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

MARCH 15-16, 1971

WASHINGTON, D.C.

1971

**ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS**

**Rowland F. Kirks
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 15-16, 1971

The Judicial Conference of the United States convened on March 15, 1971, pursuant to the call of the Chief Justice of the United States, issued under 28 U.S.C. 331, and continued in session on March 16. The Chief Justice presided and the following members of the Conference were present:

District of Columbia Circuit :

Chief Judge David L. Bazelon, District of Columbia
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 Caleb M. Wright, District of Delaware

Fourth Circuit :

Chief Judge Clement F. Haynsworth, Jr.
Judge Oren R. Lewis, Eastern District of Virginia

Fifth Circuit :

Chief Judge John R. Brown
Chief Judge Joe Ewing Estes, Northern District of Texas

Sixth Circuit :

Chief Judge Harry Phillips
Chief Judge Carl A. Weinman, Southern District of Ohio

Seventh Circuit :

Chief Judge Luther M. Swygert
Chief Judge Robert A. Grant, Northern District of Indiana

Eighth Circuit :

Chief Judge M. C. Matthes
Judge Roy W. Harper, Eastern District of Missouri

Ninth Circuit :

Chief Judge Richard H. Chambers
Chief Judge Fred M. Taylor, District of Idaho

Tenth Circuit:

Chief Judge David T. Lewis
 Judge Hatfield Chilson, District of Colorado

Court of Claims:

Chief Judge Wilson Cowen

Court of Customs and Patent Appeals:

Chief Judge Eugene Worley

Senior Circuit Judges Jean S. Breitenstein, John S. Hastings, Albert B. Maris and Elbert P. Tuttle; Circuit Judges Robert A. Ainsworth, Jr., Irving R. Kaufman and Edward A. Tamm; and District Judges Walter E. Hoffman, Charles M. Metzner and Edward Weinfeld attended all or some of the Conference.

The Honorable Earl Warren, former Chief Justice, and the Honorable Tom C. Clark, Associate Justice, retired, were each presented to the Conference by the Chairman and they greeted the Conference and spoke briefly on problems relating to judicial administration. The Chief Justice, as Chairman of the Conference, presented an illuminated scroll copy of the Conference Resolution commending Justice Clark's work as first Director of the Federal Judicial Center.

The Honorable Erwin N. Griswold, Solicitor General of the United States, was presented and discussed briefly some of the work of his office relating to appeals and Supreme Court review.

Senior Judge Alfred P. Murrah, Director of the Federal Judicial Center and Chairman of the Panel on Multidistrict Litigation, submitted to the Conference reports of the Center and the Panel, each of which has been widely circulated subsequently.

Mr. Rowland F. Kirks, Director of the Administrative Office of the United States Courts, Mr. William E. Foley, Deputy Director, and Mr. Joseph F. Spaniol, Jr., and Mr. William R. Sweeney, Assistant Directors, were also in attendance.

EXECUTIVE COMMITTEE

Chief Judge Lumbard, Chairman, reported that his Committee, sitting as a Nominating Committee, had considered nominations for two vacancies about to occur on the Board of the Federal Judicial Center and that the Committee recommended to the Conference the names of the Honorable Frank M. Coffin, Judge of the Court of Appeals for the First Circuit, for the vacancy caused by the expiration of the term of the Honorable James M. Carter on March 28, 1971, and the Honorable Adrian A. Spears, Chief Judge

of the United States District Court for the Western District of Texas, to succeed the Honorable Edward J. Devitt, Chief Judge of the United States District Court for the District of Minnesota, whose term also expires on March 28. The Conference agreed to both nominations and Judges Coffin and Spears were elected to the Board of the Center for a term beginning March 28, 1971.

COMMITTEE ON SALARIES

The Chief Justice brought to the attention of the Conference the fact that some of the committee reports which have been circulated to the Conference call for study and increases in salaries for clerks of court, pretrial examiners, referees in bankruptcy and United States magistrates. After discussing this matter, the Conference was in agreement that there was a need to study the salary structure of such positions in the federal judiciary, possibly with advice from the Civil Service Commission, rather than having a piecemeal consideration as to each position. It was decided that such a committee should be created, with the members appointed by the Chief Justice, and the scope of this study should include referees in bankruptcy, magistrates, clerks of court, pretrial examiners and other ungraded positions within the judiciary. The Conference also agreed that the Executive Committee should be vested with authority to act on behalf of the Conference if any emergency matter was brought to attention by the Salary Committee requiring immediate action which should not await the next session of the Conference.

COMMITTEE ON COURT ROOM FACILITIES AND DESIGN

The Conference discussed the problem of increasing building costs and agreed that, except where imperatively needed, the size of court rooms should be cut back substantially provided each court house had one or two large court rooms for special cases. The Conference further agreed that there was a need for concepts of design in order to draft plans that would afford greater security and to simplify court room control. It was agreed that the Conference should work in close cooperation with the General Services Administration on these matters. For this purpose the Chief Justice was authorized to appoint an ad hoc committee on court room facilities, design and security.

COMMITTEE ON THE ADMINISTRATION OF THE CRIMINAL LAW

Senior Judge Breitenstein, appointed as Acting Chairman for the purpose of this session of the Conference, presented the report of the Committee on the Administration of the Criminal Law.

NONTESTIMONIAL IDENTIFICATION

Judge Breitenstein stated that the views of the Conference had been requested on a Department of Justice draft bill which would amend Title 18, United States Code, to provide for the issuance to certain persons of judicial orders to appear for the purpose of conducting nontestimonial identification procedures. As drafted, the bill would provide that if a judicial officer finds there is probable cause to believe that an offense has been committed, that there are reasonable grounds, but less than probable cause, to suspect a named individual of committing the offense, and that the results of certain specific nontestimonial procedures will materially aid in determining whether the named person committed the offense, an order shall issue requiring the person to appear at a designated time and place for nontestimonial identification.

The Conference approved this draft legislation in principle provided it is amended to specify that the individual will be required to appear first before a judicial officer, that the right to counsel will be explicitly stated and that the individual will be advised at such appearance before the judicial officer of his right to counsel. The Conference further stipulated that such legislation should provide for a prompt hearing and appearance in all cases.

EXTRATERRITORIAL OFFENSES

Judge Breitenstein stated that the Conference's views had been requested on H.R. 18857, 91st Congress, which would provide a forum in which individuals committing crimes abroad while members of the armed forces or accompanying such forces be tried even though the military courts were without jurisdiction, either because the individual has been discharged from the armed forces or as a civilian not subject to the jurisdiction of the military courts. The Conference approved this proposed legislation.

EXPUNGING CRIMINAL RECORDS

The Controlled Dangerous Substances Act (Public Law 91-513) provides for the expunging of criminal records of certain first offenders under age twenty-one charged only with possession of a controlled dangerous substance and placed on probation. In order that the clerks of court may adopt a uniform procedure in carrying out the provisions of Section 404 of this act, the Conference agreed that the clerks of court should be instructed to proceed as follows:

Pursuant to an order under this section, the Clerk shall first obliterate the name of the individual from all indexes, and shall withdraw the docket sheets and the file containing the papers of the case from the court records. He then shall notify the Administrative Office, the court reporter, the probation officer and the magistrate of the order instructing them to make a similar obliteration and withdrawal of the papers in the case and delivery of the papers to the Clerk.

All the papers shall thereupon be expunged by being placed in the sealed records of the court to be opened only upon court order, and shall be physically destroyed after 10 years.

EXPEDITING CRIMINAL JUSTICE

In considering this subject matter, the Committee recommended and the Conference agreed that the rules adopted by the Courts of Appeals in the First and Tenth Circuits concerning the issuance of the mandate upon affirmance of conviction should be circulated to the judicial councils of the other circuits for their consideration.

COMMITTEE ON THE OPERATION OF THE JURY SYSTEM

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

SIZE OF JURIES

Judge Kaufman advised that the Committee had considered the question of the size of a federal jury in civil cases as had been done by local rule in five or six districts. The following resolution was adopted after extended discussion:

Be it resolved by the Judicial Conference of the United States, That it adopts the recommendations of the Committee on the Operation of the Jury System that the Conference approve in principle a reduction in the size of juries in civil trials in United States district courts, and upon such reduction that there be a diminution in the peremptory challenges normally allowed. It is also resolved that the means to effectuate the objectives set forth in this resolution, i.e., by

rulemaking or statute, be referred to the Committees on Civil Rules and on the Operation of the Jury System.

EFFICIENT UTILIZATION OF JURORS

The Committee having circulated to all district courts a proposed formula whereby court personnel could calculate the proper number of prospective jurors who should be summoned, the Chairman reported the Committee's view that a significant improvement in juror utilization will come only when more detailed guidelines are furnished. The Director of the Administrative Office of the United States Courts was requested to prepare for periodic circulation to the chief judges of the courts of appeals and of the district courts, and to incorporate in his published reports, a comparative summary of jury utilization as reflected in the JS 11 reporting form.

AUTOMATION OF JUROR SELECTION

At present, only five district courts have completed the automation process for the selection and summoning of jurors. The Conference agreed that the Director of the Administrative Office should determine the district courts in which the automation of the juror selection process is feasible, establish target dates for conversion, and work with district court personnel to assure that the targets are met. The Conference agreed that, within permissible budget limits, the Administrative Office should hire additional personnel as may be necessary to carry out the automation of juror selection.

EMPLOYER'S DISCHARGE OF JURORS

Because of the number of instances in which federal grand and petit jurors have allegedly been discharged from employment because of their jury service, the Conference agreed to a draft bill to amend Chapter 73 of Title 18, United States Code, by adding a new Section 1511 which would provide that no employer may discharge any employee because he is or has been serving or attending upon any court in connection with possible service as a juror in any United States Court. Violation of this provision would involve a fine of not more than \$1,000, imprisonment of not more than one year, or both.

PERIODIC REPORTING ON JURY SELECTION

Pursuant to regulations promulgated by the Judicial Conference at its October 1969 session, the district courts will submit by September 1, 1971 their first report on the jury selection process. The Conference agreed to two minor additions to the regulations promulgated by the Judicial Conference in October 1969 in order to specify under Regulation 4 that the sample of jurors actually reporting for service should, to the extent practicable, be the same size as the master jury wheel sample. Secondly, the Conference agreed to the addition of a new Regulation 6 to permit the Director of the Administrative Office, upon good cause shown, to permit the filing of a late report within a reasonable period after the due date.

REDUCTION IN VOTING AGE

The lowering of the minimum age of voters in federal elections to eighteen years whereas Jury Selection and Service Act specifies that a person below the age of twenty-one may not serve as a juror in the federal courts: It was agreed that the Committee should consider problems arising as a result of this and make such further recommendations to the Conference.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

The report of the Committee on the Administration of the Bankruptcy System was presented by the Committee Chairman, Judge Edward Weinfeld.

SALARIES AND ARRANGEMENTS FOR REFEREES

The Committee had considered the recommendations contained in the survey report of the Director of the Administrative Office, dated January 21, 1971, as well as the recommendations of the circuit councils and district judges concerned relating to increases in salaries of two full-time and two part-time referees, one of which would be subject to resurvey in two years, for the continuance of 25 referee positions to become vacant by expiration of term, for the creation of two additional full-time and one part-time referee positions, for increasing one part-time referee position to full-time service subject to resurvey in two years and for a change in the

territories of two referees. On the basis of the reports and recommendations, the Conference took the following action with reference to referee positions and changes in salaries and arrangements, all to be effective April 1, 1971, unless otherwise indicated, subject to availability of funds.

FIRST CIRCUIT

District of New Hampshire

- (1) Authorized the continuance of the part-time position at Manchester, to become vacant by expiration of term on June 30, 1971, for a term of six years on a part-time basis, effective July 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

District of Puerto Rico

- (1) Changed the part-time referee position for the District of Puerto Rico to a full-time position, at an annual salary of \$30,000; and provided
- (2) That the change in status and salary of the referee position for the District of Puerto Rico become effective as soon as appropriated funds become available; and
- (3) That the above position be subject to review at the end of the two-year period following the date the change is made effective.

SECOND CIRCUIT

Eastern District of New York

- (1) Authorized the continuance of the full-time position at Brooklyn, to become vacant by expiration of term on June 30, 1971, for a term of six years, effective July 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

THIRD CIRCUIT

District of Delaware

- (1) Increased the salary of the part-time referee for this district from \$15,000 to \$18,000 per annum; and provided
- (2) That the change in salary of the referee for this district become effective as soon as appropriate funds are available; and
- (3) That the above increase in salary be subject to review at the end of the two-year period following the date the increase is made effective.

District of New Jersey

- (1) Authorized the continuance of the full-time referee position at Camden, to become vacant by expiration of term on June 30, 1971, for a term of six years, effective July 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Eastern District of Pennsylvania

- (1) Increased the salary of the full-time referee at Reading from \$25,000 to \$30,000 per annum;
- (2) Established district-wide concurrent jurisdiction for the referees of the district.

Western District of Pennsylvania

- (1) Authorized the continuance of the full-time referee position at Erie, to become vacant by expiration of term on July 19, 1971, for a term of six years, effective July 20, 1971, at the present salary, 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 Pittsburgh, to become vacant by expiration of term on June 30, 1971, for a term of six years, effective July 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present;
- (3) Increased the salary for referee's duties of the part-time referee-magistrate at Johnstown from \$15,000 to \$16,500. The salary for magistrate's duties remains at \$200.

FOURTH CIRCUIT

District of Maryland

- (1) Authorized an additional referee position on a part-time basis, at a salary of \$15,000 per annum, the regular place of office to be at Hyattsville;
- (2) Included in the territory of the new referee are the counties of Montgomery, Prince Georges, Charles, Calvert and St. Marys, said counties being eliminated from the territory of the full-time referee at Baltimore;
- (3) Authorized the discontinuance of Hyattsville as a designated place of holding bankruptcy court for the referee at Baltimore and designated it as a place of holding bankruptcy court for the new part-time referee.

Eastern District of North Carolina

- (1) Increased the salary of the part-time referee at Wilson from \$12,000 to \$15,000 per annum.

Middle District of North Carolina

- (1) Increased the salary of the full-time referee at Greensboro from \$25,000 to \$30,000 per annum, to become effective as soon as appropriated funds are available.

Western District of North Carolina

- (1) Increased the salary for referee's duties of the part-time referee-magistrate at Charlotte from \$10,000 to \$12,000. The salary for magistrate's duties remains at \$5,000.

Eastern District of Virginia

- (1) Authorized the continuance of the part-time referee position at Alexandria, to become vacant by expiration of term on June 30, 1971, for a term of six years, effective July 1, 1971, increased the salary from \$15,000 to \$18,000 per annum, the regular place of office, territory and places of holding court remain as at present.

Western District of Virginia

- (1) Authorized the continuance of the part-time referee position at Harrisonburg, to become vacant by expiration of term on August 31, 1971, for a term of six years, effective September 1, 1971, increased the salary from \$12,000 to \$14,000 per annum, the regular place of office, territory and places of holding court to remain as at present.

FIFTH CIRCUIT

Northern District of Alabama

- (1) Increased the salary of the part-time referee position at Decatur from \$15,000 to \$18,000 per annum;
- (2) Increased the salary of the part-time referee position at Tuscaloosa from \$12,000 to \$14,000 per annum.

Northern District of Florida

- (1) Increased the salary of the part-time referee position at Tallahassee from \$12,000 to \$14,000 per annum.

Middle District of Florida

- (1) Authorized the continuance of the part-time referee position at Jacksonville, to become vacant by expiration of term on September 30, 1971, for a term of six years, effective October 1, 1971, increased the salary from \$15,000 to \$18,000 per annum, the regular place of office, territory and places of holding court to remain as at present.

Northern District of Georgia

- (1) Authorized the continuance of the full-time referee position at Atlanta, to become vacant by expiration of term on September 26, 1971, for a term of six years, effective September 27, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Eastern District of Louisiana

- (1) Authorized the continuance of the full-time referee position at New Orleans, to become vacant by expiration of term on September 6, 1971, for a term of six years, effective September 7, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present;
- (2) Increased the salary of the part-time referee position at Baton Rouge from \$13,000 to \$18,000 per annum.

Western District of Louisiana

- (1) Increased the salary of the part-time referee position at Opelousas from \$15,000 to \$16,500 per annum.

Northern District of Mississippi

- (1) Increased the salary of the part-time referee position at Greenville from \$12,000 to \$15,000 per annum.

Northern District of Texas

- (1) Authorized an additional full-time referee position for this district, with the regular place of office to be at Dallas, at a salary of \$30,000 per annum;
- (2) Established that the new full-time referee have jurisdiction with the full-time referees now authorized for Dallas, Abilene, Wichita Falls, San Angelo, and Fort Worth Divisions of the district;
- (3) Increased the salary of the part-time referee position at Lubbock from \$15,000 to \$16,500 per annum.

Southern District of Texas

- (1) Authorized an additional full-time referee position for this district, with the regular place of office to be at Houston, at a salary of \$30,000 per annum;

- (2) Established concurrent district-wide jurisdiction for the two full-time referees at Houston;
- (3) Authorized the discontinuance of the part-time referee position at Corpus Christi.

SIXTH CIRCUIT

Western District of Michigan

- (1) Increased the salary of the part-time referee position at Marquette from \$10,000 to \$12,000 per annum.

Northern District of Ohio

- (1) Authorized the continuance of the full-time referee position at Cleveland, to become vacant by expiration of term on October 21, 1971, for a term of six years, effective October 22, 1971, at the present salary, 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 Toledo, to become vacant by expiration of term on August 31, 1971, for a term of six years, effective September 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

SEVENTH CIRCUIT

Northern District of Illinois

- (1) Authorized the continuance of the full-time referee position at Chicago, to become vacant by expiration of term on June 30, 1971, for a term of six years, effective July 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Eastern District of Illinois

- (1) Changed the part-time referee position at Danville to part-time referee-magistrate position and increased the salary from \$15,000 to \$16,200 per annum, plus \$1,800 compensation for magistrate's duties;
- (2) Changed the territory of the above part-time referee at Danville to include the counties of Vermilion, Champaign, Piatt, Ford, Iroquois and Kankakee;
- (3) Changed the territory of the full-time referee at East St. Louis to include the remaining counties of the district;
- (4) Authorized the discontinuance of Mattoon as a place of holding bankruptcy court for the part-time referee at Danville and designated it as a place of holding bankruptcy court for the full-time referee at East St. Louis.

Eastern District of Wisconsin

- (1) Authorized the continuance of the two full-time referee positions at Milwaukee, to become vacant by expiration of term on June 30, 1971, for terms of six years, effective July 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Western District of Wisconsin

- (1) Authorized the continuance of the full-time referee position at Madison, to become vacant by expiration of term on July 31, 1971, for a term of

six years, effective August 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present;

- (2) Changed the part-time referee position at Eau Claire to a part-time referee-magistrate position and increased the salary from \$15,000 to \$16,500 per annum, plus \$300 compensation for magistrate's duties.

EIGHTH CIRCUIT

District of Minnesota

- (1) Authorized the continuance of the full-time referee position at St. Paul, to become vacant by expiration of term on October 31, 1971, for a term of six years, effective November 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present;
- (2) Increased the salary for referee's duties of the part-time referee-magistrate at Duluth from \$15,000 to \$16,500. The salary for magistrate's duties remains at \$1,000.

Western District of Missouri

- (1) Authorized the continuance of the full-time referee position at Kansas City, to become vacant by expiration of term on August 31, 1971, for a term of six years, effective September 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

District of North Dakota

- (1) Authorized the continuance of the full-time referee position at Fargo, to become vacant by expiration of term on November 8, 1971, for a term of six years, effective November 9, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

District of South Dakota

- (1) Increased the salary of the part-time referee position at Sioux Falls from \$12,000 to \$15,000 per annum.

NINTH CIRCUIT

Northern District of California

- (1) Authorized the continuance of the full-time referee position at San Jose, to become vacant by expiration of term on October 17, 1971, for a term of six years, effective October 18, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Central District of California

- (1) Authorized the continuance of the full-time referee position at Santa Ana, to become vacant by expiration of term on October 14, 1971, for a term of six years, effective October 15, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Montana

- (1) Increased the salary of the part-time referee position at Great Falls from \$12,000 to \$15,000 per annum;
- (2) Increased the salary of the part-time referee position at Butte from \$12,000 to \$15,000 per annum.

District of Nevada

- (1) Authorized the continuance of the full-time referee position at Las Vegas, to become vacant by expiration of term on May 19, 1971, for a term of six years, effective May 20, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Oregon

- (1) Increased the salary of the part-time referee position at Pendleton from \$12,000, to \$14,000 per annum.

Western District of Washington

- (1) Authorized the continuance of the full-time referee position at Tacoma, to become vacant by expiration of term on June 30, 1971, for a term of six years, effective July 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

District of Hawaii

- (1) Increased the salary of the part-time referee at Honolulu from \$15,000 to \$18,000 per annum without any change in other arrangements.

TENTH CIRCUIT

District of Colorado

- (1) Authorized the continuance of the full-time referee position at Denver, to become vacant by expiration of term on September 30, 1971, for a term of six years, effective October 1, 1971, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

District of Kansas

- (1) Changed the regular place of office of the full-time referee at Topeka to Kansas City.

Eastern District of Oklahoma

- (1) Authorized the continuance of the part-time referee position at Okmulgee, to become vacant by expiration of term on June 30, 1971, for a term of six years, effective July 1, 1971, increased the salary from \$10,000 to \$12,000 per annum, the regular place of office, territory and places of holding court to remain as at present.

District of Wyoming

- (1) Increased the salary of the part-time referee position at Cheyenne from \$15,000 to \$18,000 per annum.

LEGISLATION

The Conference approved two proposed items of legislation for transmission to the 92nd Congress, as follows:

- (1) A bill to provide that the term of office of a full-time referee shall be increased from six to twelve years and that the term of office of a part-time referee shall be for a term of six years. The bill would also provide for mandatory retirement of a referee in bankruptcy at the age of seventy if he has completed five years of service; and
- (2) A bill which would amend the Civil Service retirement law to increase the retirement benefits of referees in bankruptcy.

AUDIT OF STATISTICAL REPORTS

The audit of statistical reports of closed bankruptcy cases for the previous six months disclosed some 226 possible errors in the reports. In addition, some 35 letters have been written in connection with preaudit of estate accounts.

CHAPTER XIII CASES

The Committee reported that the Administrative Office has reported the filing of a total of 30,510 cases under Chapter XIII of the Bankruptcy Act in fiscal year 1970. This constitutes about 16 percent of the total filings under the Act. In three districts referees have set up experimental programs or pilot projects to provide free counselling to debtors in wage earner proceedings in order to assist the debtors to avoid in the future the pitfalls which compel them to seek relief in the bankruptcy courts.

FEE FOR APPLICATIONS TO DETERMINE DISCHARGEABILITY OR
NON-DISCHARGEABILITY OF SPECIFIC DEBTS

The Conference agreed with a Committee recommendation which would provide for a new charge for special services pursuant to Section 40c(3) of the Bankruptcy Act, to be effective April 1, 1971, as follows:

9. For each application for determination of non-dischargeability of debts filed by creditors, a fee of \$10.00.

SEMINARS FOR REFEREES

A national seminar for newly-appointed referees in bankruptcy will be held in Washington on March 22-26, 1971 and, in addition, regional seminars have been held in Indianapolis, New York City,

San Francisco and New Orleans, and are scheduled for Phoenix and Cleveland prior to the next session of the Conference.

COMMITTEE ON THE ADMINISTRATION OF THE PROBATION SYSTEM

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

CONDITIONS OF PROBATION

The Committee has considered, with the cooperation of the Division of Probation of the Administrative Office, the suggestion made at the March 1970 session of the Conference that a study be conducted to determine the feasibility of having the Conference adopt a resolution recommending that a person placed on probation be required to work unless the court otherwise orders.

The Committee was mindful of its 1964 report wherein it stated as a condition of probation that the individual shall work regularly at a lawful occupation and shall support his legal dependents and when out of work shall notify the probation officer at once. The Conference agreed that a comprehensive study of this problem was not required at this time and that the prior condition of probation was adequate.

LEGISLATION

The Conference reaffirmed its approval of a proposal made at the March 1970 session to provide for the protection of probation officers by amending Section 1114 of Title 18, United States Code. The Director of the Administrative Office was requested to retransmit the proposed legislation to effectuate this purpose to the Congress.

AMENDMENT OF CRIMINAL RULE 32

The Committee recommended to the Advisory Committee on Criminal Rules a revision of Rule 32 to provide that presentence investigation reports which are made a part of the record shall be sealed and opened only on order of the court.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

Judge Roy W. Harper, Chairman of the Committee on Intercircuit Assignments, presented the Committee's report encompassing its activities from September 15, 1970 to February 1, 1971.

During the period in question the Committee recommended 44 assignments to be undertaken by 37 judges. Of this number, four are circuit judges in active status, six are senior circuit judges, 13 are district judges in active status and seven are senior district judges. Six assignments were carried out by four active judges of the Court of Claims and one by an active judge of the Customs Court. Two retired Supreme Court Justices carried out three assignments.

During the period there were 22 assignments to the circuit courts of appeals, four to the Court of Customs and Patent Appeals, 17 to the district courts and one to the Court of Claims.

COMMITTEE TO IMPLEMENT THE FEDERAL MAGISTRATES ACT

Judge Charles M. Metzner, Chairman of the Committee to Implement the Federal Magistrates Act, presented the report of the Committee.

MAGISTRATE POSITIONS

The Committee had considered various requests received from the district courts for additional magistrate positions, changes in salaries and arrangements, and changes in the official locations of positions. In addition, four district courts had requested authority to appoint persons to part-time magistrate positions who are not members of the bar. In accordance with the recommendations of the Committee, the Conference approved the following changes in the numbers, locations, arrangements, and salaries of magistrates and directed that they be made effective at such time as appropriated funds are available. It also voted the Executive Committee plenary authority to act for the Conference between sessions on any such matters which in the view of the Magistrates Committee require immediate action.

DISTRICT OF COLUMBIA CIRCUIT

District of Columbia

- (1) Authorized an additional full-time magistrate position at Washington, D.C., at a salary of \$22,500 per annum, upon the condition that at least one of the two existing pretrial examiner positions be eliminated by August 1, 1972.

FIRST CIRCUIT

Massachusetts

- (1) Increased the salary of the part-time magistrate at Ayer from \$6,000 to \$8,000 per annum.

SECOND CIRCUIT

Vermont

- (1) Authorized an additional part-time magistrate position at St. Albans at a salary of \$500 per annum ;
- (2) Increased the salary of the part-time magistrate at Rutland and Brattleboro from \$200 to \$500 per annum.

FOURTH CIRCUIT

Maryland

- (1) Changed the official location for the full-time magistrate at Greenbelt from Greenbelt to District Heights.

North Carolina, Middle

- (1) Increased the salary of the part-time magistrate at Salisbury from \$600 to \$1,200 per annum ;
- (2) Increased the salary of the part-time magistrate at Durham from \$400 to \$1,200 per annum ;
- (3) Increased the salary of the part-time magistrate at Rockingham from \$500 to \$1,200 per annum ;
- (4) Changed the official location for the part-time magistrate at Rockingham from Rockingham to Laurinburg.

FIFTH CIRCUIT

Florida, Middle

- (1) Increased the salary of the part-time magistrate at Daytona from \$900 to \$3,600 per annum.

Texas, Northern

- (1) Increased the salary of the part-time magistrate at Wichita Falls from \$1,200 to \$3,000 per annum.

Texas, Western

- (1) Authorized an additional part-time magistrate position at Marfa at a salary of \$2,500 per annum.

SEVENTH CIRCUIT

Illinois, Eastern

- (1) Changed the part-time magistrate position at Danville to a part-time referee-magistrate position and authorized an increase in the salary of the referee in the amount of \$1,800 per annum ;

- (2) Changed the location of the part-time magistrate at East St. Louis from East St. Louis to Belleville.

Illinois, Southern

- (1) Increased the salary of the part-time magistrate at Alton from \$200 to \$700 per annum.

Wisconsin, Western

- (1) Changed the part-time magistrate position at Eau Claire to a part-time referee-magistrate position and authorized an increase in the salary of the referee in the amount of \$300 per annum.

EIGHTH CIRCUIT

Iowa, Southern

- (1) Extended the jurisdiction of the part-time magistrate at Council Bluffs over the entire area of the DeSoto National Wildlife Refuge, including that portion lying within the District of Nebraska.

Missouri, Eastern

- (1) Authorized an additional part-time magistrate position for the Ozark National Scenic Riverways at an annual salary of \$5,000;
- (2) Authorized jurisdiction over the entire area of the Ozark National Scenic Riverways, including that portion lying within the Western District of Missouri.

NINTH CIRCUIT

Arizona

- (1) Increased the salary of the part-time magistrate at Yuma from \$2,400 to \$8,400 per annum.

California, Northern

- (1) Increased the salary of the part-time magistrate at Salinas/Monterey from \$3,600 to \$7,200 per annum.

California, Central

- (1) Increased the salary of the part-time magistrate at San Luis Obispo from \$6,000 to \$7,200 per annum.

Montana

- (1) Increased the salary of the part-time magistrate at Cut Bank from \$350 to \$1,500 per annum;
- (2) Increased the salary of the part-time magistrate at Kalispell from \$500 to \$1,000 per annum;
- (3) Increased the salary of the part-time magistrate at Billings from \$250 to \$1,000 per annum;
- (4) Increased the salary of the part-time magistrate at Great Falls from \$250 to \$1,000 per annum;
- (5) Increased the salary of the part-time magistrate at Hardin from \$350 to \$500 per annum;
- (6) Increased the salary of the part-time magistrate at Butte from \$200 to \$500 per annum;
- (7) Increased the salary of the part-time magistrate at Glasgow from \$200 to \$350 per annum;
- (8) Increased the salary of the part-time magistrate at Helena from \$100 to \$350 per annum.

Washington, Western

- (1) Increased the salary of the part-time magistrate at Bellingham from \$500 to \$1,800 per annum.

TENTH CIRCUIT

New Mexico

- (1) Increased the salary of the part-time magistrate at Alamogordo from \$500 to \$1,200 per annum.

Wyoming

- (1) Increased the salary of the part-time magistrate at Cheyenne from \$1,200 to \$2,400 per annum ;
- (2) Increased the salary of the part-time magistrate at Jackson from \$1,200 to \$1,800 per annum ;
- (3) Increased the salary of the part-time magistrate at Casper from \$300 to \$600 per annum ;
- (4) Increased the salary of the part-time magistrate at Laramie from \$200 to \$400 per annum.

The District Courts in Hawaii, Colorado, New Mexico and the Western District of Texas certified that they were unable to find a qualified member of the bar to accept the position of part-time United States magistrate at one or more locations within their districts. Upon recommendation of the Committee, the Conference authorized these courts to appoint non-members of the bar to part-time magistrate positions at the following locations:

Western District of Texas—Big Bend National Park

Colorado—Rocky Mountain National Park

Hawaii—Honolulu (one position), Johnston Island, and Wake Island

New Mexico—Deming

District courts in eight districts had submitted formal requests for additional part-time magistrate positions at small salaries to provide back-up magistrate services in the absence of a regular magistrate from his official station because of business, vacation, illness, or other good reason. The Committee requested and was granted authority to consult further with these district courts regarding the need for such positions in their districts.

SALARIES OF MAGISTRATES

The Committee recommended that the Conference reaffirm the principle that the maximum salaries payable to United States magistrates should be on a parity with the maximum salaries payable to referees in bankruptcy (see Conf. Rept., March 1969, p. 31) and that the Director of the Administrative Office be authorized to

prepare the necessary amendments to the statute and transmit them to the Congress. The Conference, after full discussion, voted to recommend that the ceiling on the salaries of United States magistrates be removed and that the salaries of magistrates be fixed from time to time by the Judicial Conference after receiving recommendations of the Salary Committee, newly created.

REFEREE-MAGISTRATE POSITIONS

The Conference had previously approved proposed legislation to amend the Bankruptcy Act and the Federal Magistrates Act to permit full-time referees in bankruptcy to perform the duties of a United States magistrate (Conf. Rept., March 1970, p. 23). This proposal is embodied in H.R. 4815, recently introduced in the 92nd Congress. Upon recommendation of the Committee, the Conference voted to approve this bill.

LETTERS ROGATORY

The legal advisor of the Department of State had inquired about the possibility of delegating to United States magistrates the function of executing letters rogatory in criminal cases. The Conference approved the recommendation of the Committee that the Department of State be advised that the Judicial Conference has no objection to this proposal.

LOCAL RULES OF COURT

The *Rules of Procedure for the Trial of Minor Offenses Before United States Magistrates*, approved by the Supreme Court, provide in part for the reference of an information charging a minor offense, other than a petty offense, to a magistrate and also for the reference of an information transferred under Rule 20 to a magistrate for plea and sentence. The Conference, upon recommendation of the Committee, authorized the distribution of a sample rule of court to all district courts for such use as they may desire.

ADMINISTRATIVE REGULATIONS

The Conference approved a proposed change in the regulations of the Director of the Administrative Office to permit the direct payment of the cost of telephone service for a part-time magistrate who has been provided with office space in a federally owned or fed-

erally leased building, instead of requiring the General Services Administration to bill the magistrate and have him in turn claim reimbursement on his voucher.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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

The Advisory Committee on Criminal Rules has approved for circulation to the bench and bar preliminary drafts of amendments proposed to certain criminal rules which, hopefully, will be ready for distribution in April, with a request for comments to be submitted before April 1, 1972. In addition, the Committee has circulated two alternative proposals for amendments to Criminal Rule 45, relating to time limits which are directed toward the elimination of present delays in the disposition of criminal cases. Because of the urgency of this subject matter, comments are requested prior to July 1, 1971. The Advisory Committee on Criminal Rules is continuing to work on a draft of rules governing procedure in habeas corpus cases involving state prisoners and cases under 28 U.S.C. 2255, as previously directed by the Conference.

The Advisory Committee on Bankruptcy Rules has completed its task of preparing a preliminary draft of all rules of procedure for ordinary bankruptcy cases. This will be circulated during April 1971 and the deadline for receiving comments and suggestions will be April 1, 1972. The Advisory Committee is now engaged in the preparation of rules and forms for cases under Chapter XIII of the Bankruptcy Act and when this study is completed the Committee will turn its attention to the rules and forms for cases arising under Chapters X, XI and XII of the Act. It is hoped that the proposed rules for Chapters X through XIII will be ready for circulation early in 1972.

Pursuant to the Conference action at the October 1970 session, a definitive draft of proposed rules of evidence was submitted to the Supreme Court. The Court has now returned the draft to provide an opportunity for public consideration of the modifications made by the Advisory Committee, the standing Committee and the Judicial Conference since the last preliminary draft was circulated in March 1969. Prompt publication of these proposed rules of evidence

is expected so that any further comments which may be submitted may be considered by the Advisory Committee later in 1971.

COMMITTEE TO IMPLEMENT THE CRIMINAL JUSTICE ACT

Judge John S. Hastings, Chairman of the Committee to Implement the Criminal Justice Act, presented the Committee's report.

APPOINTMENTS AND PAYMENTS

Judge Hastings presented to the Conference and the Conference approved for immediate release and circulation the report of the Director of the Administrative Office on appointments and payments made under the Criminal Justice Act through December 31, 1970.

The report shows total payments under the Act since its inception of \$18,123,473.00. During the first half of fiscal year 1971, \$2,827,101.00 was disbursed in the settlement of claims for services rendered on behalf of criminal defendants and appellants.

FORMS

The Conference approved the recommendation of the Committee for revised form for appointment and payment of counsel and a revised form for authorization and compensation for expert and other service. The Conference likewise approved an application form for grants which will be submitted by community defender organizations, as provided in subsection (h) of the Criminal Justice Act, as amended. The Conference further approved a form for appointment of counsel for alleged parole and mandatory release violators.

GUIDELINES

The Conference approved certain additional guidelines for the administration of the amended Criminal Justice Act, as follows:

- (1) Continued use of CJA Form 3A, permitting a detailed statement of assets and liabilities of persons claiming inability to obtain counsel, is optional and may be used by judges and magistrates whenever, in their opinion, such use is deemed desirable;
- (2) CJA Form 6, order for terminating appointment of counsel, and CJA Form 7, authorization for distribution of available private funds, remain in full force and effect;
- (3) The salary of a federal public defender shall be approximately 85 percent of the salary of the United States Attorney in the same district pending further study of this subject matter by the Committee;

- (4) Community defender organizations operating under the fee system will continue to use the forms provided for service of expert and other services, with the person authorized by the court to perform such services as designated payee;
- (5) Community defender organizations operating under initial and sustaining grants approved by the Judicial Conference shall meet all expenses, including services other than counsel, under those grants. This does not, however, eliminate the requirement of court approval for the retention of expert and other services.

APPROVAL OF GRANTS AND REPORTS

The Criminal Justice Act, as amended, provides that upon application a community defender organization may, to the extent approved by the Judicial Conference, receive an initial grant for expenses necessary to establish the organization and in lieu of payments under subsections (d) and (e) receive periodic sustaining grants. Since the statute does not provide any mechanism by which the Conference shall exercise this authority, the Conference agreed that any applications shall be screened by the Committee to Implement the Criminal Justice Act and that the Executive Committee of the Conference shall have interim authority to approve the recommendations of the Committee between sessions of the Conference.

The statute also provides that the community defender organization, whether operating under a grant or under the fee system, shall submit to the Conference an annual report setting forth its activities and financial position and the anticipated caseload and expenses for the coming year. It was agreed that the Committee to Implement the Criminal Justice Act should have authority to prescribe the form and contents of the annual report.

The Committee has requested the Administrative Office to prepare an administrative procedures manual to cover all matters needed for the use of the public federal defenders, as well as the requirements for budgetary submissions, as provided in the Act. Such reports and budgetary requests shall be furnished to the Administrative Office by the public defender no later than August 1 of each year.

Since the Committee is of limited tenure, being designated as a special committee, the Conference voted that the Committee continue during the interim period while the subsection (h) defender organizations and any grants to community defender organizations are being considered.

REVIEW COMMITTEE

Judge Edward A. Tamm, Chairman of the committee established by the Chief Justice to review the reports filed semi-annually by federal judges in connection with income received for services rendered over and above judicial duties, submitted his report to the Conference.

The Conference discussed this report and, particularly in the light of the resolution adopted by the Conference at its September 1963 meeting that "no justice or judge appointed under the authority of the United States shall serve in the capacity of an officer, director or employee of a corporation," voted with respect to a judge (i) whose semi-annual report indicates non-compliance with the 1963 resolution of the Judicial Conference or (ii) who has failed to file such report, that the following action shall be taken:

- (a) The Review Committee shall notify such judge, and the chief judge of the circuit or the chief judge of other courts who are members of the Conference of such fact who shall then request such judge to advise within 30 days that he is in compliance;
- (b) In the event such judge fails or refuses to advise that he has complied as in paragraph (a), the chief judge shall inform such judge that unless the judge advises within 60 days that he is in compliance, this fact will be published in the next report of the Judicial Conference;
- (c) If at the expiration of the 60-day period, the judge fails or declines to file the semi-annual report, the chief judge shall also request the judge to state whether he is or is not in compliance with the 1963 resolution; a failure or refusal so to state will likewise be published;
- (d) In the event the judge declines to make a report on grounds of conscience, he shall be advised that if desired such fact will be noted in the published report.

INTERIM ADVISORY COMMITTEE ON JUDICIAL
ACTIVITIES

Judge Elbert P. Tuttle, Chairman, presented the report of the Interim Advisory Committee on Judicial Activities.

The Conference discussed Judge Tuttle's report and resolved that when an individual judge's report indicates to the Review Committee that a specified activity may be one that should be considered by the Interim Advisory Committee, the Review Committee is requested to suggest to such a judge that he make a formal inquiry of that committee respecting such activity.

The Conference voted further to authorize the Committee, when answering questions from individual judges, to state whenever ap-

propriate what the applicable canons of judicial ethics provide and also what is provided in the latest available draft of the proposed report of the American Bar Association's special committee now studying the question of judicial ethics, chaired by former Chief Justice Roger J. Traynor.

COMMITTEE ON COURT ADMINISTRATION

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

LEGISLATION

The Conference approved and authorized the transmission to the Congress of three bills, as follows:

- (1) A bill to create the Office of Administrative Assistant to the Chief Justice. This office would be designed to assist the Chief Justice in matters relating solely to his administrative burdens, such as those imposed upon him as Chairman of the Judicial Conference, Chairman of the Board of the Federal Judicial Center, and in his relationships with the federal judiciary generally;
- (2) A bill to permit a federal judge to serve as Director of the Administrative Office of the United States Courts, the Director of the Federal Judicial Center or as the proposed Administrative Assistant to the Chief Justice, without loss of seniority or precedence in his own court;
- (3) A bill to establish a commission whose function would be to study the present division of the United States into several judicial circuits and to recommend such changes as may be appropriate for the expeditious and effective disposition of judicial business.

The Conference approved in principle S. 4982, 91st Congress, a bill referred for comment by the Senate Judiciary Committee which would establish a Federal Judiciary Council which would be in a position to study and advise on the impact of legislation on the federal courts.

DIVISION OF JURISDICTION BETWEEN STATE AND FEDERAL COURTS

Upon advice that the American Law Institute was not permitted by its charter to make specific recommendations to the Congress, the Conference agreed to authorize the Director of the Administrative Office to submit to the Congress for appropriate legislative examination the several recommendations for legislative action contained in the A.L.I. study on the division of jurisdiction between state and federal courts.

LAND COMMISSIONERS

Pursuant to the renewal of a request by the Department of Justice that the responsibility for obtaining funds for compensation and expenses of commissioners appointed under Rule 71(A)(H) of the Federal Rules of Civil Procedure be transferred from the Department of Justice to the Administrative Office, the Committee created an ad hoc subcommittee to study this problem.

The ad hoc committee had completed its study and was in agreement with a similar study made in 1961 by a subcommittee headed by Judge Stanley Barnes to the effect that the responsibility for obtaining funds for commissioners appointed under Rule 71(A)(H) should be transferred to the Administrative Office. The ad hoc committee was in agreement that it was not appropriate for the Department of Justice as a party litigant and an interested party in these commissioner proceedings to be responsible for the obtaining of and paying out of money to pay court-appointed commissioners who hear and determine the litigated issues. The ad hoc committee was further of the view that guidelines should be drafted for the possible supervision of the use of funds by commissioners appointed under Rule 71(A)(H).

The Committee recommended that the Department of Justice be advised in response to its request that the Judicial Conference is willing to have the responsibility for obtaining funds for the compensation and expenses of these commissioners transferred to the Administrative Office provided the Department seeks and obtains the approval thereof from the appropriating authorities and, secondly, should the transfer take place, a study be made of appropriate guidelines for and possible supervision of the use of the fund by the judges who make such commissioner appointments.

Upon the request of the Chairman of the Budget Committee, the Conference voted to defer consideration of these recommendations until its next session so that it might obtain the recommendation of the Budget Committee.

JUDICIAL STATISTICS

The Subcommittee on Judicial Statistics has requested the Administrative Office to make further studies relating to the projection of the needs of the courts of appeals in 1975. The subcommittee had approved the new statistical profiles which have been prepared by the Administrative Office.

SUPPORTING PERSONNEL

Court Reporters.—The Committee recommended and the Conference approved a composite plan prepared by the Subcommittee on Supporting Personnel relating to the qualification and compensation for official court reporters in the district courts. This plan provides as follows:

QUALIFICATIONS AND COMPENSATION PLAN FOR OFFICIAL COURT REPORTERS, UNITED STATES DISTRICT COURTS

1. An applicant for appointment hereafter as an official court reporter in the United States district courts shall possess as a minimum requirement:
 - (a) At least four years of prime court reporting experience in the free lance field of service or service in the lower courts or a combination thereof;
 - (b) A certificate of proficiency from the National Shorthand Reporters Association; or
 - (c) A certificate from the Administrative Office of the United States Courts stating that he has passed an examination conducted under the auspices of the Administrative Office.

Such a qualified person shall, upon appointment, receive the starting salary for court reporters set by the Judicial Conference plus transcript fees;

2. All official court reporters who have satisfactorily served the United States district courts as official court reporters for 10 years shall receive a 10% increase over the starting salary set by the Judicial Conference for court reporters;
3. A holder of a certificate of merit from the National Shorthand Reporters Association (or the equivalent therefor established by the Administrative Office) shall after five years of satisfactory service as official court reporter receive a 10% increase over the starting salary set by the Judicial Conference for court reporters;
4. The recommendation of the employing court is prerequisite for advancement to the 10% salary increase. The salary rates above-mentioned may be adjusted upwards whenever there is a statutory pay increase for judiciary employees generally;
5. All initial appointments shall be on a probationary basis to be fixed by the employing court;
6. This Plan shall be administered by the Director of the Administrative Office of the United States Courts, under the general direction and supervision of the Judicial Conference of the United States. The requirements of Item 1, above, may be subject to modification where special problems exist.

The Conference approved a recommendation that court reporters overseas be allowed the usual cost-of-living allowance enjoyed by other personnel of the courts in overseas areas.

The Conference agreed to rescind the action taken at its March 1970 meeting authorizing the combination position of court reporter—secretary for the District of Idaho.

The Conference further approved a recommendation that salaries be withheld from court reporters who are delinquent in complying with the Judicial Conference directive under the statute to report annually their attendance and financial reports on Form JS 40 and that they shall be subject to the same penalty for failure to supply the JS 40 form as now exists for failure to supply the AO Form 88 relating to the furnishing of certificates and transcripts.

Clerks' Offices—Courts of Appeals.—The Conference approved a recommendation effecting the incorporation of an additional managerial/supervisory grade below the chief deputy level for the large and medium clerks' offices in the courts of appeals. This allows for the following maximum classifications below the chief deputy level:

Large Office:
 Grades JSP-11 (\$12,615-\$16,404)
 and JSP-9 (\$10,470-\$13,611)
 Medium Office:
 Grades JSP-10 (\$11,157-\$14,973)
 and JSP-8 (\$ 9,494-\$12,337)
 Small Office:
 Grade JSP-9 (\$10,470-\$13,611)

This will permit the continuation of categorization of the courts of appeals clerks' offices as large, medium and small, subject to review by the Judicial Conference whenever requested by a court of appeals. This assignment is based upon factors such as the volume of business, the number of judges on the court and the size of the staff of the clerk's office.

Librarian—Courts of Appeals.—A recommendation that the position of an assistant or second-ranking librarian in the courts of appeals now limited to Grade JSP-7 be upgraded to JSP-9 whenever the incumbent qualifies on the strength of credentials and experience applicable to the higher grade was approved by the Conference. Judge Ainsworth agreed that the Subcommittee on Supporting Personnel would study a recommendation of a member of the Conference for a possible reclassification to Grade JSP-10 for the librarian for the combined library of the Court of Appeals of the Ninth Circuit at Los Angeles and the District Court for the Central District of California.

Clerks' Offices.—Judge Ainsworth agreed to refer to the Subcommittee on Supporting Personnel a study of the need of additional personnel for the clerks' offices in the district courts occa-

sioned by the new reporting obligations required in connection with the administration and operation of the jury system.

Part-Time Employees.—The Conference approved a recommendation that part-time employees in the United States courts be brought under the within grade promotional plan for salary step increases upon the completion of required periods of service.

RESOLUTION

Judge Ainsworth reported to the Conference that the Committee had taken note of the fact that Judge John Biggs, Jr., who had been the first Chairman of the Committee and associated with the Committee until the close of 1970, had at his request been relieved of his duties as a member of the Committee on Court Administration. As a result, the Committee adopted the following resolution:

Judge John Biggs, Jr., has been a member of the Committee on Court Administration of the Judicial Conference of the United States from its creation in 1955 to his voluntary retirement in 1971. Appointed as the first Chairman of this Committee when it was organized, then Chief Judge Biggs presided over and directed Committee deliberations for some fourteen years. He then relinquished the chairmanship but continued until 1971 as an invaluable Committee member, making available to his colleagues his clear understanding and cyclopedic knowledge of the work and history of the Judicial Conference and its committees. The effectiveness of the Committee on Court Administration throughout its existence has reflected his judgment, understanding, strong leadership and indefatigable labor. He became both a Nestor who led his Committee wisely and an Atlas who carried many burdens of the Judicial Conference on his shoulders.

At this first meeting since his retirement, we, the members of the Committee on Court Administration, express to Senior Circuit Judge John Biggs, Jr., our great esteem and unending gratitude, sentiments which we know are shared by the entire federal judiciary.

This Resolution shall be incorporated in the Minutes of this Committee and in its report to the Judicial Conference and also shall be transmitted to Judge Biggs.

COMMITTEE ON THE BUDGET

Judge Carl A. Weinman, Chairman of the Committee on the Budget, advised the Conference that the hearings before the Subcommittee of the Committee on Appropriations of the House of Representatives had just been concluded. Hearings before the Senate Subcommittee on Appropriations are not anticipated for several weeks. In discussing the hearings on the request for the appropriation to the judiciary, Judge Weinfeld pointed out the United States increase in projected work of the United States

marshals and U.S. Attorneys contained in the request of the Department of Justice for appropriations for fiscal year 1972.

SPECIAL COMMITTEE

Judge Edward A. Tamm, Chairman of a special committee named by the Chief Justice to study matters relating to the security of court houses and federal judges, discussed the work of his Committee with the Conference and noted that the Administrative Office was working in close collaboration with other government agencies in connection with the over-all problems of security.

PRETERMISSION OF TERMS OF COURTS OF APPEALS

The Conference approved the pretermission of terms of courts of appeals, pursuant to 28 U.S.C. 48, for those sessions of the Court of Appeals for the Fourth Circuit to be held at Asheville, North Carolina, and those terms of the Court of Appeals for the Eighth Circuit which might be held in places other than St. Louis prior to the next session of the Conference.

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.

WARREN E. BURGER,
Chief Justice of the United States.

APRIL 28, 1971.

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