

**REPORT OF THE PROCEEDINGS OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES**

March 14, 1989

The Judicial Conference of the United States convened on March 14, 1989, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. 331. The Chief Justice presided and the following members of the Conference were present:

First Circuit:

**Chief Judge Levin H. Campbell
Chief Judge Frank H. Freedman, District of
Massachusetts**

Second Circuit:

**Chief Judge James L. Oakes
Judge John T. Curtin, Western District of New York**

Third Circuit:

**Chief Judge John J. Gibbons
Judge William J. Nealon, Jr., Middle District of
Pennsylvania**

Fourth Circuit:

**Chief Judge Sam J. Ervin, III
Judge Frank A. Kaufman, District of Maryland**

Fifth Circuit:

**Chief Judge Charles Clark
Chief Judge L. T. Senter, Jr., Northern District of
Mississippi**

Sixth Circuit:

Chief Judge Albert J. Engel
Chief Judge James P. Churchill, Eastern District of
Michigan*

Seventh Circuit:

Chief Judge William J. Bauer
Judge Sarah Evans Barker, Southern District of Indiana

Eighth Circuit:

Chief Judge Donald P. Lay
Chief Judge John F. Nangle, Eastern District of
Missouri

Ninth Circuit:

Chief Judge Alfred T. Goodwin
Judge Robert F. Peckham, Northern District of
California

Tenth Circuit:

Chief Judge William J. Holloway
Chief Judge Earl E. O'Connor, District of Kansas

Eleventh Circuit:

Chief Judge Paul H. Roney
Chief Judge Sam C. Pointer, Jr., Northern District of
Alabama

District of Columbia Circuit:

Chief Judge Patricia M. Wald
Chief Judge Aubrey E. Robinson, Jr., District of
Columbia

*Designated by the Chief Justice in place of the late Judge Phillip Pratt,
who resigned from the Conference on January 11, 1989.

Federal Circuit:

Chief Judge Howard T. Markey

Court of International Trade:

Chief Judge Edward D. Re

Circuit Judges Richard S. Arnold, Edward R. Becker, Stephanie K. Seymour, and Walter K. Stapleton; Senior Circuit Judges Frank M. Coffin and Joseph F. Weis, Jr.; District Judges Juan M. Perez-Gimenez and William W. Schwarzer; Senior District Judge Walter T. McGovern; and Claims Court Judge Loren A. Smith attended all or some of the sessions of the Conference. Circuit Executives Vincent Flanagan (First Circuit), Steven Flanders (Second Circuit), John P. Hehman (Third Circuit), Samuel W. Phillips (Fourth Circuit), Lydia Comberrel (Fifth Circuit), James A. Higgins (Sixth Circuit), Collins T. Fitzpatrick (Seventh Circuit), June L. Boadwine (Eighth Circuit), Eugene Murret (Tenth Circuit), Norman E. Zoller (Eleventh Circuit), and Linda Finkelstein (District of Columbia Circuit), and Assistant Circuit Executive Greg Walters (Ninth Circuit) were also present.

Congressman Jack Brooks, Chairman of the House Judiciary Committee, and Congressman Robert W. Kastenmeier, Chairman of the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, attended the Conference briefly and spoke on matters pending in the Congress of interest to the judiciary. The Attorney General of the United States, Dick Thornburgh, addressed the Conference on matters of mutual interest to the Department of Justice and the Conference.

L. Ralph Mecham, Director of the Administrative Office of the United States Courts, attended the sessions of the Conference, as did James E. Macklin, Jr., Deputy Director; William R. Burchill, Jr., General Counsel; Robert E. Feidler, Legislative and Public Affairs Officer; Karen K. Siegel, Chief, Office of the Judicial Conference Secretariat; Catherine Ball, Counsel, Legislative and Public Affairs Office; and David A. Sellers, Public Information Officer. Judge John C. Godbold, Director of the Federal Judicial Center, also attended the sessions of the Conference, as did Noel Augustyn, Administrative Assistant to the Chief Justice, and Richard Schickele, Staff Counsel to the United States Supreme Court.

**REPORT OF THE DIRECTOR
OF THE ADMINISTRATIVE OFFICE
OF THE UNITED STATES COURTS**

The Director of the Administrative Office of the United States Courts, L. Ralph Mecham, submitted to the Conference a brief report summarizing the workload of the federal judiciary during the calendar year 1988.

JUDICIAL BUSINESS OF THE COURTS

Mr. Mecham reported that filings in the 12 regional courts of appeals rose by more than nine percent in 1988, to 38,965 appeals. This increase was due in substantial part to a 24 percent increase in appeals of criminal cases from the district courts. In addition to the increase in criminal appeals, there were also substantial increases in appeals from rulings of the district courts on state and federal prisoner petitions, on private civil cases, and on decisions from administrative agencies. The courts of appeals closed 36,733 appeals in 1988, a four percent increase over the 35,272 appeals closed in the previous year. Despite this rise in terminations, the pending caseload increased by more than eight percent, to 29,128 on December 31, 1988. The number of cases filed in the Court of Appeals for the Federal Circuit dropped more than seven percent to 1,303, compared to the 1,406 appeals filed during the previous year. This reduction was due entirely to a 14 percent decline in the number of appeals from the Merit Systems Protection Board. The total number of appeals closed by the court was also down slightly in 1988, by three percent, due in substantial part to the reduced level of MSPB appeals. Since the court closed more cases than were filed, the pending caseload at the end of the year fell to 661 appeals, three percent lower than the pending caseload recorded one year ago.

During 1988, the number of civil cases filed in the district courts rose by two percent to 240,232, compared to the 234,748 reported in 1987. This rise represents a significant change from the four percent decline reported last year. This year's rise in filings resulted primarily from increases in cases related to asbestos personal injury, case filings involving the government's efforts to recover on defaulted student loans, and cases withdrawn from the bankruptcy courts. In contrast to the overall increase in civil cases, there was a significant and continuing decline in the number of cases involving recovery of overpayments on veterans' benefits. During the year, the district courts closed 237,684 civil cases, two percent more than the closings recorded in the previous

year. Even with the increase, however, the courts could not keep pace with the increased level of new filings. As a result, the pending civil caseload grew one percent, to 247,401 cases on December 31, 1988.

Criminal filings continued to increase in 1988 but at a slightly lower rate than in the past. During 1988, criminal filings rose by one percent to 44,761. The increase resulted from the same case types which have been driving the criminal caseload for the last several years. Prosecutions for drug offenses continued the increasing trend from past years with a 13 percent rise in 1988. Filings for violations involving narcotics were up more than 15 percent, while filings related to prescription drugs were up 33 percent. The disposition rate for criminal cases was down almost five percent in 1988, to 41,136 cases. This reduced level of dispositions is in sharp contrast to the increasing trend reported over the last several years. With the reduction in the disposition rate, the pending criminal caseload rose by nearly 14 percent at year's end. On December 31, 1988, there were almost 30,000 pending criminal cases.

The number of bankruptcy petitions filed continued to increase in 1988, although at a slightly slower rate than in past years. This year, filings rose by six percent, after increases of eight and 28 percent in 1987 and 1986, respectively. Overall, non-business filings rose by almost 12 percent, while business filings were down 22 percent. The bankruptcy courts closed 579,109 petitions in 1988, an increase of seven percent above the closings reported last year. Even with this increase, filings were still greater than terminations. As a result, the number of pending bankruptcy petitions rose to 847,019 on December 31, 1988, four percent higher than the level reported one year ago.

Mr. Mecham also reported that as of March 14, 1989, there were 11 vacancies among the 168 judgeship positions authorized for the United States courts of appeals, 34 vacancies among the 575 authorized judgeship positions in the United States district courts, and one vacancy on the United States Court of International Trade.

REPORT OF THE DIRECTOR OF THE FEDERAL JUDICIAL CENTER

The Director of the Federal Judicial Center, Judge John C. Godbold, reported that a first-ever conference of chief judges of all United States district courts would be sponsored by the Judicial Center in Phoenix, Arizona, April 5-8, 1989.

Judge Godbold noted that the Board of the FJC had approved the Judicial Center's sponsorship of a sentencing institute on a pilot basis, to be conducted late in 1989 or early in 1990. He announced that the Board had also approved the Center's sponsorship of approximately 40 judges to attend the Summer Program for lawyers at the Harvard Law School in June, 1989, and explained that the Center had substantially completed an agreement under which the University of Chicago Law School would conduct a one week, on-campus program for around 30 Article III judges, also in June. This is the result of a long effort to coordinate the needs of the federal judiciary for training with the assets, facilities, and energies represented by accredited law schools.

With respect to sentencing guideline procedures, Judge Godbold advised that the Research Division is conducting a study of sentencing procedures in several districts.

Judge Godbold called the Conference's attention to Title III of the Judicial Improvements and Access to Justice Act (Public Law 100-702), providing for the Judicial Center as the site of a history program for the federal judiciary. An advisory committee to work with the Center on the organization of the program is presently being appointed. Public Law 100-702 also established the Federal Judicial Center Foundation, which can receive contributions of private funds. The Chief Justice has made his three appointments to the Foundation Board, and further appointments are to be made by the Speaker of the House and the President Pro Tempore of the Senate.

Judge Godbold discussed with the Conference continuing efforts by the Center to improve the standards and quality of its teaching programs.

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

A written statement filed with the Conference by the Judicial Panel on Multidistrict Litigation indicated that during the six-month period ended December 31, 1988, the Panel centralized 297 civil actions pursuant to 28 U.S.C. 1407. Of that number, 225 were transferred for coordinated or consolidated pretrial proceedings with 72 actions originally filed in the transferee districts. The Panel denied transfer of 19 actions.

Since its creation in 1968, the Panel has centralized 17,093 civil actions for pretrial proceedings in carrying out its statutory responsibilities.

EXECUTIVE COMMITTEE

The Executive Committee reported that, since the last session of the Conference in September, 1988, the Executive Committee had addressed the following matters on the Conference's behalf:

APPROPRIATIONS FOR THE FISCAL YEAR 1989

On October 26, 1988, the Executive Committee approved a spending plan for the appropriation "Salaries and Expenses" for the fiscal year 1989. A revised plan was approved January 24, 1989. Additional revisions are anticipated later in the fiscal year.

TRAVEL REGULATIONS FOR JUSTICES AND JUDGES

On October 6, 1988, the Executive Committee approved the implementation of increased per diem rates for justices and judges and increased reimbursement rates for travel by privately-owned automobile. In addition, effective November 19, 1988, the Committee approved amendments to the travel regulations for justices and judges to incorporate changes permitted by the Judicial Improvements and Access to Justice Act (Public Law 100-702), to allow bankruptcy judges and United States magistrates to be reimbursed for their travel expenses in the same amounts, and in the same circumstances, as Article III judges. See March 1987 session, Conf. Rpt., pp. 17-18.

SALARY MATCHING FOR LAW CLERKS

Effective February 15, 1989, in order to ensure that advanced salary rates for law clerks are in fact paid for advanced knowledge and experience, the Executive Committee amended the Judges' Manual, Volume III, Section D. Chapter X, of the Guide to Judiciary Policies and Procedures, to read as follows:

Salary Matching. Judges' personal staffs will be appointed at the first step of the grade for which they qualify in accordance with the qualification standards. However, if requested by the appointing officer at the time of appointment, to avoid any financial hardship suffered by a secretary, or by a law clerk who qualifies at the JSP-12 level or higher (thus requiring bar membership and at least one year of legal work experience), the Administrative Office will approve a

step within the grade which is commensurate with the annual gross salary the secretary or law clerk was receiving at the time of employment by the judiciary. In applying this provision, the Administrative Office does not include as part of the gross annual salary any fringe benefits, such as free parking, overtime pay, health benefits coverage, life insurance coverage, and retirement.

See also the March 14, 1989, action of the Judicial Conference on this subject, infra p. 24.

VIDEOTAPING COURT PROCEEDINGS

At its March 1988 session (Conf. Rpt., p. 27), the Judicial Conference authorized the videotaping of the trial in In re Washington Public Power Supply System Securities Litigation, MDL 551 (all cases), provided that the videotape would not constitute the official court record and there would be no public access to the tapes. On behalf of the Conference, the Executive Committee approved the videotaping of the trial in In re San Juan Dupont Plaza Hotel Fire Litigation, MDL 721, under similar conditions.

ELECTION

The Executive Committee elected to membership on the Board of the Federal Judicial Center Judge Monroe G. McKay of the United States Court of Appeals for the Tenth Circuit (for a term of four years to succeed Circuit Judge Alvin B. Rubin, whose term expired on March 28, 1989).

MISCELLANEOUS ACTIONS

The Executive Committee concurred in a recommendation of the Judicial Council of the Eighth Circuit that Congress amend 28 U.S.C. 122 to reconfigure the divisions in the District of South Dakota; raised the ceiling on salaries of the circuit executives to Executive Level IV (with the setting of the actual salaries of circuit executives, not to exceed Executive Level IV, remaining a matter for individual circuit councils); approved a policy statement on equal access to federal court opinions; selected eight courts for inclusion in a program of mandatory drug testing of federal defendants, as required by section 7304 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690); and made minor changes in the jurisdictional statements of the Budget, Federal-State Jurisdiction, and Judicial Improvements Committees.

COMMITTEE ON THE ADMINISTRATIVE OFFICE

RESOURCES FOR THE ADMINISTRATIVE OFFICE

Growing workloads and minimal staff increases have created a shortfall in the capability of the Administrative Office to support the courts at the level desired by both the courts and the agency's management staff. The Judicial Conference resolved to support increased resources for the Administrative Office to enable the agency to discharge its ongoing and recently increased responsibilities, in areas such as automation, contracting, support for the Federal Courts Study Committee created by the Judicial Improvements and Access to Justice Act (Public Law 100-702), and sentencing guidelines.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

GUIDELINES ON USE OF OUTSIDE FACILITIES AND SERVICES

Section 156(c) of title 28 authorizes bankruptcy courts to use other than court facilities or services to provide notices, dockets, calendars, and other administrative information in bankruptcy cases when the costs of such facilities or services are paid for from the assets of estates, subject to such conditions or limitations as the judicial councils of the circuits may prescribe. Since none of the councils has imposed any conditions or limitations, bankruptcy courts have permitted a wide variety of practices, some of which fail to comply with the mandate of Bankruptcy Rule 5005(a) that all case papers be filed with the court.

On the recommendation of the Bankruptcy Committee, the Judicial Conference approved the promulgation of guidelines for the use of other than court facilities and services, for the consideration of the judicial councils of the circuits.

SELECTION AND APPOINTMENT OF BANKRUPTCY JUDGES

At its September 1984 session (Conf. Rpt., pp. 70-71), the Judicial Conference approved regulations for the selection and appointment of bankruptcy judges. At this session, the Conference amended the selection regulations to provide that a finalist or nominee

for a bankruptcy judgeship may be required to complete a confidential preliminary financial disclosure statement prior to the preparation of background reports by the Federal Bureau of Investigation and the Internal Revenue Service.

EXTENSION OF TERMS OF OFFICE FOR BANKRUPTCY JUDGES

Observing that current law fails to provide for an incumbent bankruptcy judge to "hold over" until reappointment is effected or a successor is appointed, the Conference agreed to recommend that Congress amend the third sentence of 28 U.S.C. 152(a) to read as follows:

Each bankruptcy judge shall be appointed for a term of fourteen years, subject to the provisions of subsection (e), provided, however, that upon the expiration of the term, a bankruptcy judge may, with the approval of the judicial council of the circuit, continue to perform the duties of the office until the earlier of 180 days following the expiration or the appointment of a successor. [Underlined language to be added.]

ADDITIONAL DUTY STATIONS AND PLACES OF HOLDING COURT FOR BANKRUPTCY JUDGES

Public Law 100-587 authorized one additional bankruptcy judgeship position in each of seven districts: the Eastern and Western Districts of Texas, the Eastern District of Kentucky, and the Districts of Alaska, Arizona, Colorado, and Kansas. In accordance with the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353), which reestablished the authority of the Judicial Conference to determine official duty stations of bankruptcy judges (after considering the recommendations of the Director after the Director has consulted with the judicial councils of the circuits involved), the Conference approved the five designations of official duty stations noted below. Since no recommendations had been made by the Judicial Councils of the Sixth and Ninth Circuits for the Eastern District of Kentucky and the District of Arizona, respectively, designations for those districts will be made at a later date.

DISTRICT

OFFICIAL DUTY STATION

Texas, Eastern
Texas, Western
Alaska
Colorado
Kansas

Beaumont
Austin
Anchorage
Denver
Topeka

At the request of the Judicial Council of the Ninth Circuit, the Judicial Conference also changed the designation of a place of holding court for the Bankruptcy Court for the Northern District of California from "Monterey" to "Monterey or Salinas".

**COMMITTEE ON THE BICENTENNIAL
OF THE CONSTITUTION**

The Committee on the Bicentennial of the Constitution reported on its participation in the Bicentennial effort. The Committee has been active in promoting and funding Bicentennial activities.

COMMITTEE ON THE BUDGET

**APPROPRIATIONS FOR THE FISCAL YEARS
1989 AND 1990**

The Committee on the Budget reported that the fiscal year 1989 supplemental budget request will be amended to request \$18,190,000 to implement fully the sentencing guidelines recently held constitutional by the Supreme Court in United States v. Mistretta, __ U.S. __, No. 87-7028 (January 18, 1989). A budget amendment totaling \$17,710,000 will also be submitted, to provide full year funding in the fiscal year 1990 for the continuing impact of guideline sentencing.

FUNDING FOR JUDICIAL EMERGENCIES

The Budget Committee agreed to discontinue two practices related to the processing of requests for temporary assistance to handle judicial emergencies. Henceforth (1) automatic increases of \$2,500 in a judicial council's allocation for temporary and emergency chambers staff for each month a judge or magistrate position is vacant will be discontinued, with the understanding that funds have been and will continue to be made available to all courts to perform their primary

functions; and (2) it will be sufficient for affected judicial officers to certify to the Director of the Administrative Office the need for temporary assistance to judges and magistrates in cases of sick or maternity leave, eliminating a previous requirement for judicial council review and approval. See also "Retention of Staff Upon the Death or Incapacity of a Judge", infra p. 23.

COMMITTEE ON CODES OF CONDUCT

The Committee on Codes of Conduct reported that since its last report, the Committee had received 23 written inquiries and issued 20 advisory responses. The Chairman also responded to 37 telephone inquiries that did not require reference to the Committee.

CODE OF CONDUCT FOR FEDERAL PUBLIC DEFENDERS

At its September 1988 session (Conf. Rpt., pp. 67-68), the Judicial Conference approved revisions to the Codes of Conduct for Clerks of Court, Probation Officers, Circuit Executives, Staff Attorneys, and Law Clerks, to eliminate gender-specific language and to make "practice of law" and "participation in professional organizations" provisions uniform. At this session, the Conference approved parallel changes in the Code of Conduct for Federal Public Defenders.

ETHICS COMMISSION REPORT

On March 9, 1989, a Commission on Federal Ethics Law Reform, chaired by Ambassador (and former Judge) Malcolm Wilkey, reported its recommendations to the President. The Judicial Conference referred the report and recommendations to the Executive Committee for appropriate action, in consultation with the Codes of Conduct and Judicial Ethics Committees.

COMMITTEE ON COURT SECURITY

"OFF SITE" SECURITY FOR JUDICIAL OFFICERS AND THEIR FAMILIES

Recognizing the importance of ensuring the safety of judicial officers when they are away from the courthouse, the Conference approved the following declaration of policy:

1. The physical security of the judicial officers and that of those who attend and work in the courts is of extreme importance to the effective administration of justice. Judicial officers and those around them are sometimes exposed to risks arising out of the fact of an official position held, whether or not such judicial officers are actually then engaged in the performance of official duties.

2. While present methods generally provide adequate security within and adjacent to the environs of courthouses and leased facilities, there is a need to explore increased protection and emergency communications for judicial officers of the United States while they are traveling and at home.

3. Accordingly, the Director of the Administrative Office of the United States Courts, in consultation with the Court Security Committee, the United States Marshals Service, and other appropriate agencies, shall develop and report to the Court Security Committee a plan to explore the need for "off site" physical security of judicial officers and their families and their exposure to the risk of physical harm or endangerment because of the official positions held by such officers, with the understanding that this will not result in additional staffing or funding in the Administrative Office.

PARTICIPATION ON LOCAL COURT SECURITY COMMITTEES

In order to improve the security of the courts, the Judicial Conference approved expanding the membership of district court security committees to include a representative of the bankruptcy court and, where there is a court of appeals within the district, a representative of that court.

**COMMITTEE ON CRIMINAL LAW
AND PROBATION ADMINISTRATION**

DRUG AFTERCARE PROGRAM

Public Law 95-537 authorized the Director of the Administrative Office to contract for the treatment of drug addicted and dependent federal offenders, and in 1987, Congress expanded the Director's contracting authority to include treatment for alcohol dependent federal offenders. Authorization for appropriations to implement the program expires September 30, 1989.

The Judicial Conference approved the submission of legislation to reauthorize, for an additional three years, appropriations for the Director to contract for substance abuse and psychiatric treatment.

ANTI-DRUG ABUSE ACT REPORT

Section 6159(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) requires that, not later than 120 days after enactment, the Judicial Conference shall prepare a report evaluating the impact of drug-related criminal activity on the federal judiciary. In light of the March 18, 1989, due date for that report, the Judicial Conference delegated to the Committee authority to approve and transmit the report on behalf of the Conference.

COMMITTEE ON DEFENDER SERVICES

APPOINTMENTS AND PAYMENTS

The Committee reported that during the fiscal year 1988, approximately 65,507 persons were represented under the Criminal Justice Act, compared to 62,094 persons during the fiscal year 1987, an increase of 5.5 percent. Of the 65,507 persons represented, 34,685, or 52.9 percent, were represented by federal public and community defender organizations.

**BUDGET AND GRANT REQUESTS -
FEDERAL PUBLIC AND
COMMUNITY DEFENDER ORGANIZATIONS**

The Conference approved additional funding for the fiscal year 1989 in the amount of \$48,965 for the Federal Public Defender

Organization for the District of Colorado, and additional funding for the fiscal years 1989 and 1990 in the amounts of \$23,791 and \$76,642, respectively, for the Federal Public Defender Organization for the Southern District of West Virginia. In addition, the Conference approved additional sustaining grant funds for the fiscal year 1990 for the Legal Aid Society of New York, Federal Defender Services Unit, in the amount of \$58,388. Finally, the Conference approved funding for a proposed federal defender organization for the District of Columbia for the fiscal years 1989 and 1990 in the amounts of \$672,468 and \$1,102,725, respectively, subject to final action by the Judicial Council of the District of Columbia Circuit.

DEATH PENALTY RESOURCE CENTERS

To date, thirteen death penalty resource centers/community defender organizations have been authorized. Each has been formally designated as a community defender organization by the district court(s) to be served, and funding has been approved for each organization both by the Judicial Conference and by the Congress.

The Conference approved sustaining grants for the fiscal years 1989 and 1990 for a fourteenth death penalty resource center, for the Eastern and Western Districts of Missouri, in the amounts of \$136,987 and \$305,560, respectively, contingent upon the organization's securing the requisite amount of non-CJA funds, and further contingent upon the approval of amendments to the CJA plans for the districts to be served.

ALTERNATIVE HOURLY COMPENSATION RATES

Subsection (d)(1) of the Criminal Justice Act, as amended (18 U.S.C. 3006A(d)(1)), authorizes the Judicial Conference to establish hourly maximum attorney compensation rates of up to \$75 in districts or circuits where the statutory rates of \$60 for in-court time and \$40 for out-of-court time are inadequate. The Conference has previously approved "special" alternative rates of \$75 per hour for representation in death penalty cases for 21 districts, and "general" alternative rates of varying amounts for 16 districts (September 1987 session, Conf. Rpt., pp. 94-95; March 1988 session, Conf. Rpt., pp. 15-16; September 1988 session, Conf. Rpt., p. 75). Due to limited funding, only the special death penalty rates have been implemented.

The circumstances have changed, however, with enactment of the Anti-Drug Abuse Act of 1988 (Public Law 100-690). Effective November 18, 1988, the attorney compensation rates and maximums which would otherwise apply in federal death penalty habeas corpus cases were effectively repealed, through enactment of an amendment to 21 U.S.C. 848(q)(10). That section currently provides that, notwithstanding other provisions of law to the contrary, a court shall award attorney fees and expenses in amounts "reasonably necessary" to assure that qualified counsel are available to provide representation in federal capital prosecutions, and in proceedings brought to vacate or set aside a death sentence under sections 2254 and 2255 of title 28. The Conference accordingly approved amendments to paragraph 2.22(A)(2) of the Guidelines for the Administration of the Criminal Justice Act to delete references to special death penalty alternative rates.

While the promulgation of special death penalty rates is no longer appropriate, the Conference is concerned about the lack of standards for use by judicial officers in setting attorney compensation for death penalty representation. Consequently, the Conference voted to recommend that each circuit, through its judicial council, consider recommending a policy statement, guideline, or range with regard to attorney compensation in federal capital cases and in death penalty habeas corpus cases, and report to the Defender Services Committee by May 15, 1989, on any action taken. After considering the circuit responses, the Committee may recommend establishment of a model or uniform fee policy in this area, both to ensure adequate compensation and to keep such payments within the constraints of the Defender Services appropriation.

DELEGATIONS

The Judicial Conference delegated authority to the Defender Services Committee (1) to adopt and modify non-controversial guidelines, and (2) to approve federal defender organization budget and grant requests and increase individual defender organization budgets and grants within the limits of the appropriation. The Conference also authorized the Director of the Administrative Office to increase individual defender organization budgets and grants within the limits of the appropriation to provide for unanticipated and unforeseen expenditures, (1) provided that the request for additional funds cannot or need not await consideration by the Defender Services Committee at its next regularly scheduled meeting, and (2) subject to such guidelines, limitations, and spending priorities as may be established by the Defender Services Committee.

In addition, the Conference was advised that the Defender Services Committee had increased the authority of federal public and community defenders to reallocate funds between and within their budget and grant object classifications. Except for funds from the "personnel and benefits" category (for which approval for reallocation will continue to be required from the Defender Services Committee or the Director of the Administrative Office), federal defender organizations will be permitted to reallocate both between and within object classifications, provided the amount transferred does not exceed \$25,000, and subject to such other limitations as the Defender Services Committee may establish. The Conference approved identical amendments to Clause 4 of the "Grant and Conditions" for death penalty resource center/community defender organizations to reflect the new authority.

GUIDELINES

The Conference approved the following amendments to the Guidelines for the Administration of the Criminal Justice Act:

1. An amendment to paragraph 3.16, authorizing the establishment of "expert consultant" panels to provide assistance to appointed counsel in districts that do not have death penalty resource centers.
2. An amendment to paragraph 3.13 concerning payment of defense fact witnesses.
3. An amendment to Appendices E and F, to clarify the procedures for effecting interim payment of compensation to attorneys and others providing representation under the CJA.

The Conference also approved identical amendments to Clause 19 of the "Grant and Conditions" for community defender organizations, and Clause 19 of the "Grant and Conditions" for death penalty resource centers, relating to the filing of equal employment opportunity plans.

COMMITTEE ON FEDERAL-STATE JURISDICTION

UNITED STATES CLAIMS COURT

The Judicial Conference has on several recent occasions considered the role within the judiciary of the United States Claims Court (September 1987 session, Conf. Rpt., p. 68; March 1988 session, Conf. Rpt., p. 29; September 1988 session, Conf. Rpt., p. 67). At its September 1988 session (Conf. Rpt., pp. 67, 76), the Judicial Conference agreed that the Claims Court should remain within the judiciary's "salaries and expenses" appropriation. The Conference also agreed that the Court should remain within the policy structure of the Judicial Conference and the existing administrative structure, and directed the Committee on Federal-State Jurisdiction to consider ways in which to enlarge the participation of the Claims Court in the existing structure.

At the request of the Chief Judge of the Claims Court, the Conference rejected a recommendation that Congress amend 28 U.S.C. 41 to define the Federal Circuit as including the Claims Court, to provide a statutory basis for recognizing the Claims Court as an administrative part of the Federal Circuit. The Conference thereafter discharged the Committee from further consideration of this matter.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

The Committee on Intercircuit Assignments reported that during the period August 1, 1988, through January 31, 1989, 58 intercourt assignments were undertaken by 47 judges. Of this number, one was a retired associate justice of the United States Supreme Court, 14 were senior circuit judges, 10 were active circuit judges, 18 were senior district judges, one was a senior judge of the Court of International Trade, and three were active judges of the Court of International Trade.

Of the 58 assignments approved, 30 judges undertook 38 assignments to the courts of appeals, and 18 judges undertook 20 assignments to the district courts.

GUIDELINES

The Committee noted that the Chief Justice had amended guideline 8 of the guidelines governing intercourt assignment of Article III judges (March 1987 session, Conf. Rpt., pp. 23-25), to eliminate the link between the period of time a judge can be assigned outside the

circuit and the distance traveled. Henceforth, the guidelines will provide that a judge assigned to work on the court of appeals should serve for at least one regular sitting (as defined by that circuit), and a judge assigned to work on the general calendar of a district court should serve at least two weeks.

COMMITTEE ON THE INTERNATIONAL APPELLATE JUDGES CONFERENCE OF 1990

The Committee on the International Appellate Judges Conference reported on its progress in planning and raising funds for the International Appellate Judges Conference to be held in Washington, D.C., in September, 1990.

COMMITTEE ON THE JUDICIAL BRANCH

JUDICIAL PAY

The single greatest problem facing the judiciary today is obtaining adequate pay for judicial officers. Judges have suffered an enormous erosion in their purchasing power as a result of the failure of their pay to keep pace with inflation. It is becoming more and more difficult to attract and retain highly qualified people on the federal bench.

In order to obtain a partial solution to this critical problem, the Judicial Conference, by unanimous vote, agreed to recommend that Congress immediately increase judicial salaries by 30 percent, and couple these increases with periodic cost-of-living adjustments (COLAs) similar to those received by other government recipients.

COMMITTEE ON JUDICIAL ETHICS

The Committee on Judicial Ethics reported that as of January, 1989, the Committee had received 2,495 financial disclosure reports and certifications for the calendar year 1987, including 1,021 reports and certifications from judicial officers, and 1,474 reports and certifications from judicial employees.

COMMITTEE ON JUDICIAL IMPROVEMENTS

RELEASE AND SALE OF COURT DATA

A. At its September 1988 session (Conf. Rpt., p. 83), the Judicial Conference authorized an experimental program of electronic

access by the public to court information in one or more district, bankruptcy, or appellate courts, and delegated to the Committee on Judicial Improvements the authority to establish access fees during the pendency of the program. Under existing law, fees charged for such services would have to be deposited into the United States Treasury. Observing that such fees could provide significant levels of new revenues at a time when the judiciary faces severe funding shortages, the Conference voted to recommend that Congress credit to the judiciary's appropriations account any fees generated by providing public access to court records.

B. The Administrative Office and the Department of Justice have entered into an agreement whereby bankruptcy courts download docket information from the NIBS and BANCAP systems to local United States Trustee offices' computers. The agreement does not deal directly with use of this information by the Trustees.

Since it is essential that this court data be disseminated and sold by the judiciary consistent with a uniform policy to be developed under the use and sale of court data program (above), the Conference resolved that data provided by the courts in these circumstances be for the Trustees' internal use only, and may not otherwise be disseminated or sold by the Trustees. Should the Trustees fail to comply, the judiciary will discontinue providing the data or seek an appropriate level of reimbursement.

ONE-STEP QUALIFICATION AND SUMMONING OF JURORS

Title VII of the Judicial Improvements and Access to Justice Act (Public Law 100-702) authorizes the Judicial Conference to conduct a two-year experiment among up to ten districts testing the viability of a one-step qualification and summoning procedure. The Conference selected for inclusion in the experiment the Northern District of Alabama, the Districts of Arizona and the District of Columbia, the Southern District of Florida, the Northern District of Illinois, the Western District of New York, the Districts of Oregon and South Dakota, the Eastern District of Texas, and the District of Utah.

LAWBOOKS FOR BANKRUPTCY JUDGES

The Conference approved revised lists of lawbooks for bankruptcy judges, Exhibits C-1 and C-2 of Volume I, Guide to Judiciary Policies and Procedures, Chapter VIII, Part E. A concise bankruptcy

manual and a concise evidence manual may be added to an individual collection under revised Exhibit C-1 and, with respect to a shared collection under revised Exhibit C-2, (a) a jury instruction treatise and periodicals are deleted, (b) access to Shepard's Citators is restricted to those without access to computer assisted legal research, and (c) a complete set of the Federal Reporter, 2d is added (with the cost to be defrayed, where possible, through the transfer of excess sets within the judiciary).

PRETERMISSION OF TERMS OF THE COURTS OF APPEALS

The Judicial Conference voted to recommend that Congress amend 28 U.S.C. 48(c), to eliminate the requirement that the Conference must approve the pretermission of terms of the courts of appeals.

COMMITTEE ON JUDICIAL RESOURCES

"SAVE GRADE AND PAY" PLAN

At its September 1988 session (Conf. Rpt., p. 91), the Judicial Conference approved a "save grade and pay" plan for judiciary employees whose positions are abolished and who are qualified for, and have been selected for, lower graded positions in the judiciary. The plan was made applicable only to estate administrators in the United States bankruptcy courts, and the Judicial Resources Committee agreed to revisit the conditions and situations where the policy should apply.

The Conference approved an amended plan, as recommended by the Committee, that defines the situations in which it is applicable, the length of time the provisions are to be effective, and the Judiciary Salary Plan (JSP) provisions which take precedence over this plan. The plan, as approved, will be incorporated into the Guide to Judiciary Policies and Procedures.

CLASSIFICATION OF CLERKS OF COURT, CHIEF PROBATION OFFICERS, AND CHIEF PRETRIAL SERVICES OFFICERS

At its March 1987 session (Conf. Rpt., pp. 7-8), the Judicial Conference approved reclassifications of the grades of clerks of court, chief probation officers, and chief pretrial services officers, based upon numerical indices. The indices, which take into account workload changes, were to be refigured every two years.

Observing that a biennial review can create a two-year time period from when an increased workload level is established to its recognition in terms of increased salary, the Judicial Conference substituted in lieu thereof a quarterly review by the Administrative Office. The review would be based upon the average of the indices over the previous six quarters to assess more accurately continuing trends in workload changes. The "save grade and pay" plan, above, would apply to incumbents of positions which are downgraded.

SPECIAL PAY RATES

The judiciary has for several years adopted geographically based special pay rates for clerical and technical personnel in the judiciary, based upon similar pay rates adopted for such positions by the Office of Personnel Management (OPM) for executive branch personnel. The judiciary is in the process of contracting for a comprehensive review of the JSP, to include the subject of geographic pay differentials.

Pending completion of the JSP review, the Judicial Conference approved certain interim principles. Henceforth, other than for the clerical and technical positions to which they have applied in the past, the judiciary will not automatically adopt special pay rates established by OPM. Instead, the judiciary will adopt its own pay differential methodology, with reviews and analyses to be conducted on a regular basis of groups of employees experiencing problems due to pay levels.

After careful review and based upon the extreme emergency situation prevalent in the districts involved, the Conference established special pay rates for probation and pretrial services officers as follows:

California (C): 25% increase for JSP-7
20% increase for JSP-9
10% increase for JSP-11
5% increase for JSP-12

New York (E) & (S): 15% increase for JSP-7
15% increase for JSP-9
10% increase for JSP-11
5% increase for JSP-12

Florida (S): 10% increase for JSP-7
10% increase for JSP-9
5% increase for JSP-11
5% increase for JSP-12

JUDICIARY SALARY PLAN MODIFICATIONS

On recommendation of the Committee, the Judicial Conference approved the following modifications to the JSP:

1. Reclassification of courtroom deputy clerk positions serving magistrates with "limited" duties from JSP-7 to JSP-8, and reclassification of calendar clerks (master calendar) from JSP-10 to JSP-11.
2. Reclassification of chief deputy clerks from JSP-15 to JSP-16, but only if the district and bankruptcy operations are consolidated under the district court clerk; the district clerk's position is classifiable at the JSP-17 level; there are five or more staffed divisional offices of the clerk's office; and the reclassification will result in savings of salary costs, when compared to classifications which would result from applying the JSP ceilings to positions under the district clerk of JSP-15 for chief deputies and JSP-13 for mid-level managers.
3. Classification of automation positions (systems managers and training center managers at the JSP-13 level; assistant systems managers and applications training specialists at the JSP-12 level; systems administrators, systems analysts/ programmers, and user services specialists at the JSP-11 level; data quality analysts at the JSP-9 level; and systems maintenance technicians at the JSP-7 level). The Conference also approved automation staffing guidelines, but left to the discretion of each court the priority of staffing automation positions.

RETENTION OF STAFF UPON THE DEATH OR INCAPACITY OF A JUDGE

The Judicial Conference revised its policy on retention of staff upon the unanticipated vacancy of a judge or magistrate position (see March 1988 session, Conf. Rpt., pp. 32-33), as follows:

Authority to retain staff for 30 days will be given for incumbents of positions on chambers staff in instances of an unanticipated vacancy of a judge or magistrate position, with an extension of up to 60 days upon request of the chief judge of the court. Since the need for continued staff in these circumstances depends on a number of factors characteristic of the court, such as geographical distribution

of court facilities and procedures used in case allocations when a judge's or magistrate's position is vacant, upon certification by the chief judge of the affected court to the Director of the Administrative Office that additional staff resources are necessary, one additional period of up to 120 days beyond the original 90-day period will be allowed.

Additional staffing needs beyond the 120-day extension would be funded from allocations to the circuits for emergency temporary law clerks and secretaries, using established procedures.

EMERGENCY DUTY STATION FOR COURT REPORTERS

As the result of a courthouse fire and the unavailability of leased space, the Judicial Conference approved the use of court reporters' homes as duty stations in the Middle District of North Carolina, provided that (a) the exception is temporary; (b) the court will make all reasonable effort to acquire appropriate space; and (c) during this period, the court will assure compliance with General Accounting Office rules regarding the measurability of work performed at home (see GAO Decision No. B-214453).

ADDITIONAL COURT REPORTERS

The Conference approved an additional court reporter for the Eastern District of Texas, to be stationed in Tyler.

SALARY MATCHING FOR LAW CLERKS

As noted (supra p. 7), effective February 15, 1989, the Executive Committee reversed an administrative interpretation permitting salary matching for law clerks based upon employment of less than one year. After further discussion, the Conference in plenary session unanimously agreed that, as of July 1, 1989, the salaries of law clerks paid under the prior administrative interpretation would be rolled back to what they would have been had "salary matching" principles not been applied.

CAREER LAW CLERKS

In September, 1987 (Conf. Rpt., pp. 62-63), the Judicial Conference raised the ceiling on the salaries of career law clerks to the JSP-14 level. However, career law clerk status was available only to "elbow" law clerks. See September 1985 session, Conf. Rpt., p. 48.

The Judicial Conference approved the extension of the career law clerk classification to pro se law clerk positions, and directed the Committee on Judicial Resources to study the issue of extending the career law clerk classification to staff attorneys. As is the case with all Judicial Conference actions that require the expenditure of funds, the approval was contingent upon the availability of funds and subject to whatever priorities the Conference might establish for the use of available resources.

COMMITTEE ON THE ADMINISTRATION OF THE FEDERAL MAGISTRATES SYSTEM

SALARIES OF PART-TIME MAGISTRATES

The Committee had recommended that cost-of-living increases be granted to part-time magistrates, contingent upon the receipt by full-time magistrates of pay increases resulting from the recommendations of the Commission on Executive, Legislative, and Judicial Salaries. Since salary increases for judicial officers were disapproved on February 7, 1989, this recommendation was mooted.

CHANGES IN MAGISTRATE POSITIONS

After consideration of the report of the Committee and the recommendations of the Director of the Administrative Office, the district courts, and the judicial councils of the circuits, the Conference approved the following changes in salaries and arrangements for full-time and part-time magistrate positions. Unless otherwise indicated, these changes are to be effective when appropriated funds are available.

FIRST CIRCUIT

Massachusetts:

1. Continued the full-time magistrate position at Boston which is due to expire on March 14, 1990, for an additional eight-year term; and
2. Continued the part-time magistrate position at Worcester (or Ayer) for an additional four-year term and decreased the salary from \$16,468 to \$14,410 per annum, effective with the commencement of the new term.

THIRD CIRCUIT

New Jersey:

1. Continued the full-time magistrate position at Newark which is due to expire on April 18, 1990, for an additional eight-year term; and
2. Continued the part-time magistrate position at Asbury Park for an additional four-year term and increased the salary from \$21,650 to \$24,702 per annum.

Pennsylvania, Western:

1. Authorized a fourth full-time magistrate position to serve the court at Pittsburgh; and
2. Maintained the salary of the part-time magistrate position at Erie at the current level of \$21,650 per annum until further specific action on this position.

FOURTH CIRCUIT

Virginia, Eastern:

Continued the full-time magistrate position at Alexandria which is due to expire on March 31, 1990, for an additional eight-year term.

West Virginia, Northern:

1. Continued the part-time magistrate position at Morgantown for an additional four-year term and increased the salary from \$24,702 to \$28,819 per annum; and
2. Continued the part-time magistrate position at Wheeling for an additional four-year term and increased the salary from \$2,264 to \$4,117 per annum.

West Virginia, Southern:

1. Continued the full-time magistrate position at Charleston for an additional eight-year term; and

2. Made no changes in the part-time magistrate position at Beckley/Bluefield, and maintained it at the current salary level of \$41,170 per annum.

FIFTH CIRCUIT

Louisiana, Eastern:

Continued the full-time magistrate position at New Orleans which is due to expire on January 3, 1990, for an additional eight-year term.

Louisiana, Western:

Made no change in the part-time magistrate position at Lafayette (or Opelousas), and maintained it at the current salary level of \$41,170 per annum.

Texas, Northern:

Authorized an additional full-time magistrate position to serve the court at Dallas.

Texas, Southern:

Continued the full-time magistrate position at Laredo for an additional eight-year term.

Texas, Eastern:

1. Continued the full-time magistrate position at Tyler which is due to expire on August 5, 1990, for an additional eight-year term;
2. Continued the part-time magistrate position at Texarkana for an additional four-year term and increased the salary from \$4,354 to \$6,176 per annum; and
3. Continued the part-time magistrate position at Sherman for an additional four-year term and increased the salary from \$3,265 to \$4,117 per annum.

Texas, Western:

1. Continued the part-time magistrate position at Pecos for an additional four-year term at the current salary level, and deferred a

request for a salary increase until the next meeting of the Magistrates Committee; and

2. Maintained the salary of the part-time magistrate position at Midland at the current level of \$21,650 per annum until further specific action on the position.

SIXTH CIRCUIT

Kentucky, Western:

Increased the salary of the part-time magistrate position at Bowling Green from \$4,354 to \$12,351 per annum.

Michigan, Western:

Converted the part-time magistrate position at Marquette to full-time status.

Tennessee, Western:

Increased the salary of the part-time magistrate position at Jackson from \$21,650 to \$24,702 per annum.

SEVENTH CIRCUIT

Illinois, Northern:

Authorized two additional full-time magistrate positions to serve the court at Chicago.

Illinois, Central:

Continued the part-time magistrate position at Rock Island for an additional four-year term, but decreased the salary from \$10,293 to \$8,234 per annum, effective upon commencement of the new term.

EIGHTH CIRCUIT

Arkansas, Eastern:

Discontinued the part-time magistrate position at West Memphis, effective June 30, 1989.

Arkansas, Western:

Maintained the salary of the part-time magistrate position at Hot Springs at the current level of \$21,650 per annum until further specific action on the position.

NINTH CIRCUIT

Arizona:

Increased the salary of the part-time magistrate position at Yuma from \$18,748 to \$20,585 per annum.

California, Eastern:

1. Authorized a new full-time magistrate position to serve the court at Sacramento;
2. Increased the salary of the full-time magistrate position at Yosemite National Park from 65 percent (\$53,521 per annum) of the maximum salary payable to a full-time magistrate to 70 percent (\$57,638 per annum) of the maximum salary payable to a full-time magistrate;
3. Increased the salary of the part-time magistrate position at Redding from \$18,748 to \$24,702 per annum; and
4. Continued the part-time magistrate position at Merced for an additional four-year term and increased the salary from \$5,442 to \$6,176 per annum.

California, Central:

1. Continued the full-time magistrate position at Los Angeles which is due to expire on February 28, 1990, for an additional eight-year term;
2. Increased the salary of the part-time magistrate position at San Bernardino from \$18,748 to \$20,585 per annum; and
3. Increased the salary of the part-time magistrate position at San Luis Obispo from \$21,650 to \$24,702 per annum.

Idaho:

Continued the part-time magistrate position at Pocatello for an additional four-year term at the currently authorized salary of \$16,468 per annum.

Washington, Eastern:

Increased the salary of the part-time magistrate position at Yakima from \$18,748 to \$24,702 per annum.

TENTH CIRCUIT

Colorado:

1. Continued the full-time magistrate position at Denver which is due to expire on August 23, 1989, for an additional eight-year term;
2. Continued the part-time magistrate position at Grand Junction for an additional four-year term at the currently authorized salary of \$41,170 per annum;
3. Continued the part-time magistrate position at Durango for an additional four-year term at the currently authorized salary of \$14,410 per annum; and
4. Continued the part-time magistrate position at Monte Vista for an additional four-year term at the currently authorized salary of \$2,264 per annum.

Oklahoma, Western:

Maintained the salary of the part-time magistrate position at Oklahoma City at the current level of \$21,650 per annum until further specific action on the position.

Wyoming:

1. Continued the full-time magistrate position at Yellowstone National Park for an additional eight-year term at the currently authorized salary level of \$45,287 per annum (55 percent of the maximum salary payable);

2. Continued the authority of the clerk of court at Cheyenne to perform magistrate duties for an additional four-year term at the currently authorized aggregate compensation of a clerk of a large district court (JSP-16);
3. Continued the part-time magistrate position at Cody for an additional four-year term at the currently authorized salary of \$2,264 per annum;
4. Continued the part-time magistrate position at Casper for an additional four-year term at the currently authorized salary of \$2,264 per annum;
5. Continued the part-time magistrate position at Lander for an additional four-year term and increased the salary from \$3,265 to \$4,117 per annum; and
6. Continued the part-time magistrate position at Green River for an additional four-year term at the currently authorized salary of \$2,264 per annum.

ELEVENTH CIRCUIT

Alabama, Middle:

Continued the part-time magistrate position at Dothan for an additional four-year term at the currently authorized salary of \$24,702 per annum.

Alabama, Southern:

Authorized a part-time magistrate position to serve the court at Mobile, at a salary of \$41,170 per annum.

Florida, Middle:

1. Converted the part-time magistrate position at Fort Myers to full-time status, subject to review at the Magistrates Committee's June 1989 meeting; and
2. Increased the salary of the part-time magistrate position at Fort Myers from \$28,819 to \$41,170 per annum, pending conversion of the position to full-time status.

Florida, Southern:

Continued the part-time magistrate position at Key West for an additional four-year term and increased the salary from \$24,702 to \$32,936 per annum.

Georgia, Southern:

1. Maintained the salary of the part-time magistrate position at Brunswick (or Waycross) at the current level of \$21,650 per annum until further specific action on the position; and
2. Continued the part-time magistrate position at Dublin (or Statesboro) for an additional four-year term and maintained the salary at the current level of \$4,354 per annum until further specific action on the position.

COMMITTEE ON PACIFIC TERRITORIES

The Committee on Pacific Territories reported on its activities in coordinating the Eighth South Pacific Judicial Conference to be held in Hawaii on April 30 through May 3, 1989.

**COMMITTEE TO REVIEW CIRCUIT COUNCIL
CONDUCT AND DISABILITY ORDERS**

The Committee to Review Circuit Council Conduct and Disability Orders reported that, since its last report, the Committee had reviewed one order of a circuit council within the review jurisdiction of the Conference, and filed an opinion with the Administrative Office and the clerk of the United States court of appeals for the appropriate circuit.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

RULES ENABLING ACT

The Rules Enabling Act, title IV of the Judicial Improvements and Access to Justice Act of 1988 (Public Law 100-702), made a number of changes in the authorizing legislation for the implementation of rules of practice and procedure. Among other things, the Act (a) amends 28 U.S.C. 2073 to require that the Judicial Conference prescribe and publish procedures for the consideration of proposed rules; and (b) amends 28 U.S.C. 331 to require the Judicial Conference to review local appellate court rules for consistency with federal law and modify or abrogate any such inconsistent local appellate rules.

On recommendation of the Committee, the Judicial Conference approved amended Procedures for the Conduct of Business by the Judicial Conference Committees on Rules of Practice and Procedure. The Conference also delegated its authority under 28 U.S.C. 331 to review local appellate court rules to the Committee on Rules of Practice and Procedure, but retained the authority to modify or abrogate any local appellate court rule.

APPELLATE RULES

The Committee submitted to the Conference new Rules 6 ("Appeals in bankruptcy cases from final judgments and orders of district courts or of bankruptcy appellate panels") and 26.1 ("Corporate Disclosure Statement"), and amendments to Rules 1 ("Scope of rules"), 3 ("Appeal as of right - How taken"), and 28(g) ("Briefs") of the Federal Rules of Appellate Procedure, together with Committee notes explaining their purpose and intent. The Conference approved them for transmission to the Supreme Court for consideration, with the recommendation that they be approved by the Court and transmitted to the Congress pursuant to law.

CRIMINAL RULES

The Committee submitted to the Conference proposed amendments to Rules 11 ("Pleas"), 32 ("Sentence and Judgment"), and 41 ("Search and Seizure") of the Federal Rules of Criminal Procedure, together with Committee notes explaining their purpose and intent. The Conference approved the amendments for transmission to the Supreme Court for consideration, with the recommendation that they be approved by the Court and transmitted to the Congress pursuant to law.

BANKRUPTCY RULES

The Committee submitted to the Conference a proposed amendment to Rule 9006(a) ("Time") of the Federal Rules of Bankruptcy Procedure, together with Committee notes explaining its purpose and intent. The Conference approved the amendment for transmission to the Supreme Court for consideration, with the recommendation that it be approved by the Court and transmitted to the Congress pursuant to law.

COMMITTEE ON SPACE AND FACILITIES

COURTROOM SIZES

Under the United States Courts Design Guide, approved by the Judicial Conference in March, 1984 (Conf. Rpt., p. 8), the construction of courtrooms larger than specified standards requires Conference approval. The Conference approved the request of the Judicial Council of the First Circuit for the construction of five courtrooms larger than the current standards in new court space being planned for Boston, Massachusetts; the request of the Judicial Council of the Sixth Circuit for the construction of a courtroom larger than the current standards in the U.S. Courthouse in Detroit, Michigan; and the request of the Judicial Council of the Eleventh Circuit for two courtrooms larger than the current standards in new court space in Miami, Florida. The Conference also delegated to the Committee on Space and Facilities the authority to grant exceptions to the current standards for the maximum size of courtrooms, when such requested deviations from the Design Guide have been approved by the appropriate circuit judicial council.

AD HOC COMMITTEE ON CAMERAS IN THE COURTROOM

The Ad Hoc Committee on Cameras in the Courtroom was established in October, 1988, "to review recommendations from other Conference committees on the introduction of cameras in the courtroom, and to take into account the American Bar Association's ongoing review of Canon 3A(7) of its Code of Judicial Conduct, dealing with the subject." The Committee reported that, in its view, the current language of Canon 3A(7) of the Code of Conduct for United States Judges is unduly restrictive. The Committee is considering a more flexible approach and hopes to recommend action for the Judicial Conference in September, 1989.

FEDERAL COURTS STUDY COMMITTEE

The Federal Courts Study Committee was created by the Judicial Improvements and Access to Justice Act (Public Law 100-702), to study the role of the federal courts and their relationship to the state courts, the structure of the federal courts, and the workload of the federal courts. The Committee must submit its final report in March, 1990, to the Judicial Conference, the President, Congress, the Conference of Chief Justices, and the State Justice Institute.

The Committee reported that three subcommittees have been appointed and a series of public hearings will be conducted across the country to solicit input to the process from a broad cross-section of sources.

RESOLUTIONS

Noting that Judge Wilfred Feinberg had stepped down as chief judge of the United States Court of Appeals for the Second Circuit, the Judicial Conference adopted the following resolution:

The Judicial Conference of the United States recognizes with appreciation, respect, and admiration

THE HONORABLE WILFRED FEINBERG

Chief Judge of the United States Court of Appeals for the Second Circuit, and member of this Conference, from June of 1980 through December of 1988.

During his career on the federal bench, Judge Feinberg has served the Conference in many capacities, including membership on the Advisory Committee on Civil Rules, the former Subcommittees on Supporting Personnel and Judicial Statistics, the Ad Hoc Committee on Judgeship Vacancies, and the Committee to Study the Law Clerk Selection Process. In 1987, Judge Feinberg served as a member of the Committee to Study the Judicial Conference. Among the recommendations adopted by the Conference was the reconstitution of the Executive Committee to provide for a Chairman, appointed by the Chief Justice, to act on his behalf as the presiding officer of the Conference. The jurisdiction and authority of the Executive Committee were amplified to permit the Committee to "act as the senior arm of the Conference." Judge Feinberg's active participation and demonstrated leadership abilities at Judicial Conference sessions and as a member of the study group itself prompted the Chief Justice to select him to serve as the first Chairman of the newly constituted Executive Committee.

Judge Feinberg has carried out his responsibilities to the Conference, the Executive Committee, and the Second Circuit with skill and tact. He has set, and

continues to maintain, a high standard as a dedicated public servant and has earned the regard, respect, and esteem of his colleagues. While we will miss his wise counsel and friendship during the sessions of the Judicial Conference, we look forward to many future affiliations.

Noting that Judge Harrison L. Winter had stepped down as chief judge of the United States Court of Appeals for the Fourth Circuit due to illness, the Judicial Conference resolved to express its appreciation to Judge Winter for his many years of service with the Conference and its best wishes for his speedy recovery.

MEMORIAL RESOLUTIONS

Noting the death of Judge Albert Maris, the Conference adopted the following resolution:

The Judicial Conference of the United States notes with sadness the death of

THE HONORABLE ALBERT BRANSON MARIS

on February 7, 1989, in Philadelphia, Pennsylvania. Born in Philadelphia on December 19, 1893, Judge Maris obtained his law degree from Temple University in 1918. He practiced law in Philadelphia until 1936 when President Franklin D. Roosevelt appointed him as a United States District Judge in Philadelphia. In 1938, President Roosevelt appointed him to the United States Court of Appeals for the Third Circuit. His nearly 51 years as a federal appellate judge are unequalled in the nation's history.

Throughout his tenure, Judge Maris had been dedicated to the work of the Conference, earning a reputation as a wise and effective spokesman for the cause of improving the administration of justice.

In 1944, Judge Maris was appointed as Chairman of the Judicial Conference's Committee to Revise the Laws of the United States. In that capacity, which he held until 1967, he led a renowned group of jurists, practitioners, and academic scholars in the recodification of the federal judicial and criminal codes. He also worked with Congress

on behalf of the Judicial Conference to shepherd those vital recodifications through the legislative branch.

As the first chairman of the Conference's Committee on Rules of Practice and Procedure, Judge Maris served for fourteen years with distinction until relinquishing the chair and retiring from the committee in 1973. With his leadership, the committee modernized practice in civil, criminal, and bankruptcy cases; standardized appellate procedure; and developed the federal rules of evidence.

Judge Maris was often called upon by the Chief Justice for additional duty. For example, during and after World War II, Judge Maris served as Chief Judge of the Temporary Emergency Court of Appeals as that court reviewed wartime emergency price control legislation. Also, the Chief Justice appointed Judge Maris as a special master in a number of complex disputes between the States over title to off-shore mineral resources and over water rights.

Judge Maris performed exceptional service on behalf of the Virgin Islands. He was the author of the Organic Act of 1954, was instrumental in the codification of the laws of the Virgin Islands into the Virgin Islands Code, and authored the consolidation of the separate Islands' courts.

Few judges in history have contributed as much to the development of the federal judiciary as did Judge Albert Branson Maris. He won the respect and affection of everyone with whom he worked and was revered as a leader, counselor, and friend. As mentioned in a previous occasion before this Conference, "He epitomizes the wise Judge."

The members of the Conference mourn the passing of this distinguished and dedicated jurist and colleague.

Noting the death of Judge William J. Campbell, the Conference adopted the following resolution:

The Judicial Conference of the United States notes with sadness the death of

THE HONORABLE WILLIAM J. CAMPBELL

on October 19, 1988, after serving as a federal judge for just two days short of forty-eight years. Senior Judge William J. Campbell of the United States District Court for the Northern District of Illinois was born on March 19, 1905, in Chicago, Illinois. He received a J.D. degree from Loyola University in 1926 and an LL.M. from the same school in 1928. Admitted to the Illinois Bar, he practiced law in Chicago from 1927 to 1938.

In February of 1937, he married Marie Agnes Cloherty and they raised five daughters and three sons. The sons, following in their illustrious father's footsteps, are lawyers and the youngest, Thomas, is a member of the United States House of Representatives.

In 1938, Judge Campbell was appointed by President Franklin Delano Roosevelt as United States Attorney for the Northern District of Illinois, and two years later, at the age of 35, he was appointed by President Roosevelt to the United States District Court for the Northern District of Illinois. From 1959 until 1970 when he took senior status, he was the Chief Judge.

During his eleven years as Chief Judge, Judge Campbell succeeded in getting approval and the necessary appropriations to build two federal buildings in Chicago, one of which houses both the Seventh Circuit Court of Appeals and the District Court. He also was directly responsible for the building of the first Metropolitan Correctional Center, which was appropriately named for him.

Judge Campbell served the Judicial Conference of the United States as a member of the Committee on Pretrial and Protracted Case Procedures from 1941 to 1960, during which time he authored the first "Manual on Protracted Case Procedure". His work on the Committee on Pretrial and Protracted Case Procedures helped create the Federal Judicial Center for whom he served as Chair of

various seminars. As Assistant Director of the Center and Chair of its Committee on Judicial Education, he started work with the Center when it was founded. For fifteen years, until November 1985, he attended and chaired all of the seminars and workshops, even though in the latter years his health required his participation in a wheelchair. Quoting Judge Edward J. Devitt: "It is safe to say that the great majority of United States district judges now in service have been the beneficiaries of his wise leadership in learning the art of judging."

In 1958, Judge Campbell served as the first District Judge Representative of the Seventh Circuit on the Judicial Conference of the United States, an assignment he held until 1962. He served from 1960 to 1970 as Chairman of the Judicial Conference Committee on the Budget, a budget that was more than doubled during his chairmanship. Commenting on Judge Campbell's devotion and service to the federal judiciary, Chief Justice Warren Burger specifically praised Judge Campbell for "the countless tasks willingly assumed and the exceptional measure of vigor, dedication and accomplishment in the improvement of the Federal Judicial System."

In 1986, Judge Campbell deservedly received the prestigious "Edward J. Devitt Distinguished Service to Justice Award" for, in the words of the Award, having "earned a reputation as an imaginative, innovative, courageous and practical jurist."

Noting the death of Judge James H. Meredith, the Conference adopted the following resolution:

The Judicial Conference of the United States notes with sadness the death of

THE HONORABLE JAMES H. MEREDITH

Senior United States District Judge for the Eastern District of Missouri.

Judge Meredith served his country for over a quarter of a century, commencing his career as an Assistant Prosecuting Attorney for New Madrid County,

Missouri, from 1939-1942. From 1949-1950, he was Legal Secretary to the Governor of Missouri, and from 1950-1952, he served as Chief Counsel for the Division of Insurance of Missouri. Judge Meredith was appointed United States District Judge for the Eastern District of Missouri on March 17, 1962. During his tenure on the bench, Judge Meredith represented the circuit on several key Judicial Conference Committees including the Subcommittee on Judicial Improvements from 1971-1981, and the Executive Committee from 1976-1979. From 1974-1979, he was the circuit's district judge representative to the Judicial Conference of the United States, and from 1979-1981, he served as a judge of the United States Foreign Intelligence Surveillance Court. In 1982, he was appointed to the Committee to Review Circuit Council Conduct and Disability Orders, of which he was a member until 1987. In 1985, Judge Meredith was appointed to serve on the Committee on the Bicentennial of the Constitution. Reappointed in 1987, he was a member of the Committee at the time of his death. Judge Meredith served as Chief Judge from January 5, 1971, to August 31, 1979, when he elected senior status.

In addition to his valued service to the Eighth Circuit, Judge Meredith's contribution will be remembered in his intercircuit assignments in Oklahoma, Arizona, Illinois, Washington, Puerto Rico, Indiana, and Mississippi, and the Ninth Circuit, from 1972-1982.

Judge Meredith was a man of great physical and professional stature. He was a patriot who was fiercely loyal to the court and to his country. He was a fair and humble man. He was a mover and a pusher but never expected more from others than he did from himself. His presence on the federal bench will be missed.

Noting the death of Judge Philip Pratt, the Conference adopted the following resolution:

With great sadness, the Judicial Conference of the United States notes the death of

THE HONORABLE PHILIP PRATT

of the United States District Court for the Eastern District of Michigan on February 7, 1989, after a long and painful illness. Judge Pratt served as a member of the Judicial Conference from September 1987 until one month before his death.

Philip Pratt was born in Pontiac, Michigan on July 14, 1924, the son of Greek immigrants. He received his early education in the Pontiac public schools and earned a scholarship to the University of Michigan in the fall of 1942. Army service during World War II disrupted his higher education, however. From 1943 until 1946, Judge Pratt served in the Office of Strategic Services where he earned the Bronze Star for heroism for his service behind enemy lines in China.

After the war Judge Pratt returned to the University of Michigan and received his LL.B. in 1950. He served as an Assistant Prosecuting Attorney for Oakland County, Michigan in 1951-1952, whereupon he engaged in private law practice in Pontiac until 1963 when he was appointed Circuit Judge of the Michigan Sixth Circuit, a state trial court of general jurisdiction.

Judge Pratt was appointed to the U.S. District Court for the Eastern District of Michigan by President Nixon on December 1, 1970; he became Chief Judge of that court on March 1, 1986. He served with distinction as a member of the Judicial Conference Advisory Committee on Civil Rules from 1978 to 1984 and as a member of the Sixth Circuit Judicial Council from 1986 to 1989.

Judge Philip Pratt represented the very best values which the nation has come to expect of its federal judges. A man of the highest principles and unquestioned integrity, he was blessed with a superior intellect and remained a student of the law throughout his long and distinguished judicial career. Yet he was a kind and gentle man who had a great sensitivity for human freedom and dignity.

The members of the Judicial Conference convey their deepest sympathy to Judge Pratt's widow, Mary, and

to their three children, Peter Philip Pratt, Laura Susan Pratt, and Kathleen Mary Stirby, and ask that this resolution be sent to them in recognition of our respect and esteem.


FUNDING

All of the foregoing recommendations which require the expenditure of funds for implementation were approved by the Conference subject to the availability of funds, and subject to whatever priorities the Conference might establish for the use of available resources.

RELEASE OF CONFERENCE ACTION

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

April 14, 1989


Chief Justice of the United States
Presiding