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

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**APRIL 15, 16, 1954
WASHINGTON, D. C.**

TITLE 23. UNITED STATES CODE, SECTION 331

§ 331. Judicial Conference of the United States.

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

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

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

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

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

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

Special Session—April 15, 16, 1954

The Judicial Conference of the United States convened in a special session upon call of the Chief Justice on April 15, 1954, and continued in session 2 days. The Chief Justice presided and all members of the Conference were present as follows:

Circuit:

District of Columbia.....	Chief Judge Harold M. Stephens.
First.....	Chief Judge Calvert Magruder.
Second.....	Chief Judge Harrie B. Chase.
Third.....	Chief Judge John Biggs, Jr.
Fourth.....	Chief Judge John J. Parker.
Fifth.....	Chief Judge Joseph C. Hutcheson.
Sixth.....	Chief Judge Charles C. Simons.
Seventh.....	Chief Judge J. Earl Major.
Eighth.....	Chief Judge Archibald K. Gardner.
Ninth.....	Chief Judge William Denman.
Tenth.....	Chief Judge Orle L. Phillips.

The Attorney General, Hon. Herbert Brownell, Jr., accompanied by the Deputy Attorney General, Hon. William P. Rogers, and the Solicitor General, Hon. Simon E. Sobeloff, attended the morning session on the opening day of the Conference. The Solicitor General, accompanied by Mr. Robert L. Stern and Mr. Robert Ginnane of the Department of Justice, was also present at a part of the afternoon session on the opening day of the Conference.

Senator Karl E. Mundt, of South Dakota, Senator Carl Hayden, of Arizona, Representative Louis E. Graham, of Pennsylvania, Representative Emanuel Celler, of New York, Mr. Raymond K. Perkins, counsel of the Senate Appropriations Committee, and Mr. Sidney Davis, Administrative Assistant to Senator William Langer, of North Dakota, attended the morning session on the opening day of the Conference.

Circuit Judges Albert B. Maris and E. Barrett Prettyman and District Judge Bolitha J. Laws attended some or all of the sessions.

Chief Judge Finis J. Garrett and Judge Noble J. Johnson of the United States Court of Customs and Patent Appeals and Chief Judge Webster J. Oliver and Judge William A. Ekwall of the United States Customs Court attended the morning session on the second day of the Conference.

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

Commissioner of the Public Buildings Service, W. E. Reynolds, accompanied by Mr. L. L. Hunter and Mr. Peter A. Strobel of his staff was present at a part of the morning session on the second day of the Conference.

ADDITIONAL JUDGESHIPS RECOMMENDED

The Conference reaffirmed its previous recommendations with respect to the creation of additional judgeships which were not included in Public Law 294, 83d Congress, approved February 10, 1954. After reviewing the needs of the courts, the Conference also recommended the creation of the following additional judgeships:

1 additional district judgeship for the Eastern District of Louisiana.

1 additional district judgeship for the District of Kansas.

A complete list of the present Judicial Conference recommendations with respect to judgeships (other than circuit judgeships for the Ninth Circuit and the proposed Eleventh Circuit hereafter referred to) follows:

District Courts:

Second Judicial Circuit—Southern District of New York.—

The creation of 3 additional judgeships, with a proviso that the first 2 vacancies occurring in this district shall not be filled.

Third Judicial Circuit—Eastern District of Pennsylvania.—

The creation of one additional judgeship.

Fifth Judicial Circuit—Southern District of Mississippi.—The creation of one additional judgeship.

Eastern District of Louisiana.—The creation of one additional judgeship.

Sixth Judicial Circuit—Northern District of Ohio.—The creation of one additional judgeship.

Eighth Judicial Circuit—Northern and Southern Districts of Iowa.—The creation of one additional judgeship.

Ninth Judicial Circuit—District of Alaska—Third Division.—The creation of one additional judgeship.

Northern District of California.—The creation of one additional judgeship.

Tenth Judicial Circuit—District of Kansas.—The creation of one additional judgeship.

DISAPPROVAL OF PROPOSED JUDGESHIP

The Conference disapproved a proposal to create at this time an additional judgeship for the Western District of Louisiana.

DIVISION OF THE NINTH CIRCUIT AND CREATION OF THE ELEVENTH CIRCUIT OUT OF THE NORTHERN PART THEREOF

After considering the increasing volume of business in the Ninth Circuit, and the number of judges required to dispatch that business, the rapid growth of population in the States and Territories embraced in the circuit, and the very large geographical area of the circuit as presently constituted, the Conference reached the conclusion that the circuit ought to be divided. It is proposed that the Ninth Circuit consist of Arizona, California, Guam, Hawaii, and Nevada, and have 8 judges (7 permanent and 1 temporary) who would sit at San Francisco and Los Angeles. The new eleventh circuit would include Alaska, Idaho, Montana, Oregon, and Washington, and have 4 judges who would sit at Seattle and Portland.

The Conference recommended a form of bill for the purpose.

APPOINTMENT OF AN ADDITIONAL JUDGE WHEN A DISABLED JUDGE FAILS TO RETIRE

Prior to the enactment of Public Law 294, 83d Congress, approved February 10, 1954, subsection (c) of section 371 of Title 28, United States Code, provided that whenever a circuit or district judge who was eligible to retire on account of age and length of service failed to do so and the President should find that he

was unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge was necessary for the efficient dispatch of business, the President could make such an appointment by and with the advice and consent of the Senate. The judge whose disability caused the appointment of an additional judge was for purposes of precedence, service as chief judge, or temporary performance of the duties of that office, to be treated as junior in commission to the other judges of the circuit or district. The vacancy subsequently caused by the death, resignation or retirement of the disabled judge was not to be filled.

The Judicial Conference had recommended certain amendments to this law which had been incorporated in the bill (S. 15) which became Public Law 294 (Repts. March sess. 1952, p. 16-17, Sept. sess. 1952, p. 18-19, Sept. sess. 1953, p. 22-23). But during the course of the consideration of the bill by Congress an amendment was adopted which had the effect of repealing the entire subsection so that there is now no authority for the appointment of an additional judge when a disabled judge fails to retire. S. 2910 presently pending in the Senate would restore the repealed statute but without the amendments recommended by the Conference.

The Conference renewed its prior recommendation, and now recommends that the repealed law be reenacted with the following changes:

1. That the law be made applicable to the judges of the Court of Claims, the Court of Customs and Patent Appeals and the Customs Court as well as to circuit and district judges.
2. That the amendment be added to § 372 of Title 28, United States Code, instead of to § 371 and thus be made applicable to all judges who become permanently disabled and eligible to retire on that account without regard to their age or length of service.
3. That a certificate of the disability of the judge should be required to be executed by an appropriate representative of the judiciary before the President could make another appointment. This certificate would be made by a majority of the members of the Judicial Council of his circuit in the case of a circuit or district judge, or by the Chief Justice of the United States in the case of the chief judge of the Court of Claims, Court of Customs and Patent Appeals or Customs Court, or by the chief judge of his court in the case of a judge of the Court of Claims, Court of

Customs and Patent Appeals or Customs Court. It would still be for the President to find whether or not the judge concerned was unable on account of his disability to discharge all the duties of his office and whether the appointment of an additional judge was necessary for the efficient dispatch of business.

SUPPORTING PERSONNEL OF THE COURTS

Judge Biggs, chairman of the Committee on Supporting Personnel, submitted a report on behalf of the Committee:

SALARIES OF NATIONAL PARK COMMISSIONERS

The Committee had reexamined the salaries of national park commissioners pursuant to the reference made by the Conference at the September, 1953, session (Rept. p. 8). The Committee conferred with representatives of the National Park Service, and examined data furnished by the Administrative Office obtained from questionnaires answered by the commissioners. It considered the volume of work handled by the commissioners in the various parks, their opportunities if any for outside employment, the amount of rent paid by those commissioners who reside in quarters furnished by the Park Service, salaries paid to officers of the Park Service within the National Parks such as chief rangers and the fact that the commissioners have not shared in the benefits of pay increase legislation applying to Government employees generally which has been enacted since the salaries of the commissioners were last fixed in 1949. The Committee was of the opinion that the three classifications into which the commissioners were divided in 1949 now should be changed due to changed conditions such as slackening of case load and other pertinent circumstances.

The Committee accordingly recommended the following salaries for the National Park commissioners:

CLASS A—\$5,000

Rocky Mountain
Sequoia and Kings Canyon
Yellowstone
Yosemite

CLASS B—\$4,500

Glacier
Mount Rainier

CLASS C—\$4,000

Lassen Volcanic

Mesa Verde

Olympic

Great Smoky (\$2,000 for each commissioner)

CLASS D—\$2,750

Mammoth Cave

Shenandoah

The recommendation of the Committee was approved by the Conference. Section 634 of Title 28, United States Code, provides: "Each national park commissioner shall receive an annual salary to be fixed by the district court with the approval of the Judicial Conference of the United States * * *". The Conference directed that the district courts concerned be informed of its action and requested to fix salaries for the park commissioners within the maximum limits approved by it.

PROVISION FOR FIRST-AID SERVICE IN CERTAIN COURTHOUSES

The Administrative Office informed the Committee that health centers and first-aid stations are being operated by Government agencies for Government employees in some cities, and proposals are pending for the establishment of additional facilities in other cities. The courts have been invited to participate in these arrangements on a reimbursable basis in some instances. Recently Chief Judge John P. Barnes of the Northern District of Illinois on behalf of his court has requested that the Administrative Office make arrangements for the court personnel to utilize the facilities of a first-aid station proposed for the building in which the court is housed in Chicago.

Two years ago the Conference approved a recommendation of the Committee in relation to a similar program then proposed for a new court building at Nashville, Tenn., to the effect that the General Services Administration be informed that "the Judiciary is not prepared at the present time to join in the program at Nashville, but desires to give the matter further consideration" (Rept., March 1952 sess., p. 18, 19). However, first-aid stations are presently in operation, financed jointly by court and Department of

Justice appropriations in the courthouses in New York and Washington, and are found to be serving a useful purpose.

The Director of the Administrative Office recommended that he be authorized to participate in the establishment of health centers and first-aid stations where the local courts concerned desire to participate if the maximum per capita cost will not exceed a reasonable amount, and that additional funds for this purpose be included in the budget estimates to the extent necessary. The Committee approved this recommendation, and after discussion the Conference concurred.

PROVISION FOR THE OFFICES OF THE DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

At the September session, 1953, of the Conference Chief Judge Laws submitted a written request for additional provisions for supporting personnel for the District of Columbia and asked that it be referred to the Committee on Supporting Personnel, which was done (Rept. p. 9). The Committee considered the request at a meeting held in Washington on March 23 and 24, at which Judge Laws, and also Judge Walter M. Bastian and Judge Matthew F. McGuire, were heard. Also there appeared before the Committee officers of the court and two members of the Bar Association of the District of Columbia in support of the requests.

The requests for additional personnel are summarized as follows:

Clerk's office.....	10
Assignment Commissioner's office.....	1
Probation Office (5 officers; 2 clerks).....	7
Domestic Relations Commissioner.....	3
Office of the Administrative Assistant to Chief Judge Laws.....	1
Total.....	22

At the conclusion of its consideration of the requests, a majority of the Committee adopted the following resolution:

Resolved, That the Committee recommends to the Judicial Conference that the request of Chief Judge Laws for 22 additional employees in the District Court for the District of Columbia be granted at salaries based on existing classification schedules heretofore approved by the Conference.

This recommendation was approved by the Conference.

The Committee also adopted the following resolution:

Resolved, That the Committee recommends to the Judicial Conference of the United States that the Director of the Administrative Office of the United States Court be instructed to survey the Office of the Register of Wills of the District of Columbia and reclassify the personnel of that office so as to bring them into line with the classifications heretofore approved by the Judicial Conference for the personnel of the clerk's offices of the district courts generally.

This recommendation was approved by the Conference.

With regard to other reclassifications requested by Chief Judge Laws, a majority of the Committee adopted the following resolution:

Resolved, That the Committee does not recommend to the Conference the approval of the reclassifications requested by Chief Judge Laws, except for the reclassification of the Office of the Register of Wills which the Committee has recommended.

After consideration, this recommendation was also approved by the Conference.

The Committee recommended and the Conference agreed that the Administrative Assistant to Chief Judge Laws, who is presently unclassified, be classified in grade GS-14, so as to make him eligible hereafter for within-grade promotions.

Chief Judge Stephens submitted the following request for additional personnel for the Court of Appeals for the District of Columbia Circuit which at his suggestion was referred to the Committee on Supporting Personnel:

I hereby request the Judicial Conference of the United States to approve the request of the Clerk of the United States Court of Appeals for the District of Columbia Circuit for authority to appoint three additional Clerks in his Office. Justification for such additional employees has been presented to the Director of the Administrative Office of the United States Courts.

On behalf of the Court of Appeals for the District of Columbia Circuit I also hereby request the Judicial Conference to approve a request for authority to establish a stenographic

pool of three stenographers in the Office of the Clerk of the United States Court of Appeals for the District of Columbia Circuit, such pool to be available for the use of the Circuit Judges to assist them in their judicial work when their secretaries are engaged in other work and when their secretaries may be absent on account of illness or otherwise.

BANKRUPTCY ADMINISTRATION

Judge Phillips, Chairman of the Bankruptcy Committee, submitted for consideration by the Conference, the report of the Bankruptcy Division of the Administrative Office, approved by the Director on March 24, 1954. He also presented the report and recommendations of the Bankruptcy Committee relating to certain changes in salaries and arrangements for referees.

The Conference approved the report of the Committee, and in accordance with the report made the changes in salaries and arrangements for referees as shown in the following table, the increases in salary to be effective July 1, 1954, subject to the procurement of the necessary funds in the appropriation for 1955:

District	Regular place of office	Present type of position	Present salary	Conference action	
				Type of position	Salary
<i>3d Circuit</i>					
Pennsylvania (W).....	Pittsburgh.....	Full-time.....	\$10,000	Full-time.....	\$11,250
<i>4th Circuit</i>					
North Carolina (E).....	Raleigh.....	Part-time.....	3,000	Part-time.....	3,500
Virginia (W).....	Roanoke.....	do.....	4,500	do.....	6,000
<i>5th Circuit</i>					
Georgia (S).....	Savannah.....	do.....	2,500	do.....	3,500
Mississippi (S).....	Jackson.....	do.....	3,500	do.....	4,000
Texas (N).....	Dallas.....	do.....	6,000	Full-time.....	8,000
<i>7th Circuit</i>					
Indiana (S).....	Indianapolis.....	Full-time.....	9,000	do.....	11,250
<i>8th Circuit</i>					
Nebraska.....	Omaha.....	Part-time.....	6,000	do.....	10,000
<i>9th Circuit</i>					
California (S).....	San Bernardino.....	do.....	2,500	Part-time.....	3,500
<i>10th Circuit</i>					
Oklahoma (N).....	Tulsa.....	do.....	4,500	do.....	6,000
Oklahoma (W).....	Oklahoma City.....	do.....	4,500	do.....	6,000
Utah.....	Salt Lake City.....	do.....	4,500	do.....	6,000

CHANGES IN ARRANGEMENTS

In accordance with a change made by statute in the areas of the Eastern and Western Districts of Michigan, Lansing, Mich., was discontinued as a place of holding court for the referees in the Eastern District at Detroit and added as a place of holding court for the referee in the Western District at Grand Rapids.

ADDITIONAL APPROPRIATIONS FOR 1955 FOR THE REFEREES' SALARIES
AND EXPENSES

The Bankruptcy Committee recommended and the Conference approved an increase of \$103,500 over the amount originally approved by the Judicial Conference for the appropriation for 1955 for referees' salaries. Of this amount \$18,500 is for the purpose of making effective on July 1, 1954, the salary increases authorized at the present meeting of the Judicial Conference. The balance of \$85,000 is to provide for additional referee service as needed in 1955 to handle the increase in bankruptcy work.

The Conference also approved an increase of \$50,000 over the amount previously approved for referees' expenses for 1955. This is to provide as needed, additional clerical service to handle the increased volume of work and for other expenses of the referees.

The Conference authorized the Director to seek these additional funds in the appropriations for Referees' Salaries and Expenses for 1955.

REPORT CONCERNING CERTAIN PENDING LEGISLATION REFERRED TO
THE BANKRUPTCY COMMITTEE

Chief Judge Phillips submitted to the Conference a written report dated April 14, 1954, reciting that pursuant to the following resolution adopted by the Conference in September 1953:

Resolved, That the Bankruptcy Committee be authorized to study the subject of receivers and trustees and their compensation including S. 2344, S. 2560, S. 2561, S. 2562, S. 2563 and H. R. 4400, 83d Congress, and report to the Conference.

he appointed a subcommittee of the Bankruptcy Committee to study and report to the full Committee their findings and conclusions thereon. The subcommittee submitted its report dated February 5, 1954, which was transmitted by the chairman of the full

Committee to the members of the Committee, all of whom expressed their approval.

Inasmuch as the report involves matters affecting the district judges and the district courts, Judge Phillips recommended that a copy of the Bankruptcy Committee report dated April 14, 1954, and of the report of the subcommittee dated February 5, 1954, be circulated among the circuit and district judges; that the judges and the judicial conferences and judicial councils of the circuits be requested to express their views upon the reports; that all views expressed be communicated to the Committee on Bankruptcy Administration of the Conference for its consideration; and that the Bankruptcy Committee make further report to the Conference at its next regular meeting. The Conference approved the recommendation.

The Chairman of the Bankruptcy Committee reported to the Conference that the annual bankruptcy statistics prepared by the Administrative Office disclose that in certain districts, the costs of administration recurrently exceed the national average. The Administrative Office was directed to bring these situations to the attention of the Chief Judges of the circuits concerned for appropriate action.

VACANCY IN REFEREE POSITION AT OXFORD, MISS., AUTHORITY TO MAKE NEW APPOINTMENT

Judge Hutcheson reported to the Conference that a vacancy exists in the office of the referee in bankruptcy for the Northern District of Mississippi, and that the Director, United States District Judge Cox and the Judicial Council of the Fifth Circuit had recommended the filling of the vacancy pursuant to section 43b of the Bankruptcy Act.

The Conference authorized a new appointment to be made on a part-time basis at a salary of \$1,200 a year for a term of 6 years, the regular place of office of the referee to be at Oxford and the territory to embrace the Northern District of Mississippi.

THE COURT REPORTING SYSTEM

APPLICATION OF SOCIAL SECURITY ACT TO TRANSCRIPT EARNINGS

The Director submitted to the Conference the question as to whether earnings of reporters from their fees for official transcript

should be regarded as earnings of self employed persons for the purposes of the Social Security Act, and indicated that he so construed the statute. It was explained that as far as their salaries which are paid by the Government are concerned, the reporters are under the Civil Service Retirement Act. This is not true, however, with respect to their earnings from transcripts which are paid to them directly by the parties to the cases who order the transcripts, both private litigants and the Government, and do not pass through the Administrative Office. It was the sense of the Conference that the earnings of the reporters from their fees for official transcript are covered by the Social Security Act.

RATES FOR DAILY TRANSCRIPT

At the September 1953, session, the Conference declined to approve any increase in transcript rates, but as stated on page 16 of the Conference report "approved a provision in reference to the procedure for determining the charges for daily or other expedited transcript, that such charges shall be fixed by agreement of the parties which in each individual case shall be submitted to the trial judge and shall require his express approval, and that in lengthy cases the reporter's charges shall be fixed after the conclusion of the case, with progress payments to the reporter or deposits as ordered by the court." The Conference was informed that some reporters have interpreted the action of the Conference to permit the fixing of charges in the manner prescribed above the maximum limits of 90 cents per page for the original and 30 cents per page for copy prescribed by the Conference in 1948 (page 26 of the September 1948 report).

The Conference reaffirmed its action taken at the September 1953, session with regard to this matter and expressly declared that its action then was intended to prescribe how charges for daily transcripts should be determined in individual cases within the maximum limits of 90 cents per page for the original and 30 cents per page for copies, and was not intended to authorize the fixing of rates above those limits.

INCLUSION OF COURT REPORTERS IN PAY INCREASE LEGISLATION

The Conference approved the recommendation of the Director that the court reporters be included in pending legislation to in-

crease the salaries of Government employees so that the reporters may receive as additions to their salaries as presently fixed by the Judicial Conference, the benefit of any such increases which may be authorized by the Congress.

APPOINTMENT OF ADDITIONAL COURT REPORTERS

Section 753 of Title 28, United States Code, authorizes the Judicial Conference to determine the number of court reporters to be appointed for service in the district courts and to fix their salaries. It has been the policy of the Conference since the beginning of the court reporter system in 1944 to authorize the appointment for each court of a number of reporters equal to the number of active judges of the court. In keeping with this policy the Conference, after consideration of a recommendation of the Director, authorized the appointment of 27 additional court reporters corresponding with the number of additional district judgeships created by Public Law 294, in the districts and at salaries before and after the end of the present fiscal year (contingent in the latter case upon favorable action by the Congress upon the pending estimate for increase in the annual appropriation for salaries of supporting personnel of the courts for the fiscal year 1955), as shown by the following table:

	Number of new positions	Salaries (per annum)	
		Through June 30, 1954	After June 30, 1954 ¹
Massachusetts.....	1	\$5,500	\$6,000
New York (S).....	2	5,500	6,000
Delaware.....	1	5,500	6,000
New Jersey.....	1	5,500	6,000
Pennsylvania (E).....	1	5,500	6,000
Pennsylvania (W).....	2	5,500	6,000
Virginia (E).....	1	5,500	6,000
Florida (S).....	1	4,500	5,000
Texas (E).....	1	4,500	5,000
Kentucky (W).....	1	4,500	5,000
Michigan (E).....	1	5,500	6,000
Michigan (W).....	1	5,000	5,500
Ohio (N).....	1	5,500	6,000
Tennessee (M).....	1	4,500	5,000
Indiana (N).....	1	5,500	6,000
Indiana (S).....	1	5,000	5,500
Wisconsin (E).....	1	5,000	5,500
North Dakota.....	1	4,000	4,500
South Dakota.....	1	4,000	4,500
California (S).....	1	5,500	6,000
Idaho.....	1	4,000	4,500
Nevada.....	1	4,000	4,500
Colorado.....	1	5,000	5,500
New Mexico.....	1	4,500	5,000
Utah.....	1	3,600	4,000

¹ If the salary scale approved by the Conference in September 1953 (Rept., p. 15) to become effective July 1, 1954, has been implemented by appropriations.

SUPPLEMENTAL APPROPRIATIONS

The Director submitted supplemental estimates of appropriations for the fiscal year 1955 made necessary by the enactment of Public Law 294 authorizing the appointment of additional judges, for salaries of judges, salaries of supporting personnel for the new judges, travel and miscellaneous expenses, in the total amount of \$1,450,950. The estimates were approved.

VOTE OF THE CONFERENCE BY MAIL

The Conference adopted the following resolution:

Resolved, That it is the sense of the Conference: That, except in cases of emergency or in matters of minor importance such as the filling of vacancies in the offices of referees under the Bankruptcy Act, action of the Conference should be taken only in meetings regularly called and held. If the Chief Justice shall be of opinion that because of an emergency the public interest so requires, a mail vote of the members of the Conference may be taken, which shall be announced as action of the Conference taken by mail.

POWER TO FIX SALARIES OF SUPPORTING PERSONNEL OF SPECIAL COURTS

A question having been raised as to the power to fix salaries of the supporting personnel of the Court of Customs and Patent Appeals, not otherwise fixed by law, it was the sense of the Conference that the power to fix such salaries and also the salaries of the supporting personnel of the Court of Claims and the Customs Court resides in the Director of the Administrative Office of the United States Courts by virtue of the provisions of Title 28, United States Code, sections 604 (a) (5) and 610.

BILLS RELATING TO THE COURT OF CUSTOMS AND PATENT APPEALS AND THE CUSTOMS COURT

Chief Judge Garrett and Judge Johnson of the Court of Customs and Patent Appeals and Chief Judge Oliver and Judge Ekwall of the Customs Court, discussed with the Conference bills pending in the Congress relating to their courts (S. 3131 and H. R. 7864 concerning the Court of Customs and Patent Appeals; S.

2975 and H. R. 6919 concerning the Customs Court). These bills would declare the courts to be established under Article III of the Constitution and contain provisions for the temporary assignment of their judges to serve in the other courts and of other judges to serve in those courts.

The bills were referred to the Committee on Revision of the Laws to study and report to the next session of the Conference.

JUDICIAL REVIEW OF DEPORTATION ORDERS

Solicitor General Sobeloff, accompanied by Mr. Stern and Mr. Ginnane, discussed with the Conference a method of judicial review of deportation orders proposed by the Department of Justice as a substitute for habeas corpus which is available to an alien only after he has been taken into custody for deportation.

The Conference approved the proposed bill which would permit an alien who is not in custody and against whom a final order of deportation has been made to obtain a judicial review of the order by filing a petition in the district court for the district within which the administrative proceedings to be reviewed were conducted.

CONDEMNATION CASES

During the last Congress a bill was introduced but failed of enactment which in effect would have amended Rule 71A (h) of the Federal Rules of Civil Procedure so as to require a jury trial of the issue of just compensation on demand of either party in condemnation proceedings in the district courts. After the appointment of a committee and careful consideration of its report, the Conference at the March 1952, session (Rept. p. 7-8) was of the opinion that the proposed legislation ought not to be enacted. This view was reaffirmed at the September 1952, session (Rept. p. 15).

In the present Congress, S. 30, entitled "An Act to provide for jury trials in condemnation proceedings in United States district courts" is pending in the House of Representatives after having passed the Senate. The bill is similar to the proposed legislation previously disapproved by the Conference except that the Senate amended the bill so as to limit to the defendant the right to demand a jury trial. The Conference is of the opinion that the present procedure in condemnation cases prescribed by Rule 71A

(h) should be permitted to continue and disapproved the pending bill.

CONFERENCE ON ADMINISTRATIVE PROCEDURE

Judge Prettyman reported on the progress of the Conference on Administrative Procedure of which he is Chairman. A First Report of the Conference has been printed and approximately 1,500 copies distributed to governmental agencies, bar associations, and interested individuals and groups for comments and suggestions. A further meeting of the Conference is scheduled to be held on June 7-8 after which the Conference hopes to be able to make firm recommendations to the President, to the Judicial Conference, and to the agencies.

RULE ADOPTED BY THE COURT OF APPEALS FOR THE FIFTH CIRCUIT FOR REVIEW OR ENFORCEMENT OF ORDERS OF ADMINISTRATIVE AGENCIES

The Court of Appeals for the Fifth Circuit submitted to the Conference for approval pursuant to the provisions of the Act of December 29, 1950 (64 Stat. 1129; 5 U. S. C. 1041) an order dated January 14, 1954, amending rules 38 and 39 of the Rules of the court relating to the review and enforcement of orders of administrative agencies. The Conference approved the amendments to the Rules as submitted.

DISPOSITION OF OLD RECORDS OF COURTS OF APPEALS NOT OF PERMANENT VALUE

A schedule relating to the disposal of noncurrent records of the courts of appeals which had been prepared by the National Archives was presented to the Conference by the Administrative Office with the recommendation that leave be given to consent that the schedule be submitted to Congress by the Archivist pursuant to the provisions of Title 44, United States Code, sections 366-380. The appointment of a committee to consider the matter was authorized, and the following committee was appointed by the Chief Justice: Chief Judge Calvert Magruder, Chairman, Circuit Judge Jerome Frank and Circuit Judge Gerald McLaughlin.

PROPOSAL TO INCLUDE APPROPRIATIONS FOR SPECIAL MASTERS IN BUDGETS OF THE COURTS

The Conference was informed that the Department of Justice had suggested that consideration be given to the inclusion in the budget estimates of the Courts of sums to pay the fees of masters appointed under Rule 53 of the Federal Rules of Civil Procedure, commissioners appointed in land condemnation cases under Rule 71A (h) and other finders of facts, and desired the Judicial Conference to consider the matter. The Conference disapproved the proposal.

COST OF JURY SYSTEM

The Administrative Office has continued to collect statistics on jury costs and submitted a report accompanied by summaries of reports received for the first half of the fiscal year 1954 from 85 of the 86 district courts having purely Federal jurisdiction.

The report disclosed that the number of jury trials, the total jury costs and the average cost of each trial have increased steadily since 1950. Total jury costs during the fiscal year 1953 amounted to \$3,166,000 and at the present time these costs constitute about one-ninth of the total budget for the courts.

The Conference authorized the Administrative Office to circulate the report among the circuit and district judges.

COMMITTEE ON REVISION OF THE LAWS

Judge Maris, Chairman, submitted the report of the Committee on Revision of the Laws:

RECORD ON REVIEW OF ORDERS OF ADMINISTRATIVE AGENCIES

The Committee had circulated among the circuit judges and agencies concerned a preliminary draft bill to authorize an abbreviated record on the review of agency orders pursuant to authority granted by the Conference to do so at the September, 1953, session (Rept. p. 25). A revised bill was submitted to the Conference which would add to Title 28, United States Code, a new section 2112, entitled "Record on review and enforcement

of agency orders." The courts of appeals would be given power to adopt, with the approval of the Judicial Conference, rules prescribing the time and manner of filing and the contents of the record in all such proceedings, unless the applicable statute makes specific provision on the subject. Specific statutory provisions would be unnecessary hereafter, however, if the proposed bill is enacted. If proceedings have been instituted in two or more courts with respect to the same order the agency would file the record in that court which would be most convenient to the parties and the other courts would then transfer their proceedings to that court. The record would be abbreviated by the inclusion only of such material as the rules of court required or as the parties, including parties permitted to intervene by the court, stipulated or as the court designated by order. In appropriate cases it could be stipulated that no record at all be filed. Provision is made that additional portions of the record might be ordered by the court to be filed if found to be needed. It had been represented to the committee that in some cases it would be more costly in time and money to attempt to abbreviate the record than to send it all to the court. Accordingly the Committee had included in the bill a provision giving the agencies the right to file the entire record in those courts only which, in view of their use of the appendix system or modified printed record system, do not require the entire record to be printed.

At the option of the agency original papers in lieu of certified copies would be permitted to be transmitted to the reviewing court. The Committee considered it desirable to provide that the court should have jurisdiction upon the filing of the petition for review instead of upon the filing of the transcript of record as at present in some cases. However, since some agencies have power to modify or set aside an order after the filing of a petition for review and until the time of filing the record, which they wish to retain, the Committee has proposed to amend these statutes so that jurisdiction is acquired upon the filing of a petition for review but is not exclusive until the filing of the record. Perfecting amendments of various statutes had also been included in the bill.

After consideration of the Committee's report, the Conference approved the draft of the proposed bill for recommendation to Congress for enactment.

REVISION OF INTERNAL REVENUE CODE

The Committee informed the Conference that it had recommended to the Senate Committee on Finance that H. R. 8300, a bill revising the internal revenue laws, be amended so as to enact its subject matter as Title 26 of the United States Code. As it passed the House of Representatives the bill did not enact that title into positive law.

The Committee also informed the Conference that it had suggested perfecting amendments to H. R. 8300 with respect to the Tax Court, under which the judge who is to preside in a division of more than one judge would be designated as the "presiding judge" rather than as the "chief" of the division, the sessions of the court would be described as "sessions" instead of "meetings," the time for instituting proceedings to review Tax Court decisions would be prescribed as "90 days" and "120 days" instead of the less precise "3 months" and "4 months," and such review proceedings would be begun by "notice of appeal" as in the case of the review of tax decisions of the district courts instead of by "petition for review."

The Conference approved this part of the report and the actions taken by the Committee.

MATTERS REFERRED TO THE COMMITTEE

The Conference referred the following matters to the Committee on Revision of the Laws for consideration and report:

1. A recommendation by the Judicial Council of the District of Columbia Circuit that section 646 (d) of Title 49 of the United States Code relating to Air Carriers, and the Hobbs Act approved December 29, 1950 (64 Stat. 1129, 1131) be amended so as to eliminate the requirement that 5 days notice be given before interlocutory relief may be granted.

2. A proposal made by Prof. George B. Fraser of the College of Law of the University of Oklahoma for amendment of section 1441 of Title 28, United States Code, pertaining to the removal of cases from State courts.

3. A proposal that retired judges, since they are not required to live within the circuits in which they were appointed, may be assigned for service which they are willing to undertake outside

of such circuits without the consent of the Chief Judge thereof as is required with respect to active judges.

RULES OF PROCEDURE FOR REVIEW OF DECISIONS OF THE TAX COURT

H. R. 1067, entitled "An Act to authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of the Tax Court of the United States" has passed the House of Representatives and with amendments has also passed the Senate. No agreement has been reached between the two houses with respect to the Senate amendments.

The Conference expressed its opposition to the enactment of this proposed legislation for the reasons set forth in the letter dated April 28, 1953, addressed to the Chairman of the House Judiciary Committee by the late Chief Justice Vinson which is printed on page 4 of the Committee Report on the bill (H. Rept. No. 1262, 83d Cong., 2d sess.).

QUARTERS OF THE COURTS AND RELATED FACILITIES

Commissioner Reynolds of the Public Buildings Service, accompanied by Mr. Hunter and Mr. Strobel of his office, discussed with the Conference the program of the Public Buildings Service relating to the furnishing of quarters for the 30 additional judges authorized by Public Law 294 and the air-conditioning of Federal buildings containing court quarters. The requirement of space for the new judges is obvious, and members of the Conference again discussed the urgent need for air-conditioning of court quarters both for judges and supporting personnel at many places. The constantly increasing business of the courts requires their operation in the summer. Under these circumstances, not only is air-conditioning requisite for the reasonable comfort and efficiency of the judges and other court personnel, but the proceedings of the courts in many locations cannot be conducted efficiently without it.

The Conference heartily endorsed the program for furnishing additional space for quarters for the new judges already appointed and to be appointed under the new Act, and also for air-conditioning buildings containing court quarters submitted by Commissioner Reynolds.

The Conference resolved that it is opposed to the proposed substitution of cleaning of public buildings by contract instead of

by Government personnel employed for that purpose as far as court quarters are concerned for the reason that it does not consider it a wise policy for contract employees over whom there could be no effective supervision with respect to character, loyalty and trustworthiness to have the freedom of access to court quarters which would be requisite for the work of cleaning.

EXTENSION OF AUTHORIZATION FOR STATES TO ENTER INTO COMPACTS FOR THE PREVENTION OF CRIME

The Director informed the Conference that an expression of views had been requested by the House Judiciary Committee with regard to H. R. 5699 pending before that Committee. This bill would extend the coverage of section 111 of Title 4, United States Code, granting the consent of Congress to States to enter into compacts relating to the enforcement of criminal laws by including the Commonwealth of Puerto Rico within the definition of the term "States" for the purposes of the section. The Conference was further informed that it had been proposed that the bill be amended so as to include not only Puerto Rico, but also Alaska, Hawaii, the Virgin Islands and the District of Columbia within the definition of "States." The Conference approved the bill as it is proposed to be amended.

THE QUALIFICATIONS OF PROBATION OFFICERS

The Conference makes note of the added responsibilities that will come to the Federal probation officers in connection with the treatment of youth offenders under the Federal Youth Corrections Act. These will make it more necessary than ever before that the officers should be suitably qualified by education and experience for their work. The Conference therefore renews its recommendation of the standards of qualifications originally recommended by it in 1942 (pp. 9-10 of the September 1942 Report) and here repeated for convenience as follows:

- (1) Exemplary character.
- (2) Good health and vigor.
- (3) An age at the time of appointment within the range of 24 to 45 years inclusive.
- (4) A liberal education of not less than collegiate grade, evidenced by a bachelor's degree (B. A. or B. S.) from a college of recognized standing, or its equivalent.

(5) Experience in personnel work for the welfare of others of not less than 2 years, or 2 years of specific training for welfare work (a) in a school of social service or recognized standing, or (b) in a professional course of a college or university of recognized standing.

The Conference further recommends to its members that through the judicial conferences and judicial councils of their circuits and in any other appropriate ways they endeavor to promote full observance of the recommended standards of qualifications in the appointment of probation officers by the courts of their circuits.

SALARIES OF JUDGES

The Conference is of the view that substantial increases in the salaries of the judges of the United States Courts are in the interest of maintaining the efficient administration of justice and recommends to the Congress the enactment of legislation to that end.

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

For the Judicial Conference of the United States.

EARL WARREN,
Chief Justice.

Dated Washington, D. C. June 14, 1954.