

APPENDIX

REPORT OF THE JUDICIAL CONFERENCE

A special session of the Judicial Conference of senior circuit judges was convened on January 22, 1940, and continued in session for 2 days. The following judges were present in response to the call of the Chief Justice:

Second Circuit, Senior Circuit Judge Learned Hand.
Third Circuit, Senior Circuit Judge John Biggs, Jr.
Fourth Circuit, Senior Circuit Judge John J. Parker.
Fifth Circuit, Senior Circuit Judge Rufus E. Foster.
Sixth Circuit, Senior Circuit Judge Xenophon Hicks.
Seventh Circuit, Senior Circuit Judge Evan A. Evans.
Eighth Circuit, Senior Circuit Judge Kimbrough Stone.
Ninth Circuit, Senior Circuit Judge Curtis D. Wilbur.
District of Columbia, Chief Justice D. Lawrence Groner.

The senior circuit judge for the Tenth Circuit, Judge Robert E. Lewis, was unable to attend and his place was taken by Circuit Judge Orié L. Phillips.

The meeting was called to consider questions arising in relation to the work of the Director of the Administrative Office of the United States courts. The Director, Henry P. Chandler, the Assistant Director, Elmore Whitehurst, and the Chief of the Division of Procedural Studies and Statistics, Will Shafroth, were present and presented to the Conference a comprehensive review of what had already been done in the organization of the Administrative Office and the particular matters demanding attention. The Conference passed the following resolutions:

With respect to estimates—Resolved, That the Judicial Conference hereby approves and ratifies the action of the advisory committee and the Director of the Administrative Office in reference to the estimates for the appropriations for the United States Courts (except the Supreme Court), and for the Administrative Office for the fiscal year 1941, and authorizes the Director to take such means as he may deem advisable of explaining and justifying the estimates and procuring the enactment of appropriations as nearly as may be in conformity with them.

With respect to deficiency appropriations—Resolved, That the Conference authorizes the Director to present estimates for deficiency appropriations for the accounts miscellaneous salaries and miscellaneous expenses of the United States courts, for the fiscal year

1940, in such total amount, not more than \$150,000, as may be necessary to add to those funds amounts equal to the amounts estimated to be necessary for the use of the Administrative Office for the fiscal year 1940, and authorized by House Resolution No. 50, 76th Congress, to be transferred to the Administrative Office for that purpose.

Resolved, That the Director, in formulating this deficiency estimate, consult with the Chief Justice and Chief Justice Groner, and secure their cooperation and approval of the estimate as finally arrived at.

With respect to the supervision of the finances of clerks and other officers of the courts—Resolved, That the Conference is of the opinion that the supervision of the finances of the clerks and other officers of the courts is within the function of the Administrative Office, but that for the time being, due to the fact that appropriations are not adequate to provide for that purpose, it is the desire of the Conference that the field examinations shall be conducted by the Department of Justice as heretofore, and that the Director be requested to notify the Department of Justice to that effect, and also to request that the reports of its examinations be communicated to the Director.

With respect to stenographer-law clerks and law clerks—Resolved, That the Director is directed not to authorize the payment of the salary of any stenographer-law clerk until further order of this Conference.

Resolved, That the Director is directed not to authorize the payment of any salary of a law clerk for any district judge, pursuant to the fourth proviso of the item of the appropriation for miscellaneous salaries, United States Courts, for the fiscal year ending June 30, 1940, until the further order of this Conference.

Resolved, That the Director is directed by this Conference not to pay any increased compensation on account of the appointment of a stenographer-law clerk by a circuit judge who also has a secretary.

Resolved, That the Conference approves the following provision for the appropriation bill for the fiscal year ending June 30, 1941, and requests the Director to submit it for the consideration of the Congress:

MISCELLANEOUS SALARIES, UNITED STATES COURTS

Miscellaneous salaries: For salaries of all officials and employees of the Federal judiciary, not otherwise specifically provided for, \$888,540: *Provided*, That the maximum salary paid to any secretary or law clerk to any circuit or district judge shall not exceed \$2,500 per annum: *Provided further*, That this limitation shall not operate to reduce the compensation of any secretary now employed: *Provided further*, That a law clerk shall not be appointed by a district judge unless the senior circuit judge of the circuit (the District of Columbia being considered a circuit) in which the district where the clerk is needed, is situated, shall certify to the necessity of the appointment.

With respect to the rehabilitation of the court room of the United States District Court for the Virgin Islands.—Resolved, That the Director is

authorized to find, if it can be found, a sum not to exceed \$7,500, for the rehabilitation and furnishing of the court room of the District Court for the Virgin Islands in Charlotte Amalie, the capital of the Virgin Islands.

With respect to referees in bankruptcy.—*Resolved*, That it is the sense of the Conference that it is charged with the responsibility of supervising the administration of the Bankruptcy Act by all officers of the bankruptcy courts, including the referees in bankruptcy; and that it should require full reports of such officers, including referees, so that all matters necessary to a proper supervision of their activities or which would throw light upon any needed changes in the Bankruptcy Act may be fully disclosed; and that all information which the Attorney General may have power to request of such officers for making reports to Congress pursuant to section 53 of the Bankruptcy Act should be included in said reports so as to obviate needless duplication of effort in acquiring such information;

And to the end that such reports may be made so as to furnish to the Attorney General promptly the information desired by him from such referees and other officers, it is ordered that the Director promptly address questionnaires to them covering such matters as may be necessary to present a complete report of the administration of the Bankruptcy Act, including such matters as the Attorney General is required to report on under section 53 of that Act; that before mailing such questionnaires the Director submit a proposed draft thereof to the Attorney General with request that he indicate any additional matter as to which he desires information; that the Director include in the questionnaires sent to the referee and other officers of the bankruptcy courts any inquiries which the Attorney General may suggest; and that the Attorney General be accorded access to the replies received to the questionnaires and be furnished copies of the statistics compiled therefrom in the Administrative Office.

With respect to probation officers.—*Resolved*, That it is the opinion of the Judicial Conference that section 304 (1) of chapter XV of the Judicial Code and section 6 of the act entitled "An Act to provide for the administration of the United States courts, and for other purposes," approved August 7, 1939 (Public Act 299, 76th Congress), embraces probation officers, and that therefore the Administrative Officer is charged with responsibility for supervision of probation officers. The Conference, therefore, directs that the Director of the Administrative Office of the United States Courts undertake his duties with regard to the administration of the probation system as soon as practicable.

The Conference further instructs the Director to undertake the duties cast upon him by the act creating the Administrative Office in a spirit of full cooperation with the Attorney General and the

Director of the Bureau of Prisons of the Department of Justice; and that the Director invite the suggestions of the Attorney General and the Director of the Bureau of Prisons with reference to the administration of probation in order that there be continued progress in that administration.

The Conference further directs that the appropriations requested for the probation system for the fiscal year 1941 already submitted by the Department of Justice be adopted by the Judicial Conference as the budget of the probation system for the fiscal year 1941, and instructs the Director of the Administrative Office to request the Congress to include the appropriations therein contained in the appropriations for the courts and Administrative Office for the fiscal year 1941.

Reports from district judges and clerks.—The Conference authorized the Chief of the Division of Procedural Studies and Statistics, under the supervision of the Director, to inquire of all district judges as to the number of cases, motions or other matters, held under advisement more than 30 and less than 60 days; and as to the titles, the date of submission and other explanatory matter in cases where decisions (including decisions on motions) have been held under advisement for more than 60 days. The Conference also authorized similar inquiries to the clerks of the district courts as to the titles of civil cases which have been at issue for more than 6 months, with the date on which the original pleading was filed and the date when the case was at issue; and titles of criminal cases pending more than 6 months after the return of the indictment or the filing of the information, with the date of the indictment or information.

Additional judges for the Circuit Court of Appeals for the Eighth Circuit.—At the session of the Judicial Conference in September 1938, the Conference noted that the Court of Appeals for the Eighth Circuit had been able to keep abreast of its work only through the aid of retired judges and recommended provision for two additional circuit judges for that circuit. At the session in September 1939, the Conference decided to recommend but one additional circuit judge. On a review, however, of the situation in that circuit, the Conference at its present session thought it desirable to renew its original recommendation that two additional circuit judges be provided.

The Conference adjourned subject to the call of the Chief Justice.
For the Judicial Conference:

CHARLES E. HUGHES,
Chief Justice.

JANUARY 31, 1940.