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**REPORT  
OF THE PROCEEDINGS  
OF A  
SPECIAL SESSION  
OF THE  
JUDICIAL CONFERENCE OF THE  
UNITED STATES**

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**MARCH 13, 14, 1956  
WASHINGTON, D. C.**

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## TITLE 28, UNITED STATES CODE, SECTION 331

### § 331. Judicial Conference of the United States.

The Chief Justice of the United States shall summon annually the chief judges of the judicial circuits to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States.

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

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

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

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

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# Report of the Proceedings of a Special Session of the Judicial Conference of the United States

Special Session—March 13, 14, 1956

The Judicial Conference of the United States convened in a special session upon call of the Chief Justice on March 13, 1956, and continued in session 2 days. The Chief Justice presided and members of the Conference were present as follows:

*Circuit:*

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

The Conference welcomed the new chief judge for the Tenth Circuit, Hon. Sam G. Bratton, succeeding Chief Judge Orie L. Phillips, who retired on January 1, 1956. The Conference adopted the following resolution:

*WHEREAS*, Hon. Orie Leon Phillips retired on January 1, 1956 from regular active service as a Circuit Judge of the Tenth Circuit, after more than 32 years of superb judicial service, first as United States District Judge for the District of New Mexico, and later as a member of the Court of Appeals for the Tenth Circuit, and

*WHEREAS*, during the past 15 years, as Chief Judge of the Tenth Circuit, he has been a member of the Judicial Conference of the United States, and in that capacity has contributed to the work and discussions of the Conference an unflinching wisdom, a hard-driving energy, an invaluable service as mem-

ber of innumerable committees of the Conference, far beyond the call of duty, including particularly his service as chairman of the Bankruptcy Committee of the Conference, and as chairman of the Subcommittee on Treatment of Youthful Offenders of our Conference Committee on Punishment for Crime in which capacity he earned a major share of the credit for the enactment of the Federal Youth Corrections Act (64 Stat. 1085),

*RESOLVED*, that we now put on record our appreciation to Chief Judge Phillips for his dependable help to the Conference over the years, our warm personal affection for him, our delight that he has agreed, though now retired from formal membership on this Conference, to continue to serve as chairman of our Bankruptcy Committee and as a member of our Committee on Court Administration, and our fond hope and expectation that he will find in his qualified retirement an abundance of joy and satisfaction.

The Attorney General, Herbert Brownell, Jr., accompanied by the Deputy Attorney General, William P. Rogers, and the Solicitor General, Simon E. Sobeloff, attended the morning session on the first day of the Conference. The Attorney General made an informal report to the Conference.

Senator Thomas C. Hennings, Jr., of Missouri, Chairman of the Subcommittee on Improvements in Judicial Machinery of the Senate Committee on the Judiciary, attended the morning session on the first day and addressed the Conference briefly.

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

Henry P. Chandler, director; Elmore Whitehurst, assistant director; Will Shafroth, chief, Division of Procedural Studies and Statistics; Edwin L. Covey, chief, Bankruptcy Division; and Louis J. Sharp, chief, Probation Division; and members of their respective staffs, all of the Administrative Office of the United States Courts, attended the sessions of the Conference.

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

Chief Judge Biggs, who is chairman of the Committee on Supporting Personnel and also chairman of the Committee on Court

Administration, made a joint report for the two committees as was done at the September 1955 session of the Conference (Jud. Cf. Rpt. p. 9). He informed the Conference that a meeting of the Committee on Court Administration had been held on November 1 and 2, 1955, and that a joint meeting of the Committee on Supporting Personnel and the Committee on Court Administration had been held on February 23, 24, and 25, 1956. The Conference considered the report and acted upon the recommendations as indicated below. The actions which will require substantial additional money cannot, of course, become effective until the necessary funds are appropriated by Congress. The amounts required will be included in the estimates for the regular judicial appropriation bill for the fiscal year 1958, effective July 1, 1957.

#### CLERKS OF COURT AND THEIR STAFFS

The committees had heard representatives of the Federal Court Clerks' Association who presented several recommendations relating to clerks of court and their staffs. The first recommendation was that the title of the clerk of the court be changed to "court administrator." After consideration it had been unanimously resolved by both committees to recommend to the Conference that there be no change in the title of clerks of court at this time. The Conference adopted the recommendation.

The Clerks' Association also recommended that the duties of disbursing officer in the several districts now discharged by the United States marshals be transferred to the clerks of court. After consideration of this proposal it had been resolved by the members of both committees that it be recommended to the Conference that no change be made at the present time in respect to the disbursement of funds for the judiciary. The recommendation was adopted by the Conference.

The Conference was informed that the Committees had given careful consideration to recommendations which had been submitted by the representatives of the Clerks' Association for increases in salaries of clerks to a range from \$12,500 to \$17,500 per annum with appropriate increases for their staffs, and also had considered a report with regard to the classification and salaries of clerks and their staffs submitted by the Administrative Office. The Committees recommended that the salaries of clerks of United States district courts in large districts be set at \$14,000 per annum, that the salaries of clerks in medium districts be set at \$12,000

per annum, and that the salaries of clerks in small districts be set at \$10,000 per annum. The assignment of the individual districts to the various categories would be made by the Administrative Office as at present, subject to review by the Judicial Conference of the United States if requested by any court, and for this purpose the Administrative Office would take into account such factors as the volume of business, the number of judges, the size of the staff required, and the earnings of the office. The recommendation was adopted by the Conference.

It was recommended that the salaries of the clerks of all United States courts of appeals be set without classification at \$12,500 per annum, and this recommendation was also adopted by the Conference.

The recommended position descriptions to accompany the report on the classification and salaries of clerks of court and the personnel of their offices dated February 14, 1956, which had been prepared by the Administrative Office, were approved by the Conference upon the recommendation of the Committees.

These descriptions list 37 typical positions in the offices of the clerks of district courts, setting out the duties performed by the incumbent and assigning the grade considered appropriate to each position. They are to be used as guides by the Administrative Office in classifying positions, with substantial latitude necessarily allowed that office because of the many variations in the organization of clerks' offices and the distribution of responsibilities among their personnel. In general the positions of chief deputy clerks would be raised two grades, placing chief deputies in large districts in grade GS-13, in medium districts in grade GS-12 and in small districts in grade GS-10. A number of the supporting positions would also be raised in grade including financial deputies, calendar clerks and courtroom deputies.

The Administrative Office was directed to examine the grades and salaries of positions in the offices of the clerks of the courts of appeals and report to the Committee on Supporting Personnel.

#### CLASSIFICATION OF SECRETARIES, LAW CLERKS, LAW CLERK-SECRETARIES, AND OTHER SUPPORTING PERSONNEL OF THE JUDGES

The Committees reported that consideration had been given to the recommendations of a number of the judicial conferences and judicial councils of the circuits for increases in the compensation



of secretaries to judges and that both committees agreed to submit several recommendations to the Conference.

The first was that 28 U. S. C. 752 be amended to read as follows:

“Law clerks and secretaries:

“District judges may appoint necessary law clerks and secretaries.”

This recommendation makes the statutory authorizations for law clerks and secretaries for district judges identical with those now contained in 28 U. S. C. 712 for circuit judges, and eliminates the present requirement for a certificate of necessity by the chief judge of his circuit for the appointment of a law clerk by a district judge. Also those judges who wished to do so would be enabled to have the services of additional employees at lower grades within the limitation upon the aggregate salaries of law clerks and secretaries in place of one law clerk and one secretary at the maximum grades. The recommendation was adopted.

The next recommendation was that two new grades be created for judges' secretaries: GS-9 administrative secretary, and GS-10 senior administrative secretary; that the present grade GS-4 be abandoned, and that the present grade GS-8 entitled “senior secretary” be modified so as to eliminate supervisory duties from its description. The classifications with the proposed amendments as recommended by both committees, showing beginning salaries for the different grades, are as follows:

#### Junior Secretary

GS-5----- \$3, 670

*Minimum Qualifications.*—At least 1 year's experience as a secretary involving duties that demonstrate the ability to take rapid dictation and to exercise independent judgment, and some knowledge of legal terminology.

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#### Associate Secretary

GS-6----- \$4, 080

*Minimum Qualifications.*—At least 3 years' experience as a secretary, of which at least 2 years should be as a legal secretary involving duties that demonstrate the ability to take rapid dictation and a capacity for responsible assignments, and duties that require the exercise of independent judgment and a knowledge of legal terminology; or at least 5 years' experience as a secretary involving similar duties and a sufficient training in law to give the required knowledge of legal terminology.

## Secretary

GS-7----- \$4, 525

*Minimum Qualifications.*—At least 5 years' experience as a secretary of which at least 3 years should be as a legal secretary involving duties that demonstrate the ability to take rapid dictation and a capacity for difficult and responsible assignments, and duties that require the exercise of independent judgment and a knowledge of legal terminology; or at least 5 years' experience as a secretary involving similar duties and a sufficient training in law to give the required knowledge of legal terminology.

## Senior Secretary

GS-8----- \$4, 970

*Minimum Qualifications.*—At least 6 years' experience as a secretary of which at least four years should be as a legal secretary involving duties that require the exercise of independent judgment and a knowledge of legal terminology and which demonstrate a capacity for increasingly difficult and responsible assignments, ability to perform or supervise the assembling of technical data, ability to take rapid dictation, and the ability to conduct difficult correspondence; or at least 6 years' experience as a secretary involving similar duties and a sufficient training in law to give the required knowledge of legal terminology.

## Administrative Secretary

GS-9----- \$5, 440

*Minimum Qualifications.*—At least 8 years' experience as a secretary of which at least 5 years should be as a legal secretary involving duties that require the exercise of independent judgment and a thorough knowledge of legal terminology and which demonstrate a capacity for very difficult and responsible assignments, ability to plan and supervise the work of others, ability to perform or supervise the assembling of technical data, and to assist in legal research, ability to take rapid dictation, and the ability to conduct difficult correspondence; or at least 8 years' experience as a secretary involving similar duties and a sufficient training in law to give the required knowledge of legal terminology.

## Senior Administrative Secretary

GS-10----- \$5, 915

*Minimum Qualifications.*—The qualifications required for an administrative secretary (GS-9) and at least 10 years' experience as a secretary to a federal judge.

The recommendations were adopted and the requirements for classification of judges' secretaries in the several grades, as above described, were approved.

The Committees recommended appropriate increases in the limitations upon aggregate salaries to be paid to law clerks and secretaries employed by a single judge to cover the higher grades for secretaries. The increase was from \$11,360 to \$13,485 for judges other than chief judges of circuits and chief judges of the larger

multiple-judge district courts for whom the increase recommended was from \$15,440 to \$18,010 per year. The Committees had recommended that in the case of district judges the larger limitation be applicable to chief judges of district courts having three or more judges, but the Conference modified it to apply to chief judges of district courts having five or more judges as at present. The recommendation of the Committees as modified by the Conference was adopted.

The Committees also recommended that the Conference request of Congress the elimination in future appropriation acts of the language relating to classification of secretaries and law clerks and that in lieu thereof these grades be determined pursuant to a resolution of the Conference. The recommendation of the committees was approved and the Conference adopted the following resolution:

RESOLVED, That the compensation of secretaries and law clerks of circuit and district judges shall be fixed by the Director of the Administrative Office of the United States Courts without regard to the Classification Act of 1949, except that the salary of a secretary shall conform with that of Grade GS-5, GS-6, GS-7, GS-8, GS-9, or GS-10, as the appointing judge shall determine, and the salary of a law clerk shall conform with that of Grade GS-5, GS-7, GS-9, GS-11, or GS-12, as the appointing judge shall determine, subject to review by the judicial council of the circuit if requested by the Director, such determination by the judge otherwise to be final: *Provided*, that (exclusive of step-increases conforming with Title VII of the Classification Act of 1949 and of compensation paid for temporary assistance needed because of an emergency) the aggregate salaries paid to secretaries and law clerks appointed by one judge shall not exceed \$13,485 per annum, except in the case of the chief judge of each circuit and the chief judge of each district court having five or more district judges in which case the aggregate salaries shall not exceed \$18,010 per annum.

*Further resolved* that this resolution shall supersede the resolution upon the same subject matter adopted by the Judicial Conference of the United States at its special meeting on November 29, 1949."

The Committee on Court Administration reported that with the liberalized provisions for secretaries and law clerks recommended

it considered no further action was required with reference to the proposal offered by Judge Denman at the September 1955 session (Jud. Cf. Rpt. p. 14) and referred to it, that whenever a chief judge of a circuit determines that he needs the services of two law clerks he be authorized to appoint that number.

The Conference was informed that after consideration of a suggestion made by Chief Judge Benjamin C. Dawkins, Jr., of the United States District Court for the Western District of Louisiana, that criers be raised from grade GS-4 to grade GS-5 after 5 years of service, it had been resolved that the committees recommend to the Conference that the proposed reclassification be disapproved. The recommendation was adopted by the Conference. However, the Conference upon recommendation of the Committees approved the classification in grade GS-7 of criers who have the qualifications for assistant law clerk, grade GS-7, as prescribed by the Conference and who devote substantial time to performing the duties of law clerk to a judge.

The Committees recommended that the Conference instruct the Director of the Administrative Office that, within the appropriate classifications and salary limitations fixed by the Conference, approval may be given to the employment of a secretary-law clerk and law clerk or a secretary-law clerk and secretary by an individual judge who desires such a combination of employees. The recommendation was adopted.

The Conference authorized the Director of the Administrative Office to provide additional clerical assistance to chairmen of conference committees when needed.

#### FEES OF UNITED STATES COMMISSIONERS

The question of consideration of an appropriate increase in the fees of United States commissioners was referred by the Judicial Conference at its September 1955 session to the Committee on Supporting Personnel (Jud. Cf. Rpt. pp. 14, 15). A report had been submitted by the Administrative Office recommending increases in the fee schedule prescribed by § 633 of Title 28, United States Code, within a maximum limit of \$10,500 per year, and amendment of that section of the statute accordingly. The report had been considered and its approval recommended by the Committee on Supporting Personnel with a concurring advisory vote by the Committee on Court Administration. The recommendation was adopted by the Conference.

## NEED OF ADDITIONAL JUDGES AS SHOWN BY STATISTICS

Chief Judge Biggs informed the Conference that in its effort to determine the number of additional judges who would be required to bring the dockets of the courts to reasonable currency, the Committee on Court Administration had requested the Committee on Statistics to submit a report as to the number of judges estimated to be needed based upon the statistics of the workload in the several circuits and districts. Such a report had been prepared and with other data had been considered by the Committee on Court Administration which had reached the conclusion, concurred in by the members of the Committee on Supporting Personnel, that the additional judgeships listed in it ought to be recommended to Congress by the Judicial Conference. After consideration of the recommendation, the Conference resolved that the part of the report of the Committee on Court Administration dealing with this matter with the exhibits, including the report of the Committee on Statistics, be sent to the judicial councils and the judges of the individual courts affected, to the end that they may express their views respecting the recommendations and give the Conference the basis of their conclusions and any recommendations which they wish to make.

## METHODS OF SELECTION OF CHIEF JUDGES OF CIRCUITS AND OF DISTRICT COURTS

Chief Judge Biggs reported that considerable diversity of views had developed in the consideration of various methods proposed for selection of chief judges, and the Committee on Court Administration had reached the conclusion that it should defer a recommendation until further information could be secured and discussion had with all the members of the Committee on Court Administration present. In the meantime the Committee, with the concurrence of the Committee on Supporting Personnel, asked that the Conference recommend to Congress that no action be taken on S. 2359, entitled "A Bill To provide for the designation by the President of chief judges of the judicial circuits of the United States" until the Committee on Court Administration and the Conference could have the opportunity to study further and make a recommendation in this connection, this to be done as promptly as possible. The Conference agreed to make this recommendation.

## RETIREMENT AS CHIEF JUDGE ON ACCOUNT OF AGE

Chief Judge Biggs reported that after thorough discussion it was the unanimous view of the members of the Committee on Court Administration and the members of the Committee on Supporting Personnel that an age limit should be fixed for relinquishing the duties of chief judge of a circuit or chief judge of a district court. Although it was recognized that many judges past the age of 70 are able to continue to discharge the administrative work of their courts capably, it was believed that the administrative work of the chief judgeship as distinguished from the judicial work of a judge can usually be performed more satisfactorily by younger judges. Some chief judges over 70 have proved unable to carry on their administrative duties adequately, and it was believed that it would be conducive to the effective administration of the courts as a whole and would avoid invidious distinction among judges if the broad, uniformly enforced rule were adopted that chief judges of circuits and district courts should cease to act in that capacity when they reach the age of 70. Such a course is in line with the almost universal practice with respect to administrative positions in business and industry as well as with the practice pursued generally in the executive branch of the Government. After consideration of this matter, the Conference tentatively approved the following resolution and voted to refer it to the circuit and district judges for an expression of views pursuant to the "Phillips Plan" (Jud. Cf. Rpt. Sept. 1945 Sess. pp. 9, 10):

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

The Conference voted to request that further consideration by Congress of H. R. 7161, entitled "A Bill To amend secs. 45 and 136 of Title 28, United States Code, to provide that chief judges of circuits and district courts shall be relieved of the duties of chief judge after reaching the age of 75" be postponed pending final action upon the resolution above quoted.

## MEMBERSHIP OF DISTRICT JUDGES IN THE JUDICIAL CONFERENCE OF THE UNITED STATES

The Conference was informed that it had been found that considerable sentiment exists throughout the judiciary for representation of district judges on the Judicial Conference and that all members of the Committee on Court Administration to whom the matter had been referred for consideration and also the members of the Committee on Supporting Personnel are of the view that district judges should be made members of the Conference. The Committee on Court Administration, therefore, recommended that the Judicial Conference recommend to the Congress the enactment of legislation which would provide for membership on the Judicial Conference of the United States of one district judge from each of the eleven circuits to be elected for a term of 3 years by the circuit and district judges of the circuits at the annual circuit conferences. The Conference directed that this recommendation be circulated among the judges for an expression of views pursuant to the "Phillips Plan" (Jud. Cf. Rpt. Sept. 1945 Sess. pp. 9, 10).

During the discussion in the Judicial Conference, a suggestion was made that the terms of the district judges elected from the different circuits for membership in the Judicial Conference be staggered so that the terms of as nearly as possible a third of the members of the Judicial Conference who are district judges would begin and end each year.

### JUDICIAL VACATIONS

The Conference received a report of the Committee on Court Administration on the subject of vacations of judges. After consideration, the Conference directed, upon motion of Judge Biggs, that the report of the Committee be circulated under the "Phillips Plan" (Jud. Cf. Rpt. Sept. Sess. 1945 pp. 9, 10) for an expression of the views of the judges with the recommendation of the Committee on page 4 of the report modified to read as follows:

"That the Judicial Conference declare it to be the policy of the courts of the United States that in those circuits or districts where the disposition of judicial business is not upon a current basis vacations or holidays of individual judges should not exceed one month per annum."

## AMENDMENT OF THE CIVIL SERVICE RETIREMENT ACT

Chief Judge Biggs informed the Conference that the Committee on Supporting Personnel had given consideration to proposed legislation presently pending in Congress to amend the Civil Service Retirement Act. The Committee with the concurrence of the Committee on Court Administration recommended that S. 2875 introduced by Senator Johnston of South Carolina be approved by the Conference insofar as it relates to judicial employees, except as to the exclusion of judicial employees from the provisions requiring mandatory retirement on account of age, and that the bill be amended to include judicial employees within the provisions for mandatory retirement at age 70 thus putting them on the same basis with employees in the executive branch. The Conference approved the recommendation.

## CREATION OF NEW DIVISIONS IN EXISTING DISTRICTS

The question whether the creation of any additional divisions of judicial districts ought to be opposed by the Conference was referred to the Committee on Court Administration at the September 1955 session (Cf. Rpt. p. 14). The Committee reported that it was of the view that the creation of divisions within districts generally is undesirable entailing not infrequently the creation of new court quarters with attendant expense. Most of the asserted needs for new divisions can be met by judicious action of the district courts and their judges or by appropriate resolutions passed by the judicial councils of the circuits. Attention was called to the provisions of § 134 (c), Title 28, United States Code, as follows:

“If the public interest and the nature of the business of a district court require that a district judge should maintain his abode at or near a particular place for holding court in the district or within a particular part of the district the judicial council of the circuit may so declare and may make an appropriate order. If the district judges of such a district are unable to agree as to which of them shall maintain his abode at or near the place or within the area specified in such an order the judicial council of the circuit may decide which of them shall do so. As amended Feb. 10, 1954, c. 6, § 2 (b) (13) (a), 68 Stat. 12.”



While the statute is applicable only to district judges appointed after February 10, 1954, it nonetheless provides a method of transferring judges' official residences which has been used effectively. The Committee on Court Administration with the concurrence of the Committee on Supporting Personnel, therefore, recommended that the Conference oppose the creation of any additional divisions of judicial districts except under exceptional circumstances. The Conference adopted the recommendation.

#### PASSPORT FEES

At the September 1955 session a bill, H. R. 5844, to increase the fee for execution of a passport application before the clerk of a State court from \$1 to \$2 without increasing the fee of \$1 for execution of applications before clerks of the United States district courts was referred to the Committee on Court Administration. The Committee was relieved of further consideration of this matter for the reason that the bill was enacted into law on February 10, 1956 (P. L. 403, 84th Congress).

#### DIVERSITY OF CITIZENSHIP JURISDICTION

The Committee on Court Administration requested and was granted further time for consideration of proposals to modify the present diversity of citizenship jurisdiction of the United States courts, including H. R. 91 and H. R. 5007 which were referred to the Committee at the September 1955 session (Jud. Cf. Rpt. p. 14).

#### BANKRUPTCY ADMINISTRATION

Judge Phillips, chairman of the Committee on Bankruptcy Administration, reported that the Committee had met and considered the recommendations contained in the report of the Bankruptcy Division of the Administrative Office which was approved by the Director on February 16, 1956, relating to certain changes in salaries and arrangements for referees and to the filling of vacancies in certain referees' positions.

The report had been circulated by the Director among the district judges and the judicial councils of the circuits concerned, as well as the members of the Judicial Conference. The Committee also had before it the recommendations of the district judges and the judicial councils and these, with the report of the Committee, were before the Conference.

Upon the recommendations of the Committee, the Conference took the action shown in the following table to be effective April 1, 1956, subject to the procurement of the necessary appropriation:

District	Regular place of office	Present type of position	Present salary	Conference Action	
				Type of position	Salary
<i>5th Circuit</i>					
Georgia (S).....	Savannah.....	Part-time.....	\$4,500	Part-time.....	\$6,000
<i>9th Circuit</i>					
Nevada.....	Las Vegas.....	Part-time.....	4,000	Part-time.....	6,000

The Conference upon the recommendation of the Committee took the action shown in the following table relating to positions to become vacant by expiration of term on the dates shown:

District	Regular place of office	Present type of position	Present salary	Present term expires	Conference action—		
					Position	Type of position	Authorized salary
<i>2d Circuit</i>							
New York (W).	Rochester....	Full-time....	\$9,000	July 23, 1956	Continued <sup>1</sup>	Full-time....	\$9,000
<i>8th Circuit</i>							
Nebraska....	Omaha.....	Full-time....	10,000	Aug. 20, 1956	.....do.....	Full-time....	10,000
<i>10th Circuit</i>							
New Mexico..	Albuquerque	Part-time....	4,500	Aug. 30, 1956	.....do.....	Part-time....	4,500

<sup>1</sup> The word "continued" signifies an authorization for the filling of the vacancy for a term of 6 years beginning on the day following the expiration of the present term at the authorized salary shown above.

#### CHANGES IN ARRANGEMENTS

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

*Second Circuit—District of Vermont.*—Add Montpelier as a place of holding court for the referee at Rutland.

*Fourth Circuit—Western District of Virginia.*—

1. Discontinue the part-time referee position at Staunton.
2. Change the referee position at Roanoke from part-time to full-time; increase the salary of the Roanoke referee position from \$6,000 to \$10,000 a year; add the counties of Augusta, Highland, Allegheny, Bath, Rockbridge, Fred-

erick, Clark, Warren, Page, Rappahannock, Shenandoah and Rockingham to the territory of the Roanoke referee; and add Staunton, Covington and Harrisonburg as regular places of holding court for the Roanoke referee.

3. Increase the salary of the Lynchburg referee position from \$5,500 to \$6,000 a year on a part-time basis; add the counties of Nelson, Albemarle, Fluvanna, Greene and Madison to the territory of the Lynchburg referee; and add Charlottesville as a place of holding court for the referee at Lynchburg.
4. All the above changes to be effective as soon as a supplemental appropriation to provide the necessary funds can be obtained.

*Ninth Circuit—District of Arizona.*—Add Yuma as a place of holding court for the referee at Phoenix.

#### MISCELLANEOUS BANKRUPTCY MATTERS

*Seventh Circuit—Eastern District of Wisconsin.*—The Committee recommended that the proposed change from part-time to full-time for the referee position at Milwaukee be further deferred until the regular annual meeting of the Judicial Conference in the fall of 1956. The Conference approved this recommendation.

*Appropriation.*—Upon the recommendation of the Committee the Conference authorized the Director to seek at the first opportunity a supplemental appropriation for 1956 for referees' salaries in an amount sufficient to defray the cost of the changes in salaries and arrangements approved by the Conference.

*Section 60 and Related Sections.*—At the meeting of the Conference in March 1955, the Bankruptcy Committee was authorized to study Section 60 of the Bankruptcy Act and related sections with a view to proposing legislation to clarify their meaning. Thereafter the chairman of the Committee appointed the following subcommittee to study the matter:

Circuit Judge John B. Sanborn, Chairman  
 District Judge H. Church Ford, Member  
 and Edwin L. Covey, Advisor.

The subcommittee reported to the Committee the results of its study thus far but made no definite report. The Committee recommended that the subcommittee be reconstituted and that it be authorized to continue its study and report to the full Commit-

tee. The Committee also recommended that it be authorized in connection with such study to consider proposals to enlarge the summary jurisdiction of the bankruptcy court. These recommendations were approved by the Conference.

*Resolution of the Judicial Conference of the Ninth Circuit.*—The Judicial Conference of the United States, at its meeting in September 1955, referred to the Committee on Bankruptcy Administration for consideration and report, the following resolution adopted by the Judicial Conference of the Ninth Circuit:

“RESOLVED, that this conference refer to the Judicial Conference of the United States the question as to the need for amending section 7, section 324 and section 331 of the Bankruptcy Act, and to recommend to Congress an amendment providing for adequate procedure for filing a Chapter XI proceeding without schedules and statements of affairs where the judge or judges are absent from the district, and further providing for an order of reference under Chapter XI by the clerk under the same circumstances.” (Jud. Cf. Rpt. Sept. Sess 1955 p. 19).

Inasmuch as the Bankruptcy Act makes no provision for the reference of a Chapter XI proceeding by the clerk of the court to a referee in the absence of all the district judges from the district or division in which the proceeding is filed as is provided in the case of a voluntary straight bankruptcy proceeding, and in order to conform Chapter XI to the procedure in ordinary bankruptcy cases, the Committee recommended that section 331 of the Bankruptcy Act be amended to read substantially as follows:

“Sec. 331. The judge may at any stage of a proceeding under this chapter refer the same to a referee either generally or specially. If the judge or all the judges are absent from the district, or the division of the district in which a petition under this chapter is filed, at the time of the filing, the clerk shall forthwith refer the case to the referee.”

The Committee further recommended that the Administrative Office be directed to undertake to obtain enactment of the legislation proposed either in an amendment to pending legislation or in a separate bill. The recommendations of the Committee were approved by the Conference.

*Cost of Bankruptcy Administration.*—The Committee brought to the attention of the Conference the studies that have been made by the Bankruptcy Division of the Administrative Office relating to

the costs of administration in bankruptcy cases and recommended that the results of these studies be brought to the attention of the bankruptcy courts where the costs of administration recurrently exceed the national average. The recommendation of the Committee was approved by the Conference.

### OPERATION OF THE JURY SYSTEM

Judge Watkins, chairman of the Committee on the Operation of the Jury System, told the Conference that his Committee had nothing to report at this time.

The Director informed the Conference that he had been requested to give to the Judiciary Committee of the House of Representatives an expression of views with regard to proposed legislation to prohibit the recording of jury proceedings. After consideration, it was moved and carried that the Conference approve in principle the bill, H. R. 8328, entitled "A Bill To amend Title 18, United States Code, so as to prohibit intrusion upon the privacy of Federal juries."

A proposed amendment to § 1870 of Title 28, United States Code, relating to the number of peremptory challenges of jurors allowable in civil cases, which had been recommended by the Judicial Council of the Fifth Circuit, was referred to the Committee on the Operation of the Jury System for consideration and report to the Conference.

The Director was authorized to circulate to circuit and district judges a report of the Administrative Office concerning the operation of the petit jury system during the first 6 months of the current fiscal year.

### HABEAS CORPUS

Judge Denman moved that the Conference withdraw its approval of H. R. 5649, entitled "A Bill To amend section 2254 of Title 28 of the United States Code in reference to applications for writs of habeas corpus by persons in custody pursuant to the judgment of a State court" (approved by the Conference at the March 1955 session, Cf. Rpt. p. 18; reaffirmed at the September 1955 session, Cf. Rpt. p. 23) and recommend that the bill be amended to read as follows:

"Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, that section 2254 of Title 28, United States Code, is amended by adding thereto the following paragraphs:

“The decision of the District Court upon the application shall be *res judicata* of all issues of law and fact existing at the time of its filing, save those of fact then concealed from the knowledge of the applicant.

“An order denying an application for a writ of habeas corpus by a person in custody pursuant to a judgment of a State Court *or an order denying relief if such a writ be granted* shall be reviewable only on a writ of certiorari by the Supreme Court of the United States. The petition for the writ of certiorari shall be filed within thirty days of the entry of such an order.”

The motion failed. Judge Denman requested that his vote be recorded “aye.”

#### PROPOSED AMENDMENT TO SECTION 2255 OF TITLE 28, UNITED STATES CODE

A resolution of the Judicial Council of the Fifth Circuit recommending an amendment to § 2255 of Title 28, United States Code, relating to the appearance of a prisoner at a hearing on a motion to vacate or correct a sentence against him, was referred to the Committee on the Administration of the Criminal Law for consideration and report to the Conference.

#### AIR CONDITIONING OF COURT QUARTERS

Chief Judge Parker, chairman of the Committee on Air Conditioning of Court Quarters, informed the Conference that it appeared that the appropriation of \$1,150,000.00 for air conditioning of court quarters during the current fiscal year would be sufficient to take care of a few additional projects beyond those heretofore put on the highest priority schedule by the Committee. Accordingly, he had asked the Administrative Office to make recommendations for additional projects to be placed on this schedule and had mailed the recommendations to the members of his Committee for consideration.

#### COMMITTEE ON REVISION OF THE LAWS

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

At the September 1954 session, the Conference directed that there be circulated among the judges for an expression of views a proposal made by Prof. George B. Fraser of the College of Law of the University of Oklahoma of amendment in two particulars of § 1441 of Title 28, United States Code, pertaining to the removal of cases from State courts (Jud. Cf. Rpt. Sept. Sess. 1954 p. 27). The first recommendation was that the statute be amended so as to permit the removal of a case improperly brought in the State court and of which that court does not have jurisdiction because exclusive jurisdiction has been given by Congress to the Federal courts. The second was that removal be authorized from the State to the Federal court if at the time of removal instead of at the time it was brought in the State court it appears from either the complaint or the petition for removal that the action involves a federal question. Judge Maris reported that a large majority of the judges responding to a request for an expression of views on these proposals had disapproved both. The Committee recommended that both proposals be disapproved. The recommendation was adopted.

Judge Maris stated that in view of the very recent reorganization of the Committee it had not been possible to give consideration to a number of matters referred to it. He requested and was granted leave for the Committee to consider these matters further and report upon them to a later session of the Conference.

#### APPEALS FROM INTERLOCUTORY ORDERS OF THE DISTRICT COURTS

On motion of Judge Parker, the Conference requested the Committee on Revision of the Laws to assume responsibility for promoting the enactment of proposed legislation to enlarge the scope of appeals from interlocutory orders of the district courts which was approved by the Conference at the September 1953 session (Jud. Cf. Rpt. p. 27). The bill has been introduced in the House of Representatives as H. R. 8331.

#### EXTENSION OF THE TERM OF JUDGES IN ALASKA

The Conference considered and voted to recommend to Congress the approval of H. R. 8937, entitled "A Bill To amend the law so as to provide that the term of office of district judges in Alaska shall be 8 years."

## REAFFIRMATION OF APPROVAL OF BILLS PREVIOUSLY RECOMMENDED BY THE CONFERENCE

The Conference voted to reaffirm its recommendation of the following bills heretofore recommended for enactment by Congress:

1. S. 2223 and H. R. 6682, each entitled "A Bill To authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders, and for other purposes" (Jud. Cf. Rpt. Mar. 1955 Sess. pp. 16, 17).

2. S. 2128, entitled "A Bill To provide for reasonable notice to the agency of applications to the courts of appeals for interlocutory relief against orders of the Civil Aeronautics Board, the Federal Communications Commission, the Secretary of Agriculture, the Federal Maritime Board, and the Atomic Energy Commission" (Jud. Cf. Rpt. Mar. 1955 Sess. p. 17).

3. H. R. 9609, entitled "A Bill Relating to the compensation and term of office of the judge of the district court of Guam" (Jud. Cf. Rpt. Sept. 1955 Sess. p. 29).

4. H. R. 4792, entitled "A Bill To amend section 372 of Title 28, United States Code" (appointment of an additional judge when a disabled judge fails to retire). (Jud. Cf. Rpts. Apr. 1954 Sess. p. 3; Sept. 1954 Sess. p. 7; Mar. 1955 Sess. p. 4; Sept. 1955 Sess. p. 8).

5. H. R. 6248, entitled "A Bill To provide for the maintenance of a roster of retired judges available for special judicial duty and for their assignment to such duty by the Chief Justice of the United States" (Jud. Cf. Rpts. Mar. 1955 Sess. p. 4; Sept. 1955 Sess. p. 8).

6. H. R. 8621, entitled "A Bill To provide that the United States district judges for the districts of Hawaii and Puerto Rico shall have the same tenure of office and retirement rights as all other United States district judges" (Jud. Cf. Rpt. Mar. 1953 Sess. p. 15).



## AMENDMENTS TO RULES ADOPTED BY COURTS OF APPEALS FOR REVIEW OR ENFORCEMENT OF ORDERS OF ADMINISTRATIVE AGENCIES

The Courts of Appeals for the District of Columbia Circuit, First Circuit and Sixth Circuit submitted to the Conference for approval pursuant to the provisions of the Act of December 29, 1950 (64 Stat. 1129, 1132; 5 U. S. C. 1041) amendments to rules adopted by those courts relating to the review and enforcement of orders of administrative agencies. The amendments were approved. The rules involved are as follows: District of Columbia Circuit, rule 38 paragraph g; First Circuit, rule 16 paragraph 7; and Sixth Circuit, rule 13.

### THE COURT REPORTING SYSTEM

The Director reported that Judge Follmer of the Middle District of Pennsylvania had requested that the number of court reporters for the District Court for that district be increased from 2 to 3 so that a regular reporter would be available for Judge Follmer's part of the court at Lewisburg. Two regular reporters stationed at Scranton now serve the parts of the court of Chief Judge John W. Murphy and Judge Albert L. Watson, retired. The Director recommended and the Conference approved the appointment of one additional reporter for the Middle District of Pennsylvania at a salary of \$5,375 per annum to correspond with that of the other reporters for the district, with a reservation that the number of regular reporters for the court revert to 2, the number of active judges when Judge Watson ceases to perform judicial service.

The Director also informed the Conference that in view of the death of Judge James A. Donohoe of Nebraska the combined position of court reporter-secretary heretofore authorized for that district would no longer be necessary, and recommended that the former status of the reporter at Omaha be reestablished as a reporter only effective, March 26, 1956, at a salary of \$5,375. The recommendation was approved.

### NATIONAL PARK COMMISSIONERS

After consideration, H. R. 4317, entitled "A Bill To amend section 631 of Title 28, United States Code, so as to provide that

National Park Commissioners shall be appointed upon recommendation of the Secretary of the Interior" was disapproved by the Conference.

#### APPROPRIATION FOR RENTAL OF SPACE FOR THE ADMINISTRATIVE OFFICE

The Chief Justice stated that there is not sufficient space in the Supreme Court Building for the Court and all activities of the Administrative Office. Accordingly, the Conference approved the submission of an estimate for a supplemental appropriation in such amount as may be found to be required for rental of space for a part of the Administrative Office outside the Supreme Court Building and any expenses incurred in removal thereto and in connection with resulting changes in the quarters of the office.

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

For the Judicial Conference of the United States.

EARL WARREN,  
*Chief Justice.*

Dated Washington, D. C., March 31, 1956.