee system in the district courts. This report was adopted by the Conference with a recommendation that the proposed bill be passed.

The committee also recommended that a flat fee system be adopted for the circuit courts of appeals, which are now governed by the Order of the Supreme Court of March 15, 1941. With respect to such fees, the Conference adopted the following resolution:

That it is the sense of the Conference that, if the Supreme Court will approve such a change, a bill be drawn to authorize the Judicial Conference, acting upon the recommendation of the Director, to fix fees in the circuit courts of appeals; and that the committee be continued to sit with the Director for the purpose of establishing a system of fees to be reported to the Conference in the event of the passage of such legislation.

Practice of Law before Federal Judges by Their Near Relatives.—From time to time complaint has been made of the fact that near relatives of federal judges have appeared before them as counsel in pending cases. The Conference recognized that in many instances this may have involved no impropriety on the part of the judge or of counsel. But in view of the desirability of eliminating all possible occasion for criticism of the practice, the Conference adopted the following resolution:

That it is the sense of the Conference that federal judges should avoid sitting in cases in which their

near relatives are of counsel, as contrary to the spirit of Canon XIII of the Canons of Ethics of the American Bar Association, and the Conference urges the circuit councils to inquire whether such a practice exists in their respective circuits, and if so to take appropriate action.

Federal Judges as Arbitrators for the National War Labor Board.—In response to an inquiry from the Executive Secretary of the National War Labor Board concerning the Conference's attitude toward the acceptance by federal judges of appointments as arbitrators in cases pending before the Board, the Conference adopted the following resolution:

That the National War Labor Board be informed through the Director that it is the sense of the Conference that it would be incompatible with the obligations of the judicial office for a United States judge to accept a position as arbitrator in cases pending before the National War Labor Board.

Uniform Time for Appeals to Circuit Courts of Appeals.—In past years the Conference has recommended legislation to prescribe a uniform time, not exceeding 30 days, for all appeals to circuit courts of appeals, except where a shorter time may be provided by law. The Director reported that certain objections had been made to the adoption of such a short time limitation for the review of administrative orders by circuit courts of appeals. The Director accordingly presented for consideration a bill restricted in its application to appeals to the circuit courts of appeals from the district courts. The Conference authorized the Chief Justice to appoint a committee to consider the proposed bill with the Solicitor General, and authorized the committee, if it found the text of the bill to be satisfactory, to recommend its passage on behalf of the Conference. The committee appointed consists of Judge Stone, Chairman, Judges Sibley and Hicks and Chief Justice Groner.

Limitations upon the Authority of Judges to Sit by Assignment in the District Courts.—The report of the Con-

ference last year stated at length the reasons why, in the opinion of the Conference, it was contrary to the public interest to place in the hands of the senior district judge an unqualified veto upon the assignment of an outside judge to sit in his district. Such a provision has been inserted into S. 2655, now pending before the Congress, and the Conference accordingly adopted the following resolution:

That the Conference renews the statement made in its report last year in opposition to placing in the hands of the senior district judge an unqualified veto upon the assignment of an outside judge to his district; that it is the sense of the Conference that a wholly adequate safeguard against the undue assignment of outside judges to sit in district courts would be afforded by legislation requiring the consent of the circuit council to the assignment whenever an objection is made by the senior district judge; that the Conference urges that S. 2655 be amended accordingly; and that the Director be instructed to transmit immediately a copy of this resolution to the Chairmen of the Judiciary Committees of the Senate and House of Representatives.

Naturalization Proceedings.—The Conference thought it desirable that the dignity and importance of admission to United States citizenship through naturalization should be stressed in all naturalization proceedings. It therefore adopted the following resolution:

That all federal judges be requested to aid in whatever manner possible in carrying out the Joint Resolution of Congress of May 3, 1940, 54 Stat. 178, and in enhancing the dignity of all stages of the naturalization proceeding.

Payment for Furnishing Copies of Opinions of Federal Judges.—The Conference adopted the following resolution:

That it is the sense of the Conference that secretaries and law clerks to judges, and other employees of the courts, should receive no compensation for furnishing copies of the opinions of the judges to any person.

Unnecessary Printing of Briefs and Records.—In view of the necessity of conserving materials for war purposes, it is especially desirable that the printing of briefs and records in cases on appeal be kept at a minimum. The Conference therefore requested each senior circuit judge to make an investigation in his circuit, with a view to the adoption of rules or establishment of practices which will eliminate all unnecessary printing.

Disbursal of Trust Funds by Clerks of Court.—Under the present system when a clerk collects trust funds he is required to deposit them in a receipt account in the Treasury, where they are beyond his control. Before he can make disbursements from a trust fund to the persons entitled to receive them, he must secure from the Treasury an advancement of the funds from the receipt account to a checking account. This has given rise to a variety of accounting and practical difficulties. After a study of the subject the Director prepared a bill which would provide that any trust fund money deposited by a clerk of court in the Treasury shall be subject to his control and may be disbursed by him in the same manner as money deposited in a checking account in a bank. The Conference approved the bill prepared by the Director and recommended its enactment.

Appeals in Admiralty.—Last year the Conference recommended that the Supreme Court abolish the provision in the admiralty rules for the taking of further proofs on appeals in admiralty cases. The Chief Justice reported to the Conference that in investigating the subject the Court had found that 28 U. S. C. § 863 contained a provision which might be deemed a Congressional authorization of that practice. Since the Court's rule-making power in admiralty is limited by 28 U. S. C. § 723 to rules not "inconsistent with the laws of the United States", the Court had taken no action on the Conference's recommendation.

Presentation of the Views of the District Judges to the Conference.—In past years the Conference has recognized

the desirability of obtaining the views of the district judges upon matters pending before the Conference, and especially those which relate to the work of the district courts. The judicial conferences held in the various circuits afford convenient opportunity to the district judges to discuss such matters and to make their views known. The Conference was also of opinion that there should be some regular procedure for informing the district judges of the questions which this Conference proposes to discuss, and for affording them opportunity to present their views to the Conference. Accordingly the Conference adopted the following resolution:

That it is the sense of the Conference that the agenda of the Judicial Conference should be sent to the district judges and that all matters intended to be considered at the Conference which especially affect the work of the district courts should be distributed to the district judges so far as possible; and that the Conference invites the district judges to submit their views to it on such matters or any other matters, either by letter or in person.

Review of Interstate Commerce Commission Orders.—The Conference authorized the Chief Justice to appoint a committee, including a member of the Interstate Commerce Commission, to consider the mode of securing appellate review of orders of the Interstate Commerce Commission, and of other administrative orders which under the existing statutes are reviewed by a district court of three judges and which may be appealed as of right to the Supreme Court. The committee appointed consists of Judge Hand, Chairman, Judge Magruder, Circuit Judge Armistead M. Dobie, District Judge Walter C. Lindley, and Interstate Commerce Commissioner Clyde B. Aitchison.

Library Funds.—The Conference authorized the Chief Justice to appoint a committee for the study of the administration of library funds derived by the circuit courts of appeals from fees for the admission of attorneys, and to take such action as it may deem appropriate. The committee appointed consists of Judge Evans, Chairman,

Judge Phillips, Circuit Judge John D. Martin, and Associate Justice Fred M. Vinson of the United States Court of Appeals for the District of Columbia.

Bankruptcy Administration.—The Conference authorized the Chief Justice to appoint a committee to consider and report on certain matters of bankruptcy administration which had been brought to the attention of the Conference, and on such other problems of bankruptcy administration as it might think it appropriate. The committee appointed consists of Judge Phillips, Chairman, Circuit Judges Jerome N. Frank and John B. Sanborn, and District Judges William C. Coleman, F. Ryan Duffy, Hiram C. Ford and Ralph E. Jenney.

Bailiffs.—The Conference authorized the Chief Justice to appoint a committee to consider the status, compensation and method of appointment of bailiffs in the district courts and circuit courts of appeals. The committee appointed consists of Circuit Judge Albert B. Maris, Chairman, and District Judges John P. Barnes, John C. Bowen, Alfred C. Coxe, and Elmer D. Davies.

Habeas Corpus.—The Conference authorized the Chief Justice to appoint a committee to study the entire subject of procedure on applications for habeas corpus in the federal courts. The committee appointed consists of Judge Parker, Chairman, Judge Stone, Circuit Judge Albert Lee Stephens, and District Judges E. Marvin Underwood, Edgar S. Vaught and Charles E. Wyzanski, Jr.

Imprisonment for Failure to Pay a Fine.—The Conference authorized the Chief Justice to appoint a committee to study the existing law and practice of imprisonment for the failure to pay fines in criminal cases. The committee appointed consists of Circuit Judge Herbert F. Goodrich, Chairman, Circuit Judge Peter Woodbury, and District Judges William J. Campbell, Mac Swinford and Leon R. Yankwich.

Insane Defendants.—The Conference authorized the Chief Justice to appoint a committee to study, in coopera-

tion with the Attorney General, the treatment accorded by the federal courts to insane persons charged with crime. The committee appointed consists of Judge Magruder, Chairman, Judges Hand and Wilbur, Circuit Judges Otto Kerner and Charles C. Simons, District Judge Merrill E. Otis and Chief Justice Edward C. Eicher of the District Court of the United States for the District of Columbia.

Bills Approved.—The Conference recommended the passage of H. R. 141, extending the retirement provisions applicable to the judges in Hawaii to the judges of the United States District Courts for Puerto Rico, Canal Zone, Alaska and the Virgin Islands, and to the judges of the United States Court for China. It also recommended the passage of H. R. 7121 relating to the reorganization of railroads under chapter XV of the Bankruptcy Act.

Legislation Disapproved.—The Conference disapproved H. R. 7473, providing for the division of the State of California into three judicial districts. The Conference also was of opinion that in view of the decision of the Supreme Court in *Textile Mills Corp. v. Commissioner*, 314 U. S. 326, no further legislation is necessary with respect to the constitution of circuit courts of appeals in cases where such courts sit en banc.

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

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

For the Judicial Conference.

HARLAN F. STONE,
Chief Justice.

October 22, 1942.