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

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**MARCH 14, 15, 1957
WASHINGTON, D. C.**

TITLE 28, UNITED STATES CODE, SECTION 331

§ 331. Judicial Conference of the United States.

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

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

The Chief Justice of the United States shall also summon the chief judge of the Court of Claims, or if he is unable to attend, another judge of such court, to participate in the conference. Any judge summoned shall attend, and, unless excused by the Chief Justice, shall remain throughout the conference and advise as to the needs of such court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

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

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

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

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

Special Session—March 14, 15, 1957

The Judicial Conference of the United States convened in a special session upon call of the Chief Justice on March 14, 1957, and continued in session 2 days. The Chief Justice presided and members of the Conference were present as follows:

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

The Attorney General, Herbert Brownell, Jr., accompanied by the Deputy Attorney General, William P. Rogers, and the Solicitor General, J. Lee Rankin, attended the morning session of the first day of the Conference.

Circuit Judges Orie L. Phillips, Albert B. Maris, Alfred P. Murrah, and Richard H. Chambers, and District Judges Arthur F. Lederle, Bailey Aldrich, and Lawrence E. Walsh attended all or some of the sessions.

Elmore Whitehurst, Acting Director; Will Shafroth, Chief, Division of Procedural Studies and Statistics; Edwin L. Covey,

Chief, Bankruptcy Division; and Louis J. Sharp, Chief, Probation Division; and members of their respective staffs, all of the Administrative Office of the United States Courts, attended the sessions of the Conference.

REPORT OF THE ATTORNEY GENERAL

The Attorney General presented a report to the Conference which appears in the appendix.

ADDITIONAL JUDGESHIPS RECOMMENDED

The Conference discussed the state of the business of the federal courts and reviewed the need for additional judicial assistance recommended by the Committee on Court Administration and the Committee on Judicial Statistics. The Conference was informed that the temporary judgeship in the Middle District of Tennessee, which the Conference had recommended be made permanent (Cf. Rpt., Sept. Sess., 1956, p. 6), had expired with the death of the chief judge of the district in January. The Committee on Court Administration reported that it had considered the proposals for additional judgeships in Tennessee and was of the view that two additional judgeships were needed in the State, one for the Eastern District as previously recommended by the Conference (Cf. Rpt., Sept. Sess., 1956, p. 5) and one for the Western District.

The Conference received the report of the Committee on Court Administration and after a careful consideration of the views of its members individually with regard to conditions in their respective circuits recommended the creation of the following judgeships not heretofore recommended:

- 1 additional circuit judgeship for the Second Circuit.
- 1 additional district judgeship for the District of New Jersey.
- 1 additional district judgeship for the Western District of Pennsylvania.
- 1 additional district judgeship for the Western District of Tennessee.
- 1 additional district judgeship for the Northern District of Illinois.

The Conference further approved a recommendation of the Committee on Court Administration that the proviso making the second judgeship in the Middle District of Georgia temporary, should be repealed.

A complete list of the present Judicial Conference recommendations of additional judgeships is as follows:

Courts of Appeals:

Second Judicial Circuit.—The creation of two additional judgeships.

Fourth Judicial Circuit.—The creation of one additional judgeship.

District Courts:

First Judicial Circuit.—District of Massachusetts.—The creation of one additional judgeship.

Second Judicial Circuit.—District of Connecticut.—The creation of two additional judgeships.

Eastern District of New York.—The creation of two additional judgeships.

Southern District of New York.—The creation of four additional judgeships.

Third Judicial Circuit.—District of New Jersey.—The creation of one additional judgeship.

Eastern District of Pennsylvania.—The creation of three additional judgeships.

Western District of Pennsylvania.—The creation of two additional judgeships.

Fourth Judicial Circuit.—District of Maryland.—The creation of one additional judgeship.

Eastern, Middle and Western Districts of North Carolina.—The creation of one additional judgeship.

Eastern and Western Districts of South Carolina.—The creation of one additional judgeship.

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

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

Eastern and Western Districts of Louisiana.—The creation of one additional judgeship.

Southern District of Mississippi.—The creation of one additional judgeship.

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

Southern District of Texas.—The creation of one additional judgeship.

Western District of Texas.—The creation of one additional judgeship.

Sixth Judicial Circuit.—Eastern District of Michigan.—The creation of one additional judgeship.

Northern District of Ohio.—The creation of two additional judgeships.

Southern District of Ohio.—The creation of one additional judgeship.

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

Western District of Tennessee.—The creation of one additional judgeship.

Seventh Judicial Circuit.—Northern District of Illinois.—The creation of two additional judgeships.

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

Western District of Missouri.—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 Colorado.—The creation of one additional judgeship.

District of Kansas.—The creation of one additional judgeship.

The Conference has also recommended that the following existing temporary judgeships be made permanent:

District Courts:

Third Judicial Circuit.—Western District of Pennsylvania.—The temporary judgeship to be made permanent.

Fifth Judicial Circuit.—Middle District of Georgia.—The temporary judgeship to be made permanent.

Tenth Judicial Circuit.—District of New Mexico.—The temporary judgeship to be made permanent.

District of Utah.—The temporary judgeship to be made permanent.

At the invitation of the Conference, Circuit Judge Richard H. Chambers of the Ninth Circuit appeared and presented to the Conference his views concerning the need of an additional district judgeship for the District of Arizona. After consideration of the

matter it was referred to the Committee on Court Administration for further study in the light of Judge Chambers' statement.

The Conference approved the recommendation of the Committee on Court Administration that the temporary judgeship now existing in the District of Nevada not be made permanent at this time.

REPORT OF THE COMMITTEE ON COURT ADMINISTRATION

Chief Judge Biggs, Chairman of the Committee on Court Administration, presented the report of the Committee.

EXAMINATION OF COURT OFFICES

The Department of Justice by a letter addressed to the Chief Justice of the United States by the Attorney General, dated February 7, 1957, stated that the Department of Justice wishes to discontinue at the earliest possible date the making of field examinations of court offices. The present practice is for the field examiners of the Department of Justice to make examinations of the offices of the clerks of court, referees in bankruptcy, probation officers, United States commissioners, and court reporters at the same time that they make examinations in the same district of the offices of the marshals and administrative aspects of the offices of the United States Attorneys. On several occasions the Judicial Conference has gone on record by resolution making clear its position that the examining function is within the purview of the Administrative Office of the United States Courts. (Cf. Rpts., Jan. 1940, p. 2; Jan. 1941, p. 7; Sept. 1944, pp. 11, 12). It is estimated that appropriations in the amount of \$75,000 per year will be required for the Administrative Office to assume this function.

The Committee recommended to the Judicial Conference that the function of examining judicial offices be carried on by the Administrative Office, this work to commence as soon as possible on or after July 1, 1957 and that the Department of Justice be requested to continue the examinations until that date. The recommendation was approved by the Conference and the Administrative Office was granted authority to join with the Department of Justice in asking Congress to transfer \$75,000 from the Department's estimates to the estimate of the Administrative Office in the 1958 Appropriation Act for this purpose.

REPORTS BY PRESIDING JUDGES OF COURTS OF APPEALS

The Judicial Conference at its September 1956 session (Cf. Rpt., p. 16) referred to the Committee on Court Administration the recommendation of the Judicial Conference of the Ninth Circuit that "by rule or legislation, presiding judges of divisions or in banc hearings of the Courts of Appeals be required to make quarterly reports of the pendency of their submitted cases, such as are now required of the district judges". Chief Judge Biggs reported the view of the Committee that it would be desirable to require such reports and submitted for the consideration of the Conference a form letter requesting such information. On the motion of Judge Whitaker the recommendation of the Committee and the form letter were amended to include the Court of Claims.

After a full discussion the Conference resolved that the presiding judges of panels or divisions of the Courts of Appeals and of courts sitting in banc and of the Court of Claims make quarterly reports of cases under submission for more than three months, summaries of such reports to be given to all the judges of the court and to the Judicial Conference of the United States, and approved the following form of request:

To the Presiding Judges of Panels or Divisions of the Courts of Appeals and of Courts Sitting In Banc and of the Court of Claims Who Have Presided in Cases Reported by the Clerk as Under Submission More Than Three Months on -----:

DEAR JUDGE: The clerk of your court has reported the following case or cases, which were heard by a panel over which you presided, as under submission more than 3 months on -----:

The Judicial Conference of the United States at its meeting on March 14 and 15, 1957 adopted a resolution requiring the presiding judges of panels or divisions of the Courts of Appeals and of courts sitting in banc and of the Court of Claims to make quarterly reports of the pendency of cases under submission more than three months, summaries of such reports to be given to all the judges of the court and to the Judicial Conference. Therefore, I request that you furnish me the following information concerning the cases listed above:

- (1) The date of submission of the case.
- (2) The names of the judges on the panel.
- (3) Any explanatory reason you wish to give as to why the case has not been decided, or its present status.

If there are any reasons accountable for delay in the disposition of particular cases such as that they are awaiting the decision of another case, that postponement of decision has been made at the request of the parties, or that the judges are awaiting supplementary briefs, I shall be glad to have that information.

Yours sincerely,

DISAPPROVAL OF A UNITED STATES COURT OF APPEALS FOR PATENTS

The Committee reported that it had considered S. 3744 of the 84th Congress, referred to it by the Conference at its September, 1956 Session (Cf. Rpt., p. 17) to establish a United States Court of Appeals for Patents, and for other purposes. The Committee unanimously recommended to the Conference that it disapprove the proposed legislation. The Conference approved the recommendation of the Committee.

DELAYS IN THE DISPOSITION OF CRIMINAL APPEALS

The matter of securing a more prompt disposition of criminal appeals has been under consideration by the Committee and as a means of expediting such appeals, the Committee presented a resolution concerning the appendix rule and the original records rule and the use of typewritten briefs and appendices in these cases. The Committee was of the view that the matter was one of great importance and that steps should be taken by all the courts of appeals to shorten the disposition of criminal appeals.

The Conference after a full discussion resolved that each court of appeals consider (1) adopting the appendix rule, (2) adopting the original records rule, (3) making a more liberal use of typewritten briefs and appendices, and (4) expediting criminal appeals on its own motion.

MAINTENANCE ALLOWANCE FOR JUDGES TRAVELING ON OFFICIAL BUSINESS

The Committee brought to the attention of the Conference the bills, S. 1340 and H. R. 3369, introduced in the 85th Congress which would increase the maximum allowance for maintenance for judges traveling on official business from \$15 to \$25 per day. The Committee recommended to the Judicial Conference that the maximum maintenance allowance for judges be increased from \$15 a day to \$25 a day and that H. R. 3369 and S. 1340 be approved. The Conference adopted the recommendation of the Committee.

ADMINISTRATIVE OFFICE SALARIES

The Judicial Conference at its September 1956 Session (Cf. Rpt., p. 18) recommended that the salary of the Director of the Administrative Office be placed at \$22,500 a year, the same as that of a

district judge. This recommendation was a renewal of the Conference's prior recommendation made at its March 1955 session (Cf. Rpt., p. 10). The Conference also recommended that the salary of the Assistant Director of the Administrative Office be put at \$20,000 per year (Cf. Rpt., Mar. Sess., 1955, p. 10), and that the salaries of the heads of the four divisions of the Administrative Office be put at \$18,500 a year (Cf. Rpt., Mar. Sess., 1955, p. 10).

The salary of the Director has presently been fixed by Congress in the Federal Executive Pay Act of 1956, Public Law 854, 84th Congress, approved July 31, 1956, at \$20,000 and the salary of the Assistant Director has been fixed at \$17,500. Provisions for the salaries of the heads of the divisions were included in the Senate bill at grade GS-18, salary \$16,000, but were excluded from the bill as finally enacted.

The Committee therefore unanimously resolved to recommend to the Judicial Conference that it renew its recommendation that the salary of the Director be placed at \$22,500, the salary of the Assistant Director at \$20,000 and that the Conference now recommend that the salaries of the heads of the four divisions be fixed at grade GS-18 or \$16,000. The Conference approved the recommendation.

APPOINTMENT OF AN ADDITIONAL JUDGE WHEN AN INCUMBENT JUDGE REACHES AGE 70

The Committee reported that it gave careful consideration to the proposal contained in the President's Budget message that the President be authorized to appoint by and with the advice and consent of the Senate upon certification by the Judicial Conference of the need therefor, an additional judge when an incumbent judge reaches 70, is eligible to retire and fails to do so, no vacancy to be created when the judge who had reached age 70 dies, resigns or retires. The Conference was advised that a bill, H. R. 3392, containing the recommendation of the President had been introduced in the House of Representatives.

The Conference referred the proposal contained in the Presidential budget message and H. R. 3392 to the Committee to consider the matter further and to report thereon at a future session of the Judicial Conference.

DIVERSITY OF CITIZENSHIP JURISDICTION

Chief Judge Biggs reported that the Committee had considered at length various proposals for restricting or modifying the present diversity jurisdiction of the United States Courts. The Committee found that the situation in respect to diversity jurisdiction is an extremely complex one and was not prepared to deal at length with the subject until further statistics have been procured from the Administrative Office and the matter has been considered further.

Previously the Committee had recommended that the jurisdictional amount be placed at \$15,000 exclusive of interest and costs, but it was now of the view that it should modify its former recommendation and adhere to that expressed by the Committee on Jurisdiction and Venue of which Chief Judge Parker was chairman. Accordingly it unanimously resolved that the Committee recommend to the Judicial Conference that the jurisdictional amount in diversity cases be increased to \$10,000 exclusive of interest and costs and that every effort be made to procure the enactment of such legislation by the present Congress.

The Committee also was of the view that the recommendation made to the Conference by the Committee on Jurisdiction and Venue, that a corporation be deemed to be a citizen not only of the State of its incorporation but also of the State in which it has its principal place of business should be renewed at the present Congress.

These recommendations were adopted by the Conference and the Committee was authorized to continue its study of jurisdiction in diversity of citizenship cases.

THE CREATION OF NEW DISTRICTS AND NEW DIVISIONS

The Committee reported that there are presently pending in Congress various bills to create three new districts and one bill to create a new division within an existing district. The bills, H. R. 1930 and H. R. 3085, would create a new district within the State of Florida; the bill, H. R. 1928, would create a new district within the State of Colorado; and the bills, H. R. 229, H. R. 2523, H. R. 2532, H. R. 4827, and S. 604, would provide for a new district in the State of California. The Committee recommended to the Judicial Conference that it express disapproval of these bills. The recommendation of the Committee was approved by the Conference.

The Committee also recommended to the Judicial Conference that it disapprove S. 548 and H. J. Res. 189 which would create a new division consisting of Alameda and Contra Costa counties in the Northern District of California and which would also provide that court be held at Oakland. The Conference approved the recommendation of the Committee.

SUPPORTING PERSONNEL OF THE COURTS

Chief Judge Biggs, chairman of the Committee on Supporting Personnel of the Courts, presented the report of the Committee to the Conference.

QUALIFICATIONS FOR PROBATION OFFICERS

At its September Session, 1956, the Judicial Conference of the United States renewed its recommendation first made a year previous that appropriate legislation be enacted to empower the Judicial Conference to promulgate minimum standards which must be met by all probation officers to be appointed in the future (Cf. Rpt., Sept. Sess. 1956, p. 16; Sept. Sess. 1955, p. 11).

On the recommendation of the Committee on Supporting Personnel the Judicial Conference approved the following draft of a bill to authorize the Judicial Conference of the United States to promulgate minimum standards of qualifications for probation officers:

A BILL To authorize the Judicial Conference of the United States to promulgate minimum standards of qualifications for probation officers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 3654 of Title 18, United States Code, is amended to read as follows:

“Any court having original jurisdiction to try offenses against the United States may appoint one or more suitable persons to serve as probation officers within the jurisdiction and under the direction of the court making such appointment. The Judicial Conference of the United States is authorized to promulgate minimum standards of qualifications for probation officers and no salaried probation officer shall be appointed who does not fulfill such standards.

“Section 2. This act shall not be applicable to probation officers appointed before the date of its enactment.”

PERSONNEL OF THE COURT OF CLAIMS

The Judicial Conference at its September 1956 session authorized the Committee on Supporting Personnel to consider the grades and salaries of the supporting personnel of the Court of Claims. The Committee resolved that the Administrative Office should make a comparison of the grades and salaries of the supporting personnel of the Court of Claims with those of the supporting personnel of the other United States Courts and report the same to the Committee in order that it may have the data necessary to make the study authorized. The Conference approved this resolution.

NATIONAL PARK COMMISSIONERS

Chief Judge Biggs advised the Conference that the Acting Director of the Administrative Office had reported to the Committee on Supporting Personnel that Judge Robert E. Thomason of the Western District of Texas deemed it desirable that a National Park Commissioner be appointed for Big Bend National Park to the end that the administration of justice in Big Bend National Park might be expedited. The Committee voted to recommend the appointment of such a commissioner at a salary of \$4,300 a year. However, the Committee was of the view that it may be very difficult to get an adequately trained person possessing the responsibility to perform the duties of a commissioner at this salary in view of the isolation of Big Bend National Park and therefore further recommended to the Conference that a maximum salary of \$4,840 be approved by the Conference, if necessary. The recommendation was approved by the Conference.

The Committee also resolved that a study be made by the Administrative Office of the salaries of the National Park Commissioners to ascertain whether or not their present salaries reflect the equivalent of the various salary increases granted by Congress to other Federal employees during the past few years and to report thereon to the Committee on Supporting Personnel. The Conference authorized this study.

SECRETARIES AND LAW CLERKS

The Conference at its March, 1956 session (Cf. Rpt., p. 8) upon the recommendation of the Committee instructed the Director of the Administrative Office that approval may be given to the em-

ployment of a secretary-law clerk and a law clerk, or a secretary-law clerk and a secretary by an individual judge who desires such a combination of employees. Circuit Judge Healy of the Ninth Circuit thereupon reclassified his secretary as a secretary-law clerk at the increased salary. This was denied by the Acting Director on the ground that the secretary had not been admitted to the bar, a requirement he deemed essential under the pertinent classification. The issue was then certified to the Judicial Council of the Ninth Circuit in accordance with the provisions of the Judiciary Appropriation Act of 1956. The Council approved the reclassification made by Judge Healy and the Acting Director complied. Later Circuit Judge Pope of the Ninth Circuit requested that his secretary also be reclassified as a secretary-law clerk, but with the consent of Judge Pope action on this request was delayed.

The Committee was unanimously of the view that the action of the Judicial Council of the Ninth Circuit in approving the reclassification of Judge Healy's secretary as a secretary-law clerk finds no support in the standards approved by the Judicial Conference, since she has not been admitted to the bar of the highest court of the state or to the bar of a United States District Court, requirements imposed by the standards fixed for secretary-law clerks. The Committee reported that because of the action of the Judicial Council of the Ninth Circuit in approving this reclassification it was of the view that the resolution recommended by it and adopted by the Judicial Conference is inadequate for the protection of the classification system for secretaries and law clerks established by the Conference in that the Conference, although having ultimate responsibility for establishing the classifications, has no ultimate authority for determining the correctness of individual classifications made thereunder.

The Conference, after full discussion, adopted the following resolution recommended by the Committee:

Resolved, That the resolution adopted by the Judicial Conference at its special session on March 13-14, 1956 with respect to the matter of fixing the compensation of secretaries and law clerks of circuit and district judges is amended by inserting therein immediately after the words "subject to review by the Judicial Council of the Circuit if requested by the Director" the following additional words "and to further review by the Judicial Conference of the United States if requested by either the appointing judge or the Director."

Upon the recommendation of the Committee the Judicial Conference further instructed the Director that if and when authority is given to the amendment of the present recommendation of the Conference and the elimination from the Appropriation Act of the present restrictive language, he should bring the question of the classification of the secretaries of Judges Healy and Pope to the Conference for review.

ADDITIONAL MATTERS REFERRED TO THE COMMITTEE ON SUPPORTING PERSONNEL

1. The Conference referred to the Committee the question of what special clerical assistance may be necessary in the courts of appeals for the handling of petitions in forma pauperis and requests for the appointment of counsel following the decision of the Supreme Court in the case of *Johnson v. United States*, decided March 4, 1957, 352 U. S. 565.

2. At the request of Chief Judge Biggs the Committee on Supporting Personnel was authorized to consider again the classification of law clerks.

BANKRUPTCY ADMINISTRATION

Circuit Judge Phillips, chairman of the Committee on Bankruptcy Administration, reported that the Committee had met and considered the recommendations contained in the report of the Bankruptcy Division of the Administrative Office which was approved by the Acting Director on February 12, 1957, relating to the positions of referees in bankruptcy to become vacant by expiration of term on June 30, 1957, unless a later expiration date is noted, and changes in salaries and arrangements.

The report of February 12, 1957 was submitted by the Acting Director to the members of the Judicial Conference and to the Judicial Councils and the district judges of the circuits and districts concerned, with the request that the district judges advise the Judicial Councils of their respective circuits of their views in respect to the recommendations for their districts, and that the chief judges of the circuits in turn inform the Administrative Office of the views of the Judicial Councils of their circuits. The Acting Director's report together with the views expressed by the district judges and the circuit councils was considered by the Committee. The Conference had before it the Committee's report

as well as the recommendations of the Acting Director, the district judges and the circuit councils.

Upon the recommendation of the Committee the Conference took the action shown in the following table relating to positions to become vacant by expiration of term on June 30, 1957, unless otherwise noted, such action to be effective July 1, 1957 unless another date is noted.

District	Regular place of office	Present type of position	Present salary	Conference action		
				Position	Type of position	Authorized salary
<i>1st Circuit</i>						
Rhode Island.....	Providence.....	Part-time...	\$7,500	Continued ¹	Part-time...	\$7,500
Puerto Rico.....	San Juan.....	do.....	5,000	do. ²	do.....	5,000
<i>2d Circuit</i>						
New York (N).....	Utica.....	Full-time...	13,750	do. ¹	Full-time...	13,750
	Albany.....	do.....	11,250	do. ¹	do.....	11,250
New York (S).....	New York.....	do.....	15,000	do. ¹	do.....	15,000
	do.....	do.....	15,000	do. ¹	do.....	15,000
New York (E).....	Brooklyn.....	do.....	15,000	do. ¹	do.....	15,000
Vermont.....	Burlington.....	Part-time...	3,000	do. ¹	Part-time...	3,000
<i>3d Circuit</i>						
Pennsylvania (E).....	Reading.....	do.....	7,500	do. ¹	do.....	7,500
<i>4th Circuit</i>						
South Carolina (E).....	Charleston.....	do.....	2,500	do. ¹	do.....	2,500
	Columbia.....	do.....	2,500	do. ¹	do.....	2,500
South Carolina (W).....	Spartanburg.....	do.....	2,500	do. ¹	do.....	2,500
Virginia (W).....	Lynchburg.....	do.....	7,000	do. ¹	do.....	7,000
West Virginia (S).....	Charleston.....	do.....	7,500	do. ¹	Full-time...	12,500
<i>5th Circuit</i>						
Alabama (N).....	Birmingham..	Full-time...	15,000	do. ¹	do.....	15,000
Florida (S).....	Tampa.....	Part-time...	4,500	do. ¹	Part-time...	4,500
	Jacksonville..	do.....	4,500	do. ¹	do.....	4,500
Texas (N).....	Dallas.....	Full-time...	10,000	do. ¹	Full-time...	10,000
Texas (W).....	El Paso.....	Part-time...	3,500	do. ¹	Part-time...	3,500
<i>6th Circuit</i>						
Michigan (E).....	Detroit.....	Full-time...	15,000	do. ¹	Full-time...	15,000
Michigan (W).....	Marquette.....	Part-time...	2,500	do. ¹	Part-time...	2,500
Ohio (N).....	Youngstown..	Full-time...	12,500	do. ²	Full-time...	12,500
Ohio (S).....	Columbus.....	do.....	15,000	do. ¹	do.....	15,000
Tennessee (E).....	Chattanooga..	Part-time...	7,500	do. ¹	do.....	12,500

See footnotes at end of table.

District	Regular place of office	Present type of position	Present salary	Conference action		
				Position	Type of position	Authorized salary
<i>7th Circuit</i>						
Illinois (N).....	Chicago.....	Full-time....	\$15,000	Continued ¹	Full-time....	\$15,000
Wisconsin (W).....	Superior.....	Part-time....	3,500	do. ¹	Part-time....	6,000
	La Crosse.....	do.....	3,500	Discontinued ⁴		
<i>8th Circuit</i>						
Iowa (N).....	Fort Dodge.....	do.....	5,000	Continued ¹	do.....	5,000
Minnesota.....	St. Paul.....	Full-time....	12,500	do. ²	Full-time....	12,500
North Dakota.....	Fargo.....	Part-time....	3,500	do. ¹	Part-time....	3,500
South Dakota.....	Sioux Falls.....	do.....	3,500	do. ¹	do.....	3,500
<i>9th Circuit</i>						
California (S).....	Los Angeles.....	Full-time....	15,000	do. ¹	Full-time....	15,000
Montana.....	Butte.....	Part-time....	3,000	do. ²	Part-time....	3,000
Oregon.....	La Grande.....	do.....	4,000	do. ¹	do.....	4,000
Washington (W).....	Seattle.....	Full-time....	15,000	do. ¹	Full-time....	15,000
<i>10th Circuit</i>						
Kansas.....	Topeka.....	do.....	15,000	do. ¹	do.....	15,000

¹ The word "Continued" signifies an authorization for the filling of the vacancies for a term of 6 years beginning on the day following the expiration of the present term at the authorized salary shown above.

² Term expires May 31, 1957.

³ Term expires Sept. 16, 1957.

⁴ Effective July 1, 1957.

⁵ Term expires July 5, 1957.

On the recommendation of the Committee the Conference took the action shown in the following table relating to changes in salaries where no terms are expiring, to be effective July 1, 1957.

District	Regular place of office	Present type of position	Present salary	Conference action	
				Type of position	Authorized salary
<i>5th Circuit</i>					
Alabama (N).....	Decatur.....	Part-time....	\$2,500	Part-time....	\$4,000
<i>7th Circuit</i>					
Wisconsin (W).....	Madison.....	do.....	6,500	do.....	7,500

CHANGES IN ARRANGEMENTS

The following action was taken by the Judicial Conference upon recommendation of the Bankruptcy Committee.

FIFTH CIRCUIT

Southern District of Georgia.—The District Court requested the re-establishment of a referee position at Waycross. The Acting Director recommended that no change be made at the present time. This recommendation was approved by the Circuit Council and the Bankruptcy Committee with the understanding that the Administrative Office will give further consideration to the recommendation of the District Court and report regarding it at the next meeting of the Judicial Conference. The Conference approved the Acting Director's recommendation.

SEVENTH CIRCUIT

Western District of Wisconsin.—The Acting Director made the following recommendations with regard to this district:

- (1) That the position at La Crosse be discontinued effective July 1, 1957.
- (2) That the position at Superior be continued.
- (3) That the counties of Vernon, Juneau, Monroe and La Crosse be added to the territory now served by Referee Riley at Madison.
- (4) That La Crosse be added as an additional place of holding court for Referee Riley.
- (5) That the counties of Pierce, Pepin, Buffalo, Trempealeau, Jackson, Eau Claire, Dunn, Chippewa, Clark, Wood, Portage, Marathon, Taylor and Lincoln be added to the territory now served by Referee Wilson at Superior.
- (6) That Eau Claire and Wausau be designated as additional places of holding court for Referee Wilson.
- (7) That the salaries of Referees Riley and Wilson be increased to \$7,500 and \$6,000 a year respectively.
- (8) That all the above changes be made effective July 1, 1957.

These recommendations were approved by the District Court, the Circuit Council and the Bankruptcy Committee. The Conference approved the Committee's recommendation.

NINTH CIRCUIT

District of Montana.—The Acting Director recommended that the position at Butte be continued at the present salary of \$3,000 a year for a term of six years beginning July 5, 1957. The District Court recommended an increase from \$3,000 to \$3,500 a year for the referee at Butte, and also for the referee at Great Falls. The Circuit Council and the Bankruptcy Committee approved the recommendations of the Acting Director which recommendation was approved by the Conference.

The Committee recommended that the Administrative Office be authorized to seek such additional appropriation for the fiscal year 1958 for referees' salaries as may be necessary to carry out the changes in salaries and arrangements for referees approved by

the Conference. The Conference concurred in this recommendation.

SECTION 60 AND RELATED SECTIONS

The Committee reported that a bill, H. R. 5195 amending certain sections of the Bankruptcy Act had been introduced recently in Congress but that the Committee had not had an opportunity fully to study the bill and the data furnished by the National Bankruptcy Conference supporting it. The Committee recommended that its Subcommittee studying these proposals be authorized to continue its study and report to the full Committee. The Conference approved this recommendation.

SUPPLEMENTAL APPROPRIATION FOR REFEREES' EXPENSES FOR 1957

The Committee reported that because of the great increase in the number of bankruptcy cases filed during the first 6 months of the current fiscal year it became necessary to request a supplemental appropriation in the amount of \$79,900. This supplemental estimate was approved by the Judicial Conference by a mail vote and the Committee recommended that the Judicial Conference now formally approve this action. The Conference approved the recommendation.

SUPPLEMENTAL APPROPRIATION FOR REFEREES' EXPENSES FOR 1958

The Committee brought to the attention of the Conference that the appropriation for referees' expenses for the fiscal year 1958 was designed to handle a volume of 74,000 new cases and pointed out that in view of the sustained increase in the number of new cases filed during the first 8 months of the current fiscal year, far more than 74,000 cases will be filed in the fiscal year 1958. The Administrative Office estimated that 82,000 cases will be filed in 1958 which represents an increase of 10,000 cases over the estimate of 72,000 for 1957. Should the estimate of 82,000 cases for 1958 be confirmed by the filings in the next few months, the Administrative Office requested that authorization be given to seek such additional or supplemental appropriation for referees' expenses as may be needed for the fiscal year 1958.

The Committee recommended that the Judicial Conference authorize the Administrative Office to seek such additional appro-

priation as may be necessary for referees' expenses for 1958 either by a supplemental appropriation or by such other means as may be available, the amount of such request to be approved by the chairman of the Bankruptcy Committee and submitted to the members of the Judicial Conference by a mail vote for approval. The recommendation of the Committee was approved by the Conference.

LEGISLATIVE PROPOSALS

The Committee brought to the attention of the Conference a bill (H. R. 106) to amend Sections 2a, 11 and 14c of the Bankruptcy Act so as to give the bankruptcy court jurisdiction to determine the dischargeability or nondischargeability of provable debts. An identical bill (H. R. 11543, 84th Congress) was approved in principle by the Conference at its September 1956 session.

The Committee recommended that the Conference reaffirm its previous approval with the suggestion that the language of Section 14c (3) of the Bankruptcy Act which was removed by Section 3 of H. R. 106, be inserted in Section 17a of the Bankruptcy Act. This change would have the effect of removing from Section 14c (3), as a ground for a complete denial of a discharge, the obtaining of money or property on credit or the obtaining of an extension or renewal of credit by making or publishing or causing to be made or published in any manner whatsoever a materially false statement in writing respecting the financial condition of the debtor and inserting similar language in Section 17a as a ground for nondischargeability of a particular debt. The Conference approved this recommendation.

The Committee also brought to the attention of the Conference H. R. 5811 to amend subsection b of Section 14 and clause 2 of subdivision b of Section 58 of the Bankruptcy Act so as to permit the 30 day notice of the last day fixed by the court for the filing of objections to the discharge of the bankrupt to be combined with the 10 day notice of the first meeting of creditors. This bill is identical with H. R. 6251 and S. 1997 introduced in the 84th Congress. Identical bills to carry out the objectives of H. R. 5811 have been introduced in several previous Congresses and have been approved by the Judicial Conference on each occasion.

The Committee recommended that the Conference reaffirm its approval of this legislation. The Conference approved the recommendation.

PROPOSAL TO AMEND GENERAL ORDER 17 (1) OF THE SUPREME
COURT

The Committee brought to the attention of the Conference a proposal to amend General Order 17 (1) so as to relieve the trustee in bankruptcy of the duty of mailing to the Commissioner of Internal Revenue at Washington, D. C., notice of the bankrupt's adjudication. The proposal arises from the amendment of Section 58e of the Bankruptcy Act, Public Law 933, of the 84th Congress, which authorized the discontinuance of the mailing of certain notices of adjudication to the Commissioner of Internal Revenue and the Comptroller General. The Internal Revenue Service desires also to be relieved of the labor of handling and processing the trustee's notice of adjudication now required to be mailed by the trustee in bankruptcy pursuant to General Order 17 (1) for the reason that such a notice is now being mailed to the district Director of the Internal Revenue Service in which the bankruptcy proceeding arises and is processed by him.

At the September 1956 meeting of the Conference the Committee recommended and the Conference approved the amendment of General Order 17 (1) so as to read as follows:

"The trustee shall, immediately upon entering upon his duties, prepare a complete inventory of all of the property of the bankrupt or debtor that comes into his possession."

Later the National Bankruptcy Conference suggested that there be added to the end of General Order 17 (1) as above amended, the following words:

"unless prior thereto, a receiver or other officer has prepared such inventory."

The views of the Bankruptcy Committee and the Conference with regard to the amendment proposed by the National Bankruptcy Conference were requested by the Chief Justice.

The Bankruptcy Committee approved the amendment proposed by the National Bankruptcy Conference with the suggestion that the word "an" be inserted between the words "such" and "inventory" so that General Order 17 (1) as amended would read as follows:

"The trustee shall, immediately upon entering upon his duties, prepare a complete inventory of all of the property of

the bankrupt or debtor that comes into his possession unless, prior thereto, a receiver or other officer has prepared such an inventory."

The Conference approved this proposed amendment.

PAYMENT OF REFEREES' TRAVEL AND SUBSISTENCE EXPENSES TO ANNUAL CONFERENCES

The Bankruptcy Committee brought to the attention of the Conference a request from the National Association of Referees in Bankruptcy that provision be made for the payment of the referees' travel and subsistence expenses to their annual conferences. It was pointed out that under existing law the payment of such expenses could only be authorized by the Administrative Office for attendance at official conferences. The Committee was of the view that no authorization for such expenditures should be made by the Administrative Office unless a basic act providing for such expenditures is enacted by Congress and with respect to the advisability of such act, the Committee recommended that the Conference take no action at this time. The Conference concurred in this recommendation.

PURCHASE AND INSTALLATION OF AIR CONDITIONING UNITS FOR REFEREES' OFFICES FROM THE REFEREES' EXPENSE FUND

In the general court appropriation for 1958, a request was made in the amount of \$1,500,000 for air conditioning court quarters in Federal buildings where complete air conditioning of the building is not contemplated. The general request included a number of referees' offices and at the hearings before the House Appropriations Committee inquiry was made as to whether an appropriation for this purpose might properly be made under the provisions of Section 62a (2) of the Bankruptcy Act which provides for the payment of actual and necessary office and other expenses of the referees when authorized and approved by the Director for the efficient and economical operation of their offices including mechanical equipment and devices.

The Committee was of the view that the purchase of air conditioning equipment for referees' offices in Federal buildings would be an appropriate expenditure from the referees' expense fund and recommended that the Conference authorize the Administrative Office to take appropriate steps to have made available suffi-

cient funds from the referees' expense fund to carry out the air conditioning project heretofore recommended for referees' offices in Federal buildings where the building itself is not to be air conditioned. The Conference approved this recommendation.

STUDY OF COSTS OF ADMINISTRATION IN BANKRUPTCY CASES

The Committee reported that pursuant to the previous authorization of the Judicial Conference the Bankruptcy Division of the Administrative Office reported that additional cost studies for the year 1956 were being made and that the same would be brought to the attention of the courts where the costs of administration have recurrently exceeded the national average. The Administrative Office reported that substantial progress toward reducing the cost of administration had been made in several districts.

The Committee recommended that the cost studies be continued in accordance with the previous authorization of the Judicial Conference. The Conference approved this recommendation.

COMMITTEE ON THE ADMINISTRATION OF THE CRIMINAL LAW

Chief Judge Parker, chairman of the Committee on the Administration of the Criminal Law, presented the report of the Committee.

APPELLATE REVIEW OF SENTENCES

Chief Judge Parker reported that the proposal for the review of sentences in criminal cases by the courts of appeals introduced in the 84th Congress and presently contained in the bill, H. R. 270 of the 85th Congress, had been circulated among the judges under the "Phillips Plan," as authorized by the Conference at its September, 1956 session (Cf. Rpt., p. 33), and will be reported on by the Committee at the next session of the Conference.

PAYMENT OF COMPENSATION TO COUNSEL APPOINTED TO REPRESENT POOR PERSONS ACCUSED OF CRIME

The Judicial Conference at its September, 1956 session (Cf. Rpt., p. 34) renewed its recommendation that legislation be enacted with respect to providing public defenders in the federal courts or authorizing payment of compensation to counsel ap-

pointed by the courts to represent indigent defendants accused of crime. This proposal is contained in a bill, H. R. 108, introduced in the 85th Congress. The Committee recommended that Congress be urged to enact this legislation and the Conference approved the recommendation.

APPEALS BY THE UNITED STATES IN CRIMINAL CASES

The Committee recommended that the Conference reaffirm its recommendation of legislation to amend Section 3731 of Title 18, United States Code, so as to provide for an appeal by the United States from an adverse decision on a motion to suppress evidence. (See Cf. Rpt., Sept. Sess. 1956, p. 35). This proposal is contained in the bill H. R. 263 of the 85th Congress. The Conference renewed its recommendation concerning this proposal.

HABEAS CORPUS

The Committee recommended that the Judicial Conference again approve the bill heretofore endorsed by the Conference in reference to applications for writs of habeas corpus by persons in custody pursuant to the judgment of a state court. (See Cf. Rpt., Sept. Sess., 1955, p. 23; Mar. Sess., 1956, p. 17.) After a full discussion the Conference voted to reaffirm its recommendation of this proposal.

COMMITTEE ON THE RULES OF CIVIL AND CRIMINAL PROCEDURE

The Committee renewed its previous recommendation (Cf. Rpt., Sept. Sess., 1956, p. 35) that the Conference recommend to the Supreme Court that the Court revive, reconstitute and consolidate its committees on the civil and criminal rules. After a full discussion the Conference authorized a committee to be appointed to study (1) whether there should be a standing committee on the rules of civil and criminal procedure and (2) whether there should be a committee of the Judicial Conference of the United States to recommend changes in the rules.

The Chief Justice was authorized, if he shall see fit, to appoint a committee of this Conference to report concerning uniform rules for appeals from the decisions of the Tax Court of the United States.

DEFINITION OF A FELONY

Chief Judge Parker reported that the Committee had under consideration the recommendations of the Judicial Conference of the Ninth Circuit referred to it by the Conference at its last session (Cf. Rpt., Sept. Sess., 1956, pp. 35, 36) that a felony be re-defined and that the probation law be changed to permit the dismissal of an indictment after the successful completion of a term of probation, and that the Committee would report concerning these proposals at the next meeting of the Conference.

TIME SPENT BY DEFENDANTS IN CONFINEMENT PRIOR TO SENTENCING

The National Legal Aid Association by resolution presented to the Judicial Conference had urged the giving of credit for the time spent in jail prior to sentence by defendants in cases where such defendants are sentenced to a term of imprisonment. It was the informal opinion of the members of the Committee that most sentencing judges now consider the time a prisoner has spent in jail prior to sentence in determining the length of sentence to be pronounced. The Committee has asked the Administrative Office to collect information from the judges on this subject.

INCREASED PUNISHMENT FOR FOURTH CONVICTION OF A FELONY

Chief Judge Parker reported that a bill, S. 543, introduced in the 85th Congress, proposes to amend Section 3575 of Title 18, United States Code, and provide that upon a fourth or subsequent conviction of a felony the defendant be sentenced for a minimum term of fifteen years and a maximum term of life. No release on parole would be allowed until the minimum term of fifteen years was served. The Committee unanimously recommended to the Judicial Conference the disapproval of this legislation embodying mandatory sentences. The Conference approved this recommendation.

The Committee further reported that the subject of the disparity of sentences was under study by the Committee and will be reported on at a later date.

THE STUDY OF PRE-TRIAL PROCEDURE IN PROTRACTED CASES

Circuit Judge Alfred P. Murrah on behalf of the group of judges appointed by the Chief Justice to make a study of the problems in the pre-trial of protracted cases reported that considerable progress had been made and that he would communicate with the Chief Judge of each circuit concerning the work of the study group.

THE COURT REPORTING SYSTEM

The Acting Director reported to the Conference that he was of the view that a resurvey of the salaries of Court Reporters should be undertaken at this time. The Conference was of the view that the Administrative Office has authority to make such a survey under the 1952 resolution of the Conference. (See Cf. Rpt., Mar. Sess., 1952, p. 27).

The following resolution of the Judicial Council of the Ninth Circuit was referred to the Judicial Conference:

Resolved, That this Council recommend to the Judicial Conference of the United States and to Congress that the legislation which permits certain government employees in Alaska to receive a 25 percent increase or differential in salaries due to the higher cost of living in Alaska, be extended to the Court Reporters there employed.

The Conference was informed that a bill, H. R. 5801, to provide cost-of-living allowances to judicial employees stationed outside the continental United States or in Alaska had been introduced in the Congress. The Conference recommended the enactment of H. R. 5801.

PERMANENT QUARTERS FOR THE ADMINISTRATIVE OFFICE

The Administrative Office reported that a sum had been included in the appropriation estimates for the Administrative Office for the coming fiscal year for the purpose of removing a substantial part of its personnel and equipment from the Supreme Court Building to rented quarters. This is in the nature of a temporary measure to relieve the present crowded condition in the Supreme Court Building, and the question of permanent quarters for the

Administrative Office remains. After a full discussion the Conference resolved that the Administrative Office (1) be moved as quickly as possible from the Supreme Court Building, (2) that an appropriation for moving be secured as soon as possible, and (3) that arrangements be made for permanent quarters for the Administrative Office. The Conference authorized a committee to be appointed to assist in these arrangements.

THE JUDICIAL SURVIVORS' ANNUITY SYSTEM

The Acting Director reported that the Judicial Survivors' Annuity System was in full operation and that the fund was in a satisfactory condition. On March 1, 1957 the Fund was worth \$760,-506 and on that date annuities in the amount of \$250,058 per year were being paid to 115 survivors of deceased federal judges. Almost 87 percent of the living judges eligible to come under the system have elected to participate.

COMPULSORY RETIREMENT OF JUDICIAL EMPLOYEES

The Acting Director submitted a report to the Conference concerning the compulsory retirement of judicial employees under section 5 of the Civil Service Retirement Act as amended by Public Law 854, of the 84th Congress, approved July 31, 1956, and the re-employment of annuitants under section 13 of that Act. The report showed that a total of 85 judicial employees have been retired under the provisions of the Act for the period October 1, 1956, the date the Act went into effect, through January 31, 1957. Of these 43 have been re-employed.

CLASSIFICATION OF THE POSITION OF CHIEF DEPUTY CLERK OF THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA CIRCUIT

Chief Judge Edgerton brought to the attention of the Conference the request of the Judicial Council of the District of Columbia Circuit that the position of chief deputy clerk of the Court of Appeals of this circuit be reclassified from grade GS-12, \$8,215 per year, to grade GS-13, \$8,990 per year. This position in the past has been graded higher than that of Chief Deputy Clerk in the other Courts of Appeals because of the unusual duties involved. The Conference approved the request.

COMMITTEE ON THE REVISION OF THE LAWS

Circuit Judge Albert B. Maris for the Committee on the Revision of the Laws submitted an information report upon certain bills which have been introduced in the first session of the 85th Congress. At the suggestion of the Committee the Conference recommended the enactment of the following bills which contain proposals previously endorsed by the Conference:

(1) *Appointment of an Additional Judge When a Disabled Judge Fails to Retire.*—This legislation is contained in the bills S. 1341 and H. R. 110 (Cf. Rpt., Sept. Sess., 1956, p. 7).

(2) *Roster of "Senior Judges"*.—The bills, S. 1338 and H. R. 3818, would carry out the recommendations of the Conference with respect to this proposal (Cf. Rpt., Sept. Sess., 1956, p. 8).

(3) *Assignment to Active Duty of Former Territorial Judges Who are Receiving Salary Under Section 373 of Title 28, United States Code.*—The bill, H. R. 3371, embodies the recommendation on this subject of the Judicial Conference made at its September, 1956 session (Cf. Rpt., p. 43).

(4) *Furnishing the Congressional Record to Judges and Court Libraries.*—A bill, H. R. 1164, would carry out this proposal approved by the Judicial Conference at its September, 1956 session (Cf. Rpt., p. 44).

(5) *The District Court of Guam.*—The bill, H. R. 4215, is identical with H. R. 10,360 of the 84th Congress which was approved by the Judicial Conference at its September, 1956 session (Cf. Rpt., p. 45).

(6) *Tenure and Retirement of District Judges in Hawaii and Puerto Rico.*—The bill, H. R. 3811, 85th Congress, is identical with H. R. 8621 of the 84th Congress on this subject which was approved by the Judicial Conference at its September, 1956 session (Cf. Rpt., p. 46).

The Committee recommended that the Conference disapprove H. R. 818 relating to the eligibility of the members of the bar of the United States Supreme Court to practice before all courts of appeals and district courts of the United States except the district court for the District of Columbia. The bill is identical with H. R. 7461 of the 84th Congress which was disapproved by the Judicial Conference at its September, 1956 session (Cf. Rpt.,

p. 42). The Committee also recommended that the Conference disapprove H. R. 820 relating to the practice of law in the District of Columbia. This bill is identical with H. R. 151 of the 84th Congress which was disapproved by the Conference at its September, 1956 session (Cf. Rpt., p. 43). The recommendation of the Committee that the bills H. R. 818 and H. R. 820 be disapproved was adopted by the Conference.

The following bills introduced in the 85th Congress not heretofore considered by the Conference were referred to the Committee on the Revision of the Laws for study and later report: S. 345 to amend the Immigration and Nationality Act to regulate judicial review by the district courts of deportation and exclusion orders; H. R. 272 to permit judicial review of decisions of the Administrator of Veterans Affairs and provide the procedure therefore; H. R. 832 to amend section 10 (d) of the Administrative Procedure Act so as to broaden judicial relief under that section pending review of administrative action; S. 1000 to amend section 1391 of Title 28, United States Code, relating to venue in the district courts in tort cases and cases where an official is a statutory agent; S. 188 and H. R. 285 which would provide for the registration of State support orders in United States district courts and for the enforcement of such orders by contempt proceedings; and H. R. 819 to amend section 1963 of Title 28, United States Code, so as to include among the judgments authorized by that section to be registered in another district those portions of divorce decrees issued by the territorial district courts which provide for the payment of money or the transfer of property. The proposal contained in the bill, H. R. 3046, to provide for the transfer between the district courts and the Court of Claims of cases filed in either one of those courts which are within the exclusive jurisdiction of the other had been previously considered by the Conference (Cf. Rpt., Sept. Sess., 1954, p. 33; Mar. Sess., 1955, p. 22). This bill was also referred to the Committee.

At the suggestion of Judge Maris the Conference authorized the Administrative Office to refer directly to the appropriate committees of the Conference for their consideration, requests for reports submitted by Committees of the Congress with respect to bills pending in the Congress not heretofore considered by the Conference and bills pending in the Congress coming to the attention of the Administrative Office which affect the judicial system.

REPORTING OF THE OPINIONS OF THE COURT OF CLAIMS

Judge Whitaker brought to the attention of the Conference the desire of the Court of Claims to have its opinions reported with those of the appellate courts in the National Reporter System. He informed the Conference that the company concerned has declined to do so on the grounds that a committee of the Conference had directed otherwise. The Court of Claims was advised that there is no regulation of the Judicial Conference of the United States either restricting the publication of or requiring that private reporting firms publish in any manner whatsoever the opinions of the United States Courts.

PRETERMISSION OF TERMS OF THE COURTS OF APPEALS OF THE EIGHTH AND TENTH CIRCUITS

At the request of Circuit Judge Whittaker, the Conference, pursuant to Title 28, U. S. C. 48, consented that terms of the Court of Appeals of the Eighth Circuit at places other than St. Louis be pretermitted during the fiscal year commencing July 1, 1957.

At the request of Chief Judge Bratton, the Conference consented that terms of the Court of Appeals of the Tenth Circuit at places other than Denver be pretermitted during the fiscal year commencing July 1, 1957.

CASES AND MOTIONS UNDER ADVISEMENT

The Administrative Office submitted a report to the Conference listing, by judge, 15 cases and motions which had been held under advisement more than 6 months on March 1, 1957. Where necessary, these will be brought to the attention of the circuit council by the chief judge of the circuit.

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 at Washington, D. C. April 13th, 1957.

APPENDIX
REPORT
OF
THE HONORABLE HERBERT BROWNELL, JR.
ATTORNEY GENERAL OF THE UNITED STATES
TO THE
JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D. C.
MARCH 14, 1957

Mr. Chief Justice, Members of the Judicial Conference:

I appreciate very much your invitation to appear at this special session of the Judicial Conference of the United States. As you know, at the request of the Chief Justice, the Attorney General makes an annual report to the September meeting of the Judicial Conference on matters of mutual concern which relate to the business of the courts. I do not propose, therefore, to make a detailed report today. Rather, I wish to discuss briefly several matters of current interest.

The drive to reduce excessive delays and congestion in the Federal courts is proceeding satisfactorily. As a part of it, the Department of Justice is actively supporting a number of legislative proposals which this Conference has recommended.

The so-called "omnibus judgeship bill" to provide additional district and circuit judgeships is already under consideration by Congressional Committees and we hope for early enactment of this necessary legislation.

Proposals which give recognition to the fact that improved judicial administration will aid immeasurably in this important endeavor are the bills to provide for relinquishment by Chief Judges of their administration duties at age seventy and to provide a roster of "Senior Judges" from judges who wish to take advantage of the retirement provisions of the law and yet are willing and able to undertake special judicial duties upon assignment by the Chief Justice.

We also support the proposal to authorize the appointment of an additional judge when the Judicial Conference certifies that a judge eligible to retire is either mentally or physically disabled. This would in substance replace 28 U. S. C. § 371 (c) which was inadvertently repealed.

The Department has also endorsed the Conference recommendation to provide for district court representation on the Judicial Conference and the legislation to make judicial per diem comparable to that now authorized for many executive positions.

In addition to the Conference recommendations, the Department is supporting two legislative proposals which the President

mentioned in his recent Budget message. One would provide in substance that whenever any *district* judge appointed to hold office during good behavior attains the age of seventy years and neither resigns nor retires, and the Judicial Conference of the United States certifies to the President that there is need for an additional judge in that district, the President may appoint, by and with the advice and consent of the Senate, an additional judge for the district.

The other would provide that the Congress extend an invitation to the Chief Justice to address it in person on the state of the Judiciary soon after the beginning of each session of Congress. We are firmly convinced that the Judicial Branch needs a spokesman who can present effectively the immediate and long range requirements of the courts and that the Chief Justice is the best qualified person to speak persuasively and authoritatively on this subject. We invite attention of the Judicial Conference to these two proposals.

I also wish to call to your attention a matter relating to national defense emergency planning. 28 U. S. C. § 141 provides that "Special terms of district court may be held at such places in the district as the nature of the business may require, *and upon such notice as the court orders, pursuant to rules approved by the judicial council of the circuit.*" (Emphasis added.) The revisor's note states that judicial council approval was included in this provision to insure uniform practice among the courts for convening special terms. 28 U. S. C. § 142 provides that "Court shall be held only at places where Federal quarters and accommodations are available or suitable quarters and accommodations are furnished without cost to the United States."

The premise underlying national defense emergency planning is to insure the availability and use of existing civil authority in the event of a national emergency to the maximum extent possible consistent with the factual situation presented. Unquestionably, the continued availability of the Federal courts may be of the greatest importance. Yet it is possible to envisage a situation wherein the courts in a particular district might not be able to convene at their regular place of business.

We are advised that at the present time the judicial councils have not promulgated rules to meet this possible contingency. In the event such authority was required, it might not be possible to convene the councils for that purpose. In these circumstances

the Judicial Conference may wish to suggest to the judicial councils the issuance of appropriate stand-by rules. Such rules might include authority to permit special sessions of court during an emergency anywhere within the district. In addition, the courts may wish to determine in advance appropriate alternate locations pursuant to section 142.

I turn now to the special question concerning the examining functions which the Department of Justice has been performing for the Judicial Branch ever since the establishment of the Administrative Office of the United States Courts. While I recognize that we are all perhaps equally familiar with this matter, it may be useful to set forth briefly the factual background out of which this procedure emerged and why we are seeking at this time Judicial Conference approval of a transfer of these functions to the Administrative Office.

Prior to the creation of the Administrative Office of the Courts, the responsibility for supervising the administration of the Courts and for securing judicial appropriations was vested in the Attorney General. With the enactment of the Administrative Office Bill, it was possible to transfer with relative ease and within a short period of time most of the functions which we had theretofore performed. However, because of budgetary problems, it was apparently not possible to make an immediate transfer of the task of inspecting or examining offices in the court system. Since it was necessary for the Department to maintain an inspection unit for the United States Attorneys' and Marshals' offices, and because of the budgetary problem involved, it was agreed that the Department would continue to examine the judicial posts for an interim period. This fact is reflected in the Report of the Judicial Conference of January 22, 1940, as follows:

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

to that effect, and also to request that the reports of its examinations be communicated to the Director."

At the September 1944 session, the Conference considered a recommendation from the Judicial Conference of the Seventh Circuit that personnel examining the offices of the courts be transferred from the Department of Justice to the Administrative Office but decided to take no action on the recommendation.

In 1950, Congress enacted legislation (64 Stat. 380; 5 U. S. C. 341 (b)) which "empowered" the Attorney General to investigate the official acts, records and accounts of the clerks of courts, probation officers, referees, trustees and receivers in bankruptcy, commissioners, and court reporters "at the request of and in behalf of the Director of the Administrative Office." This legislation was enacted solely in order to provide that requests for appropriations from year to year would not be withheld on a point of order. The language contained in this provision makes it perfectly clear that there has been no change in the view that the function was properly one for the Director of the Administrative Office. Thus while we are expressly authorized to make such investigations the law does not require it.

The Administrative Office was created because it was generally recognized that under the doctrine of separation of powers it was wholly inappropriate for the Department of Justice to be responsible for the administration of the Judicial Branch of the Government. Certainly the present procedure under which Departmental officials are called upon to examine the records and books and official acts of court personnel comes within this general principle. The duties vested in the Director of the Administrative Office by 28 U. S. C. 601 respecting supervision, examination, and auditing of vouchers of court personnel make it clear that Congress did not contemplate that the Department should continue to exercise this function. Indeed, except for the budgetary problem involved, which tended through inadvertence to perpetuate itself, presumably this function would have been transferred out of the Department long ago.

Therefore, our primary reason for seeking a transfer of these examining duties to the Administrative Office is our strong belief that it is inappropriate for the Department to supervise and examine the activities of a separate branch of the Government. In addition, however, we are currently undergoing a reorganization which will result in the disbandment of the unit which heretofore

has performed examinations, including that of the courts. It is this latter aspect which results in this matter being brought to your attention at this time.

We have discussed this matter with Mr. Whitehurst with a view to transferring, in conjunction with this reorganization, the responsibility for court inspections to the Administrative Office. It has been determined that 67.2% of the time of the present examiners is consumed in court examining work. This represents approximately \$75,000 of the appropriation allotted to the overall examining function. Subject to Judicial Conference approval, it was proposed that a transfer of this function might be effectuated by requesting the Senate Appropriations Committee to reduce our appropriation and increase the Judicial appropriation in the above amount in the pending budget for the fiscal year 1958. If this could be accomplished, the surplus experienced personnel in our examining unit could be transferred to the Administrative Office as of July 1, 1957.

For the reasons outlined above, we respectfully seek Judicial Conference approval of this action.

Finally, in my report to the Judicial Conference of last September, I indicated that the Department of Justice would undertake a comprehensive study of sentencing procedures in criminal cases in the Federal district courts. This matter is currently receiving top priority consideration by the Department and by the Advisory Corrections Council on which both the Chief Justice and the Attorney General have designated members.

The basic shortcoming of the present sentencing system is the lack of a uniform sentencing philosophy. This has resulted in disparate sentences being imposed even where by comparison the crime and the background of the criminal are substantially similar. Such a result is unfair and poses serious morale problems. Therefore, in consultation with representatives of the courts we are attempting to formulate a program (both legislative and administrative) which will provide for greater uniformity in sentences without at the same time withholding from the sentencing authority the power to fit the punishment to the criminal and not necessarily to the crime.

Our study is by no means complete, and for this reason I am not in a position to comment on the specifics of any recommendation. However, we plan in the near future to submit a draft of legislation for your consideration.