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

★

**MARCH 16, 17, 1959
WASHINGTON, D.C.**

THE JUDICIAL CONFERENCE OF THE UNITED STATES, 28 U.S.C. 331

§ 331. Judicial Conference of the United States

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years.

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

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

The 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.

TABLE OF CONTENTS

REPORT OF THE PROCEEDINGS OF A SPECIAL SESSION OF THE JUDICIAL CONFERENCE OF THE UNITED STATES, MARCH 16, 17, 1959

	Page
Call of the Conference.....	1
Report of the Attorney General.....	4
House Committee on the Judiciary.....	4
Expedition of Court Business.....	4
Additional Judgeships.....	5
Committee on the Budget.....	7
Joint Report of the Committee on Supporting Personnel and the Com- mittee on Court Administration:	
Maintenance and Travel Expenses of Judges.....	8
Clerks' Fees.....	8
Reemployment of Retired Employees or Annuitants.....	9
Deputy Clerks of Court.....	9
Closing of Clerks' Offices on Saturday.....	10
Law Clerks and Secretaries.....	10
Personnel of the Court of Claims.....	10
Uniforms for Criers.....	11
National Park Commissioners.....	11
Court Reporters.....	11
Messengers in the District of Columbia.....	12
Diversity of Citizenship Jurisdiction.....	12
Creation of New Districts.....	12
United States Commissioners:	
Compensation.....	12
Retirement.....	13
Jurisdiction.....	13
Per Diem Allowances for Personnel.....	13
Retirement Provisions for Personnel.....	13
Abolition of Terms of Court.....	13
Witness' Fees in Habeas Corpus Cases <i>in forma pauperis</i>	14
Interpreters.....	14
Standing Masters Under Rule 53.....	14
Bankruptcy Administration:	
Salaries and Arrangements.....	16
Legislation:	
Authority of bankruptcy courts to determine the effect of a dis- charge.....	18
Preferences, liens and title to property.....	18
Removal of present limitations for filing petitions under chapter XIII.....	18

Bankruptcy Administration—Continued

	Page
Legislation—Continued	
Concealment of assets in contemplation of bankruptcy.....	19
Summary jurisdiction.....	19
Blanket bonds for referees.....	19
Retention of case files by referees until the case is closed.....	19
Procedure for filling vacancies in referee positions.....	19
Retirement of referees.....	20
Consolidation of the referees' salary fund and the referees' expense fund.....	20
Automatic adjudication of voluntary cases.....	20
Omnibus noncontroversial bankruptcy bill.....	20
Improvements in Bankruptcy Procedures and Administration:	
Elimination of the oath on proofs of claim.....	20
Attorneys' fees.....	21
Standing trustees in small cases.....	21
Revision of the General Orders and Official Forms.....	22
Changes in Substantive Provisions of the Bankruptcy Act:	
Trustees' fees.....	22
Changes in Chapter XIII.....	22
Time for filing claims in Chapter XI cases.....	23
Time for review of referees' orders.....	23
Verification of pleadings.....	24
Terms of referees.....	24
Salaries of referees.....	24
General Study of Section 58 Relating to Notices.....	24
Training Course for New Referees.....	25
Proposal to Submit Survey Reports by Circuits Rather Than on a National Basis.....	25
Schedule of fees for copy work.....	25
Costs of bankruptcy administration.....	26
Committee on Habeas Corpus:	
Applications by State Prisoners Under 28 U.S.C. 2254.....	27
Eliminating the Necessity for Formal Hearings Under 28 U.S.C. 2241(b).....	28
Committee on Judicial Statistics:	
Classification of pretrial conferences.....	29
Committee on Revision of the Laws:	
Cost-of-living allowances to judicial employees stationed outside continental United States or in Alaska.....	29
Distribution of the Congressional Record to judges and court libraries.....	29
Extension of the protection statutes to probation officers.....	29
Employment of law clerks and secretaries by district judges.....	29
Life tenure for the district judge in Puerto Rico.....	29
Assignment of a retired territorial judge to active duty.....	30
Official station of a retired judge.....	30
Minimum qualification standards for probation officers.....	30
Recovery of costs in tax refund suits against District Directors.....	30
Venue in tort actions in the district in which the accident occurred.....	30
Registration and enforcement of support orders.....	30
Practice of law by members of the Supreme Court Bar in other federal courts.....	31
Transfer of cases between the district courts and the Court of Claims.....	31
<i>In forma pauperis</i> procedure for noncitizens.....	31

	Page
Operation of the Jury System.....	32
Peremptory challenges for multiple plaintiffs in civil actions.....	32
Compensation of jury commissioners.....	32
Jury commission.....	32
Verdicts less than unanimous.....	32
Handbook for petit jurors.....	32
Administration of the Criminal Law:	
Payment of compensation to counsel appointed to represent poor persons accused of crime.....	33
Setting aside the conviction of a youth offender who completes a term of probation.....	33
Institute on sentencing.....	33
Prepermission of terms of the Courts of Appeals of the Eighth and Tenth Circuits.....	33
Masters in patent cases.....	34
Cases and motions under advisement.....	34
Committees.....	34

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

Special Session—March 16–17, 1959

The Judicial Conference of the United States convened in a special session on March 16, 1959, pursuant to the call of the Chief Justice of the United States issued under 28 United States Code 331, and continued in session on March 17. The Chief Justice presided, and members of the Conference were present as follows:

District of Columbia Circuit:

Chief Judge E. Barrett Prettyman
District Judge David A. Pine

First Circuit:

Chief Judge Calvert Magruder
Chief Judge George C. Sweeney, District of Massachusetts

Second Circuit:

Chief Judge Charles E. Clark
District Judge Edward J. Dimock, Southern District of New York

Third Circuit:

Chief Judge John Biggs, Jr.
Chief Judge Phillip Forman, District of New Jersey

Fourth Circuit:

Chief Judge Simon E. Sobeloff
Chief Judge Roszel C. Thomsen, District of Maryland

Fifth Circuit:

Chief Judge Joseph C. Hutcheson
Chief Judge Seybourn H. Lynne, Northern District of Alabama

Sixth Circuit:

Chief Judge John D. Martin, Sr.
Chief Judge Paul Jones, Northern District of Ohio

Seventh Circuit:

Chief Judge F. Ryan Duffy
District Judge William J. Campbell, Northern District of Illinois

Eighth Circuit:

Chief Judge Archibald K. Gardner
Chief Judge Gunnar H. Nordbye, District of Minnesota

Ninth Circuit :

Chief Judge Walter L. Pope
 District Judge William C. Mathes, Southern District of California

Tenth Circuit :

Chief Judge Sam G. Bratton
 Chief Judge Royce H. Savage, Northern District of Oklahoma

Court of Claims :

Chief Judge Marvin Jones

The Conference welcomed the new Chief Judge of the Sixth Circuit, Honorable John D. Martin, Sr., succeeding Honorable Florence E. Allen who has relinquished the office of Chief Judge for the Sixth Circuit pursuant to 28 U.S.C. 45(c), and the new Chief Judge of the Ninth Circuit, Honorable Walter L. Pope, succeeding Honorable Albert Lee Stephens, who has relinquished the office of Chief Judge for the Ninth Circuit.

The Conference welcomed District Judge David A. Pine who attended the Conference for the first time as the elected representative of the judges in the District of Columbia Circuit.

Honorable Emanuel Celler, Chairman, Committee on the Judiciary, House of Representatives, and Honorable Joseph C. O'Mahoney, member of the Committee on the Judiciary of the United States Senate, were present at the opening session of the Conference and briefly addressed the Conference.

Circuit Judges Albert Lee Stephens, Orie L. Phillips, Albert B. Maris, and John S. Hastings; District Judge Harry E. Watkins and Judge Joseph Warren Madden of the Court of Claims attended various sessions of the Conference.

Mr. William R. Foley, Counsel of the Committee on the Judiciary of the House of Representatives; Mr. George S. Green, professional staff member of the Committee on the Judiciary of the United States Senate; and Mr. James R. Browning, Clerk of the Supreme Court of the United States, attended the sessions of the Conference.

Warren Olney III, Director; William L. Ellis, Assistant Director; C. Aubrey Gasque, Assistant Director (Legal); John C. Airhart, Assistant Director (Management); Will Shafroth, Chief, Division of Procedural Studies and Statistics; Edwin L. Covey, Chief, Bankruptcy Division; Louis J. Sharp, Chief, Probation Division; Wilson F. Collier, Chief, Division of Business Administration; and Dawson Hales, Chief, Division of Personnel; and members of their respective staffs, all of the Administrative Office

of the United States Courts, attended the sessions of the Conference. Joseph F. Spaniol, Jr., Attorney of the Administrative Office, served as reporter for the Conference.

The Conference, noting the death of Judge William Denman, formerly Chief Judge of the Ninth Circuit, adopted the following resolution:

The Conference notes with sorrow the death of Judge William Denman who died at his home in San Francisco on March 9, 1959. For 24 years a Circuit Judge, for 9 years Chief Judge of the Ninth Circuit, he had become one of the best known members of the Federal Judiciary. He was a tireless worker; he was courageous in fighting for causes in which he believed, and he was aggressive in the defense of judges in his circuit when they were attacked. The record he made will not soon be forgotten. The Conference records its profound regret at his passing.

The Conference also took note of the death of Chief Judge Bolitha J. Laws, and adopted the following resolution:

This Conference has learned with profound sorrow of the passing of Honorable Bolitha J. Laws, of Washington.

Judge Laws was born in the District of Columbia and, his father having died when he was a boy, earned his way through high school and through a law school education. He came to the federal bench from a successful career in private practice, and years of outstanding participation in civic affairs. He was for a time a District Judge and then became Chief Judge of the United States District Court for the District of Columbia by appointment by President Roosevelt. He was a dynamic leader of that court. He took vigorous part, both as a proponent and a supporter, in many measures for the improvement of the administration of justice not only locally but nationally. To be mentioned especially in this regard are pre-trial and the participation of laymen in the problems of judicial organization. He took part in the work of committees of this Conference, and when the Conference was enlarged to include District Judges he became a member of the Conference.

Judge Laws was an outstanding citizen, an outstanding judge and an outstanding participant in measures designed for

the improvement of the administration of justice. The Conference notes his passing with deep regret and records its appreciation for his contribution to its program.

A copy of this Resolution will be transmitted to the District Court in the District of Columbia and a copy to Mrs. Laws.

REPORT OF THE ATTORNEY GENERAL

The Attorney General of the United States presented an informal report to the Conference concerning legislative proposals, approved by the Conference and endorsed by the Department of Justice, and other matters relating to the business of the courts of the United States.

HOUSE COMMITTEE ON THE JUDICIARY

Congressman Emanuel Celler informed the Conference that the Committee on the Judiciary of the House of Representatives had before it several bills affecting the Judiciary which have been received regularly in each session of Congress for the last few years. He stated that the Committee desires additional information and advice on these matters, and suggested to the Conference that it undertake several comprehensive studies.

Specifically, he recommended (1) a complete study of the system of United States commissioners including the compensation of commissioners and their jurisdiction to try petty offenses; (2) a study of the organization and functions of the Judicial Councils of the Circuits, their jurisdiction over the internal affairs of the courts of the Circuits, and the advisability of including district judge representatives on the Circuit Councils; and (3) a survey of the geographical organization of the entire federal judicial system to be made in the light of population increases and economic changes and to include a study of the adequacy of the present number of places of holding court.

EXPEDITION OF COURT BUSINESS

The Conference received reports from the Chief Judge of the Court of Claims and from the Chief Judges of the respective circuits concerning the state of the dockets and the need for additional judicial assistance in each district and circuit. These reports were supplemented by the district judges who presented additional

details concerning the business of the district courts in their Circuits.

The Conference considered also the reports of its Committees on Court Administration and Judicial Statistics concerning the need for additional judgeships. These Committees were directed by the Conference at its last session to maintain a continuous appraisal of the effects of the Act of August 25, 1958 (Public Law 85-554) which altered the jurisdiction of the district courts in diversity of citizenship and certain federal question cases. The Committees reported that while there has been an overall decrease in the civil cases filed in the district courts in the first half of the current year compared with the same period of the previous year, cases pending at the end of the period were more than a year ago. The declines which have occurred have not been uniform in all districts.

After a full consideration of the Committee reports and of the views of its members, the Conference voted to recommend the creation of the following additional judgeships not heretofore recommended by the Conference:

Two additional judgeships for the Southern District of New York

One additional judgeship for the District of Maryland

One additional judgeship for the Eastern District of Michigan, the first vacancy occurring thereafter not to be filled.

The Conference also recommended the creation of one additional judgeship for the Eastern District of South Carolina in lieu of a roving judgeship for the State previously recommended; one additional judgeship for the Middle and Western Districts of Tennessee in lieu of its previous recommendations for one temporary judgeship for the Middle District and one permanent judgeship for the Western District, with the proviso that the judge appointed to the position reside in the Western District; and two temporary judgeships for the Eastern District of New York in lieu of the two permanent judgeships previously recommended.

The Conference did not renew its previous recommendations for the creation of one additional judgeship for the Western District of Louisiana, one additional judgeship for the Southern District of Texas, one additional judgeship for the Western District of Texas, one additional judgeship for the Western District of Missouri, one

additional judgeship for the Third Division of Alaska, and the recommendation to make permanent the existing temporary judgeship in the District of Utah. The proposals to create an additional judgeship for the Western District of Texas and to make permanent the existing temporary judgeship in the District of Utah were referred to the Committees on Court Administration and Judicial Statistics for further study.

All other recommendations for the creation of additional judgeships previously made by the Conference were renewed.

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

Courts of Appeals:

- 2 additional judgeships for the Court of Appeals for the Second Circuit.
- 1 additional judgeship for the Court of Appeals for the Fourth Circuit.
- 1 additional judgeship for the Court of Appeals for the Fifth Circuit.

District Courts:

First Judicial Circuit:

- 1 additional judgeship for the District of Massachusetts.

Second Judicial Circuit:

- 2 additional judgeships for the District of Connecticut.
- 2 additional judgeships for the Eastern District of New York, the first two vacancies occurring thereafter not to be filled.
- 6 additional judgeships for the Southern District of New York.

Third Judicial Circuit:

- 1 additional judgeship for the District of New Jersey.
- 3 additional judgeships for the Eastern District of Pennsylvania.
- 2 additional judgeships for the Western District of Pennsylvania.

Fourth Judicial Circuit:

- 2 additional judgeships for the District of Maryland.
- 1 additional judgeship for the Eastern, Middle and Western Districts of North Carolina.
- 1 additional judgeship for the Eastern District of South Carolina.

Fifth Judicial Circuit:

- 1 additional judgeship for the Southern District of Florida.
- 2 additional judgeships for the Eastern District of Louisiana.
- 1 additional judgeship for the Southern District of Mississippi.
- 1 additional judgeship for the Northern District of Texas.

Sixth Judicial Circuit:

- 2 additional judgeships for the Eastern District of Michigan, the first vacancy occurring thereafter in any judgeship not to be filled.
- 2 additional judgeships for the Northern District of Ohio.
- 1 additional judgeship for the Southern District of Ohio, the first vacancy occurring thereafter not to be filled.
- 1 additional judgeship for the Eastern District of Tennessee.
- 1 additional judgeship for the Middle and Western Districts of Tennessee with the provision that the judge appointed reside in the Western District of Tennessee.

Seventh Judicial Circuit:

2 additional judgeships for the Northern District of Illinois.

Eighth Judicial Circuit:

1 additional judgeship for the Northern and Southern Districts of Iowa

Ninth Judicial Circuit:

1 additional judgeship for the Northern District of California.

Tenth Judicial Circuit:

1 additional judgeship for the District of Colorado.

1 additional judgeship for the District of Kansas.

The Conference further recommends that the existing temporary judgeships in the Western District of Pennsylvania, the Middle District of Georgia and the District of New Mexico be made permanent.

The Conference has also recommended that the existing roving judgeship in the State of Washington be made a judgeship for the Western District of Washington only. (Conf. Rept., Sept. 1956, p. 6.)

COMMITTEE ON THE BUDGET

Chief Judge Charles E. Clark, Chairman of the Committee on the Budget, presented an informal report to the Conference. He stated that the appropriated funds for the operation of the courts for the fiscal year 1959, together with the supplemental appropriation requests approved by the Conference in September 1958 (Conf. Rept., p. 31), appeared adequate and that the presentation of the 1960 budget estimates by the Committee and the Administrative Office had been well received. He reported further that the procedure for presenting budget estimates to the Bureau of the Budget had been modified. Hereafter this presentation will be made in tabular form and detailed narrative justifications will be prepared only as required by the Appropriation Committees of the Congress.

JOINT REPORT OF THE COMMITTEE ON SUPPORTING PERSONNEL AND THE COMMITTEE ON COURT ADMINISTRATION

Chief Judge John Biggs, Jr., Chairman of the Committee on Supporting Personnel and of the Committee on Court Administration, made a joint report for the two Committees.

MAINTENANCE AND TRAVEL EXPENSES OF JUDGES

The Conference at its September 1958 session (Conf. Rept., p. 8) approved a draft of a bill to increase the maximum reimbursement for subsistence expenses allowable to judges on travel status from \$15 to \$25 per day, which has been introduced as H.R. 2909, 86th Congress. The Committee reported that in its opinion the bill requires some changes and additions with respect to the certification of expenses by the judge. The Committee recommends that payment be made in accordance with regulations of the Director and notwithstanding the Act of March 3, 1933. The recommendations of the Committee are embodied in S. 1378, 86th Congress. On recommendation of the Committee, the Conference approved this bill.

CLERKS' FEES

Chief Judge Biggs reported that the Administrative Office had submitted to the Committees a report on a revision of the schedule of rates for copy work and other miscellaneous services performed by the clerks of court, which was prescribed by the Judicial Conference in September 1945 (Conf. Rept., pp. 22-25) under the authority of 28 U.S.C. 1913 and 1914(b).

On the recommendation of the Committees, the Conference increased from 40 cents to 65 cents per page the rate "for making a copy (except a photographic reproduction) of any record or paper and a certification thereof" and revised the language in the schedules now reading "for a photographic reproduction of any record or paper and the comparison thereof, 25 cents for each page;" to read "for a photographic reproduction and certification of any record or paper, 50 cents per page;". The Conference directed that these new rates for copy work be made effective both in the courts of appeals and the district courts on April 1, 1959.

The Conference directed that the docketing fee of \$25 fixed by the Conference under 28 U.S.C. 1913 (Conf. Rept., Sept. 1945, p. 33) not be charged by the clerks of the courts of appeals for the docketing of an application for the allowance of an interlocutory appeal under 28 U.S.C. 1292(b), unless the appeal is allowed.

Upon the recommendation of the Committee, the Conference directed the Administrative Office to instruct the clerks of the district courts, where necessary, to avoid the practice of taxing

as costs in a criminal case the \$15 filing fee provided for in a civil case by 28 U.S.C. 1914.

REEMPLOYMENT OF RETIRED EMPLOYEES OR ANNUITANTS

The Committees reported that a number of former employees or annuitants of the judicial establishment, who had attained the age of 70 years or more, had been reemployed in their former, or similar positions, and that a memorandum on this subject had been submitted by the Administrative Office. The Conference considered the matter fully and adopted the following resolution with respect to retired employees or annuitants of the judicial establishment:

In view of the policy declared by the Congress in the Civil Service Retirement Act [70 Stat. 743 (1956), 5 U.S.C. §§ 2251-2267] for the automatic separation from the service of employees "who shall have attained the age of 70 years and completed 15 years of service", it is the sense of the Judicial Conference of the United States that the reemployment of any retired employee or "annuitant" of the Federal Judicial establishment who shall have been or may hereafter be reemployed pursuant to 5 U.S.C. § 2263(a) shall, as a general policy, be limited to a period of not to exceed 1 year, and then only if it is clearly demonstrated that such reemployment is justified.

It shall be the duty of the Director of the Administrative Office hereafter to bring this declaration of policy to the attention of the appointing authority at least 60 days prior to expiration of such 1-year period of reemployment of an annuitant.

DEPUTY CLERKS OF COURT

In accordance with the direction of the Judicial Conference at its September 1958 session (Conf. Rept., p. 14), the Administrative Office had submitted to the Committee on Supporting Personnel a study of the qualification standards for courtroom deputy clerks regarding the feasibility of including in these standards time spent in institutions of higher learning as the equivalent of years of practical experience. The Administrative Office recommended to the Committee that the qualification standards for senior courtroom

deputy clerks, Grade GS-9 and Grade GS-7, be revised to read as follows:

Grade GS-9—In order to qualify as a courtroom deputy at a GS-9, at least 2 years general experience in the office of a clerk of a United States court is necessary. Graduation from a law school of recognized standing may be substituted for 1 year of the 2 years of experience required.

Grade GS-7—In order to qualify as a courtroom deputy at a GS-7, at least 1 year's general experience is required. Graduation from a law school of recognized standing may be substituted for the 1 year of general experience.

Upon the recommendation of the Committees, the Conference approved the foregoing changes in the qualification standards for senior courtroom deputy clerks.

CLOSING OF CLERKS' OFFICES ON SATURDAYS

The Committee reported that several members of the Judicial Conference had raised the question as to whether or not the offices of the clerks of court should be closed on Saturdays. The Conference, on recommendation of the Committees, referred the matter to the Committee to be appointed on Rules of Practice and Procedure.

LAW CLERKS AND SECRETARIES

Chief Judge Biggs reported that studies of the qualification standards for law clerks and secretaries to judges had been submitted to the Committees by the Administrative Office, but that the Committees had concluded that further study is necessary. The Conference granted leave to the Committee on Supporting Personnel to consider these matters further and to report thereon at a future meeting of the Conference. (See Conf. Rept., Sept. 1958, pp. 14-15.)

PERSONNEL OF THE COURT OF CLAIMS

The Conference at its September 1958 session (Conf. Rept., p. 10) referred to the Committee on Supporting Personnel the recommendation of the Court of Claims to reclassify one of the positions of auditor from Grade GS-14 to GS-15. The Committee, on the basis of the comparative study submitted by the Administrative Office, recommended that the auditor position referred to remain at GS-14. Chief Judge Marvin Jones discussed the matter at the Conference, and informed the members the auditors in the Court of Claims performed a unique function and that there

was no other exactly comparable position in the Government. The Conference thereupon approved the reclassification of the position of one of the auditors to Grade GS-15 as requested by the Court of Claims.

UNIFORMS FOR CRIERS

The Committee reported a suggestion made by a member of the Conference that an appropriation be procured to equip court criers with uniforms. The Conference approved the recommendation of the Committees that funds for uniforms for criers not be included in the judicial budget.

NATIONAL PARK COMMISSIONERS

Chief Judge Biggs reported that several bills had been introduced in the 86th Congress to authorize the appointment of a commissioner for Grand Canyon National Park, and that the Committees were of the view that there is substantial need for a park commissioner in this park. The Conference thereupon approved S. 1164, 86th Congress, to provide for the appointment of a commissioner for Grand Canyon National Park.

COURT REPORTERS

The Conference, on recommendation of the Committees approved H.R. 4156, 86th Congress, which contains the proposal previously approved by the Conference at its September 1958 session (Conf. Rept., p. 11) to provide that the stenographic record of arraignments, pleas and sentences in criminal cases be made only when required by rule or order of court.

The Conference approved the recommendation of the Committees that the salaries of the court reporters in the District of Minnesota be increased to \$7,095 per annum, that the salaries of the court reporters for the Northern District of Georgia and the Western District of Texas remain at \$6,505 per annum, and that the court reporters in the Districts of Arizona, Kansas, the Western District of Oklahoma and the Western District of Tennessee, remain in their present status in view of their pending advancement to salaries of \$6,505 per annum. (See Conf. Rept., Sept. 1958, p. 12.)

The Conference authorized the establishment of the combination position of court reporter-secretary to Judge J. Smith Henley

of the Eastern District of Arkansas and fixed the salary at \$7,095 per annum, as recommended by the Administrative Office.

MESSENGERS IN THE DISTRICT OF COLUMBIA

Chief Judge Biggs reported that the recent reclassification of the messengers in the United States Court of Appeals and the United States District Court for the District of Columbia from Grade GS-1 to GS-2 resulted in only very nominal salary increases for 13 of the 27 messengers. The actual increase was only \$10 from \$3,815 to \$3,825 per annum. The Conference, on recommendation of the Committees, directed that these 13 messengers in the District of Columbia by reason of their long service be placed in the first longevity step of Grade GS-2 at an annual salary of \$3,920, and that similar action be taken as a matter of policy for resolving comparable inequities which may arise in the future.

OTHER LEGISLATIVE PROPOSALS

The Committees reported that the following proposals have been introduced in the 86th Congress:

(a) *H.R. 3217, to amend 28 U.S.C. 1332(c) to provide that a corporation for purposes of diversity of citizenship jurisdiction shall be deemed to be a citizen not only of the state of its incorporation but also of every state in which it is qualified to do business.*—The Conference directed the Committees on Court Administration and the Revision of the Laws to make a study of this bill and any bill of similar import which may be introduced and to report thereon at the regular annual session of the Conference in September 1959.

(b) Upon the recommendation of the Committees, the Conference disapproved the following bills to create new districts: S. 871, to create a new district in North Dakota; H.R. 732, to create a new district in Colorado; and H.R. 2811, to create a new district in California.

(c) *H.R. 2547, to increase the compensation paid to United States Commissioners, except National Park commissioners.*—This bill is similar to S. 3841, 85th Congress, which the Conference disapproved at its September 1958 session (Conf. Rept., p. 16) on the basis that the fees of United States commissioners had been

increased only recently. Upon the recommendation of the Committees the Conference disapproved H.R. 2547 at this time.

(d) *H.R. 163, to amend the Civil Service Retirement Act to provide for the crediting of service of United States commissioners on the basis of one two hundred and thirty-eighth of a year for each day's service instead of one three hundred and thirtieth of a year for each day's service.*—The bill is similar to S. 3842, 85th Congress, which was disapproved by the Conference at its September 1958 session (Conf. Rept., p. 16). Upon the recommendation of the Committees, the Conference disapproved H.R. 163.

(e) *H.R. 3218, to amend 18 U.S.C. 3401, to authorize a United States commissioner to try and sentence a person committing an offense punishable by imprisonment by not more than one year or by a fine of not more than \$1,000, or both.*—The bill retains the present provision entitling a person upon his request to be tried in a United States district court. The Committees were of the view that the proposal would effect a desirable enlargement of the present jurisdiction of the United States commissioners. Upon the recommendation of the Committees, the Conference approved the bill.

(f) *S. 419, to increase the maximum per diem allowance for employees of the Government travelling on official business.*—The Conference, upon the recommendation of the Committees, approved S. 419 insofar as it relates to employees of the judicial establishment.

(g) *S. 615, to amend the Civil Service Retirement Act to permit the retirement of employees with thirty years of service on full annuities without regard to age, to eliminate the requirement that the five years used in computing average salary for annuity purposes be consecutive, and to provide for computation of annuities on the basis of two percent of average salary.*—This bill liberalizes the provisions of the Civil Service Retirement Act. The Committees recommended that the Conference approve S. 615 insofar as it relates to employees of the judicial establishment. The Conference approved this recommendation.

ADDITIONAL MATTERS REFERRED TO THE COMMITTEES ON COURT ADMINISTRATION AND SUPPORTING PERSONNEL

(1) The Conference referred to the Committee on Court Administration the proposal of Judge Carl A. Hatch to repeal the

statute relating to holding terms of court and to provide that the courts shall be in continuous session.

(2) The Conference referred to the Committees on Court Administration and Supporting Personnel the proposal to provide for the payment of fees and mileage of witnesses in habeas corpus proceedings brought by persons who have been authorized to proceed *in forma pauperis*.

(3) At the request of Judge Dimock, the Conference referred to the Committee on Supporting Personnel the employment of interpreters on a contract or per diem basis and the payment of the fees of psychiatrists by the United States District Court for the Southern District of New York.

(4) The Conference referred to the Committee on Court Administration the proposal of Judge John W. Clancy to provide for standing masters under Rule 53, Federal Rules of Civil Procedure.

* * * * *

On motion of Judge Biggs, the Conference authorized the immediate release of the action of the Conference with respect to the recommendations of the Committees on Court Administration, Judicial Statistics and Supporting Personnel.

BANKRUPTCY ADMINISTRATION

Circuit Judge Orie L. Phillips, Chairman of the Committee on Bankruptcy Administration, reported on behalf of the Committee regarding the recommendations contained in the report of the Bankruptcy Division of the Administrative Office which was approved by the Director on January 13, 1959, relating to the positions of referees in bankruptcy to become vacant by expiration of term on June 30, 1959, unless a different expiration date was noted, and for changes in salaries, nature of positions and new positions.

The report of January 13, 1959, was submitted by the 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 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 dated February 24, 1959, as well as the recommendations of the 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, 1959, unless otherwise noted, such action to be effective July 1, 1959, 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>						
Massachusetts.....	Boston.....	Full-time..	\$15,000	Continued 1..	Full-time..	\$15,000
New Hampshire.....	Manchester.....	Part-time..	6,000	do.1.....	Part-time..	6,000
<i>2d Circuit</i>						
New York (S).....	Poughkeepsie.....	do.....	4,000	do.1.....	do.....	4,000
<i>3d Circuit</i>						
New Jersey.....	Camden.....	Full-time..	15,000	do.1.....	Full-time..	15,000
Pennsylvania (M).....	Harrisburg.....	Part-time..	6,500	do.1.....	Part-time..	6,500
Pennsylvania (W).....	Pittsburgh.....	Full-time..	13,750	do.1.....	Full-time..	13,750
	Erie.....	Part-time..	6,500	do.1.....	Part-time..	6,500
<i>4th Circuit</i>						
North Carolina (E).....	Raleigh.....	do.....	4,500	do.1.....	do.....	4,500
North Carolina (W).....	Charlotte.....	do.....	5,000	do.1.....	do.....	5,000
West Virginia (N).....	Wheeling.....	do.....	3,500	do.1.....	do.....	3,500
<i>5th Circuit</i>						
Alabama (N).....	Birmingham.....	Full-time..	15,000	do.1.....	Full-time..	15,000
Florida (S).....	Miami.....	Part-time..	7,500	do.1.....	do.....	7,500
Georgia (M).....	Macon.....	Full-time..	13,750	do.1.....	do.....	13,750
Texas (N).....	Fort Worth.....	do.....	11,250	do.1.....	do.....	11,250
Texas (S).....	Houston.....	do.....	11,250	do.1.....	do.....	11,250
<i>6th Circuit</i>						
Kentucky (W).....	Paducah.....	Part-time..	3,000	do.1.....	Part-time..	4,000
Ohio (N).....	Cleveland.....	Full-time..	15,000	do.1.....	Full-time..	15,000
	Toledo.....	do.....	15,000	do.1.....	do.....	15,000
Ohio (S).....	Cincinnati.....	do.....	15,000	do.1.....	do.....	15,000
Tennessee (W).....	Memphis.....	do.....	15,000	do.1.....	do.....	15,000

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
Illinois (S).....	Peoria.....	do.....	13,750	do. ¹	do.....	13,750
Wisconsin (E).....	Milwaukee.....	do.....	15,000	do. ¹	do.....	15,000
	Manitowoc.....	Part-time...	6,000	Discontinued
Wisconsin (W).....	Madison.....	do.....	7,500	Continued ¹ ..	Part-time...	7,500
<i>8th Circuit</i>						
Minnesota.....	Minneapolis....	Full-time...	15,000	do. ¹	Full-time...	15,000
<i>9th Circuit</i>						
California (N).....	Sacramento.....	do.....	15,000	do. ¹	do.....	15,000
California (S).....	Los Angeles.....	do.....	15,000	do. ¹	do.....	15,000
	Fresno.....	Part-time...	7,500	do. ¹	do.....	13,750
Washington (E).....	Spokane.....	Full-time...	13,750	do. ¹	do.....	13,750
Washington (W).....	Tacoma.....	do.....	11,250	do. ¹	do.....	11,250
Oregon.....	Portland.....	do.....	15,000	do. ¹	do.....	15,000
Alaska.....	Anchorage.....	Part-time...	5,000	do. ¹	Part-time...	5,000
<i>10th Circuit</i>						
Colorado.....	Denver.....	Full-time...	15,000	do. ¹	Full-time...	15,000
Oklahoma (E).....	Oklmulgee.....	Part-time...	3,000	do. ¹	Part-time...	3,000

(1) The word "Continued" signifies an authorization for the filling of the vacancy 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 July 19, 1959.

(3) Term expires Apr. 15, 1959.

(4) See statement on Alaska following this table.

(5) Term expires May 31, 1959.

On the recommendation of the Committee, the Conference took the action shown below relating to changes in arrangements and salaries to be effective July 1, 1959, unless otherwise noted.

FOURTH CIRCUIT

Eastern District of Virginia:

- (1) Authorized an additional referee position on a part-time basis at an annual salary of \$5,000 to serve the counties of Loudoun, Fairfax, Arlington, Fauquier, Prince William, Culpeper, Stafford, Orange, and the City of Alexandria.
- (2) Fixed the regular place of office of the new referee at Alexandria and designated Alexandria as a place of holding court.
- (3) Transferred the counties of Loudoun, Fairfax, Arlington, Fauquier, Prince William, Culpeper, Stafford, Orange and the City of Alexandria from the territory now served by Referee Williams at Richmond to the territory of the Alexandria referee and discontinued Alexandria as a place of holding court for the Referee at Richmond.

FIFTH CIRCUIT

Southern District of Florida:

Changed the position at Miami, Florida, from a part-time basis at a salary of \$7,500 a year to a full-time basis at a salary of \$15,000 per annum.

Northern District of Mississippi:

- (1) Changed the regular place of office of the referee from Oxford to Houston, and designated Houston as an additional place of holding bankruptcy court.
- (2) Discontinued Tupelo as a place of holding bankruptcy court.

SIXTH CIRCUIT

Western District of Michigan:

- (1) Designated Kalamazoo as an additional place of holding court for the grand Rapids referees.

SEVENTH CIRCUIT

Southern District of Illinois:

- (1) Changed the position at Springfield from a part-time basis at a salary of \$7,500 per annum to a full-time basis at a salary of \$13,750 per annum.

Eastern District of Wisconsin:

- (1) Authorized an additional full-time referee position at Milwaukee at a salary of \$15,000 per annum.
- (2) Discontinued the part-time referee position at Manitowoc.
- (3) Established concurrent district-wide jurisdiction for the full-time referees at Milwaukee.
- (4) Designated Manitowoc, Green Bay and Oshkosh as additional places of holding court for the referees at Milwaukee.

NINTH CIRCUIT

Southern District of California:

- (1) Changed the position at Fresno from part-time to full-time effective July 1, 1959, and increased the salary of the position from \$7,500 to \$13,750 a year.
- (2) Transferred San Luis Obispo County from the territory of the Los Angeles referees to the territory of the Fresno referee and designated San Luis Obispo as an additional place of holding court for the Fresno referee and discontinued San Luis Obispo as a place of holding court for the Los Angeles referees.
- (3) Authorized a new full-time position for Orange County effective April 1, 1959, for a term of 6 years at a salary of \$13,750 a year; fixed the regular place of office of the new appointee at Santa Ana, and designated Santa Ana as a place of holding court.
- (4) Discontinued Santa Ana as a designated place of holding court for the referee at San Bernardino.
- (5) Established concurrent jurisdiction for the referees at San Bernardino, Santa Ana and San Diego over cases arising from San Bernardino, Riverside, Orange, San Diego and Imperial Counties.
- (6) Increased the salary of the referee at San Diego to \$13,750 a year effective July 1, 1959.

District of Alaska:

Under the provisions of the Alaska Statehood Act the tenure of the referee will terminate when the District Court for the territory ceases to function. In order to insure that the services of a referee will be available to the United States District Court as soon as it assumes its functions, the Conference authorized the filling of the vacancy when it occurs upon the then existing basis.

LEGISLATION

Upon the recommendation of the Bankruptcy Committee, the Conference reaffirmed its approval of the proposals contained in the following bills introduced in the 86th Congress:

(1) *H.R. 78*.—The primary purposes of this bill are (1) to provide the Bankruptcy Courts with clear statutory authority to determine the effect of a discharge and (2) to provide that where credit is extended upon a materially false statement in writing by a bankrupt engaged in business, it shall be grounds for the complete denial of a discharge, but where credit is so extended to a person other than one in business, it shall not be grounds for the complete denial of a discharge, but the particular debt so created shall not be discharged. Separate bills to carry out the purposes expressed in clauses 1 and 2 above have been introduced also in the 86th Congress as *H.R. 4150* and *H.R. 4346*.

(2) *H.R. 4158*.—This bill relates to priority claims, statutory liens and title to property. It preserves the present position of the costs of administration and wages in the distribution of the assets of a bankrupt and at the same time enables valid contractual liens such as chattel mortgages, conditional sales contracts, trust receipts and the like to retain their position ahead of statutory liens on personal property unaccompanied by possession.

(3) *S. 303 and H.R. 2237*.—These bills would amend Section 606(8) of the Bankruptcy Act (11 U.S.C. 1006(8)) to make more debtors eligible to file Chapter XIII petitions by removing the present \$5,000 limitation on earnings. They would also amend Section 659(3) of the Act (11 U.S.C. 1059(3)) which fixes the commissions of the trustee in Chapter XIII cases at a flat 5 percent upon the amount of payments actually made by or for the debtor. The bills would fix the trustee's commissions at not more than 5 percent.

(4) *H.R. 5747*.—This bill would amend paragraph 6 of 18 U.S.C. 152 with respect to the concealment of assets in contemplation of bankruptcy to read as follows:

Whoever, either individually or as an agent or officer of any person or corporation, in contemplation of a bankruptcy proceeding by or against him or any other person or corporation, or with intent to defeat the bankruptcy law, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation, or

(5) *H.R. 4850*.—This bill would amend Section 60b—Preferred Creditors; Section 67e—Liens and Fraudulent Transfers; and Section 70e—Title to Property (11 U.S.C. 96(b), 107(e), and 110(e)) to give the Bankruptcy Court summary jurisdiction in actions brought under these Sections.

The Committee presented drafts of the following bills prepared by the Administrative Office to carry out various legislative proposals previously approved by the Conference. On recommendation of the Committee, the Conference approved the drafts as submitted and reaffirmed its approval of the proposals contained therein.

(1) *H.R. 4837*.—To amend Section 50 of the Bankruptcy Act (11 U.S.C. 78) to authorize the Director to procure and maintain a surety bond or bonds covering all referees in bankruptcy and the members of their staffs under the procedure set forth in Title 6 of the United States Code.

(2) *H.R. 4845*.—To repeal Section 39a(9) of the Bankruptcy Act (11 U.S.C. 67a(9)) to permit referees to retain certain papers until a case is closed, at which time they will be transmitted to the clerk of the court for preservation as a part of the referee's record of proceedings. This will relieve both the referee's office and the clerk's office of considerable detail work.

(3) *H.R. 4840*.—To amend Section 43b of the Bankruptcy Act (11 U.S.C. 71b) and Section 34a of the Bankruptcy Act (11 U.S.C. 62a) to simplify the filling of vacancies in the offices of referees in bankruptcy. The bill would permit a vacancy in the office of a referee to be filled when it is recommended by the Director, the district judge or judges and the Circuit Council that the office be continued on the existing basis, without following the proce-

ture of a recommendation to the Conference and without the necessity of Conference approval.

(4) *H.R. 4341*.—To amend Section 40d(1) of the Bankruptcy Act (11 U.S.C. 63d(1)) to provide for the compulsory retirement of referees in bankruptcy upon attaining the age of 75 years. The bill would also provide that the amendment shall not be applicable to referees appointed or reappointed prior to the effective date of the amendment, thus permitting any referee appointed before the effective date of the amendment to serve out his term of appointment.

(5) *H.R. 4693*.—To permit the consolidation of the Referees' Salary Fund and the Referees' Expense Fund and thereby simplify and reduce the clerical and accounting work in the referees' offices, the offices of the clerks of court, the Treasury Department and the Administrative Office.

(6) *H.R. 4692*.—To amend the Bankruptcy Act to provide (1) that the filing of a voluntary petition in ordinary bankruptcy shall operate as an adjudication; and (2) that unless the judge or judges direct otherwise, the clerk of the court shall make the reference in all ordinary bankruptcy cases (voluntary and involuntary), Chapter XI (Arrangements) cases and Chapter XIII (Wage-Earners' Plans) cases. The bill would accomplish this by amending Sections 1, 18, 22, 331, and 631 of the Bankruptcy Act (11 U.S.C. 1, 41, 45, 731, and 1031).

PROPOSAL FOR AN OMNIBUS NONCONTROVERSIAL BANKRUPTCY BILL

The Committee brought to the attention of the Conference a proposal by the National Bankruptcy Conference for the preparation of an omnibus noncontroversial bill making clarifying changes in various provisions of the Bankruptcy Act. The Conference, on recommendation of the Committee, authorized the Administrative Office to support such a bill.

IMPROVEMENTS IN BANKRUPTCY PROCEDURES AND ADMINISTRATION

The Committee reported as follows on matters referred to it by the Conference at its September 1958 session (Conf. Rept., p. 28):

(1) *Elimination of the oath on proofs of claim*.—The Committee presented to the Conference a draft of a bill eliminating the requirement that proofs of claim be verified under oath and submitted revised claim forms prepared by the Administrative Office

containing the statement that any false material statement of fact in the claim shall constitute a criminal offense. Upon the Committee's recommendation, the Conference approved the bill and referred the revision of the forms to the Committee on Bankruptcy Rules to be appointed pursuant to Public Law 85-513.

(2) *Attorneys' fees.*—The Committee reported that the Bankruptcy Division of the Administrative Office had presented a draft of an amendment to Section 60d of the Bankruptcy Act (11 U.S.C. 96d) designed to give the Bankruptcy Court on its own motion, or on petition of the bankrupt made prior to the granting of his discharge, jurisdiction to determine the reasonableness of fees paid or agreed to be paid to his attorney for services rendered or to be rendered. As amended, Section 60d would read as follows:

If a debtor shall, directly or indirectly, in contemplation of the filing of a petition by or against him, pay money or transfer property to an attorney and counselor at law, solicitor in equity, or proctor in admiralty for services *rendered or to be rendered*, the transaction shall be reexamined by the court on petition of the trustee or any creditor and shall be held valid only to the extent of a reasonable amount to be determined by the court, and the excess may be recovered by the trustee for the benefit of the estate.

If, whether before or after filing, a debtor shall agree orally or in writing to pay money or transfer property after the filing, the transaction shall be reexamined by the court on its own motion or on petition of the bankrupt made prior to discharge and shall be held valid only to the extent of a reasonable amount to be determined by the court, and any excess obligation shall be cancelled, or if excess payment or transfer has been made, returned to the bankrupt. [The italicized words are new.]

On recommendation of the Committee, the Conference approved the proposal and referred to the Committee to be appointed on Bankruptcy Rules a proposed change in Schedule B-4 to conform with this amendment.

(3) *Standing trustees for small cases.*—The Committee reported that it had considered the study made by the Bankruptcy Division of the Administrative Office of the proposal to provide a panel of standing trustees to handle small cases. Upon the

recommendation of the Committee, the Conference reaffirmed the following resolution adopted at the September 1954 session (Conf. Rept., p. 14):

It is the sense of the Conference that a greater use of trustees in the administration of no-asset cases should be made by the referees in bankruptcy.

The Conference referred to the Committee on Bankruptcy Rules the proposal to exempt trustees appointed in no-asset cases from the provisions of General Order 14, as was similarly done in General Order 55(2) in the case of trustees appointed to handle Chapter XIII cases.

(4) *Revision of the General Orders and Official Forms.*—The Conference, at the request of the Committee, authorized the Chief of the Bankruptcy Division of the Administrative Office to bring to the attention of the Committee on Bankruptcy Rules, to be appointed pursuant to Public Law 85-513, matters relating to the revision of the General Orders or Official Forms as may be deemed necessary or advisable.

CHANGES IN SUBSTANTIVE PROVISIONS OF THE BANKRUPTCY ACT

The Committee brought to the attention of the Conference the following proposals to amend the Bankruptcy Act:

(1) *Trustees' fees.*—The Committee recommended that the trustee's closing fee now fixed at \$5 by Section 48c of the Act (11 U.S.C. 76c) payable after their services are rendered, be increased to \$10, thereby making the total bankruptcy filing fee \$50 instead of \$45. The Conference approved the recommendation of the Committee.

(2) *Changes in Chapter XIII.*—(a) Section 678 of the Bankruptcy Act requires the clerk or the referee to transmit to the Secretary of the Treasury copies of petitions, numerous notices and orders in Chapter XIII cases as well as in Chapter X, XI and XII proceedings. However, since Chapter XIII debtors rarely owe substantial amounts in federal taxes, it seems unnecessary to require the above papers to be mailed to the Treasury Department.

The Committee recommended that Section 678 be repealed and that provision be made requiring notice of a first meeting of creditors to be given in Chapter XIII cases pursuant to Section 58e of

the Bankruptcy Act. This Section requires that notice of the first meeting of creditors be given to the District Director of Internal Revenue for the district in which the court is located and to the Comptroller General of the United States. Notice of the first meeting of creditors is also required by Section 58e to be mailed to the head of any department, agency or instrumentality whenever the schedules of the bankrupt disclose a debt due to the United States acting through any department, agency or instrumentality thereof.

(b) The Committee further recommended that all creditors in Chapter XIII cases be required to file claims within six months after the first date set for the first meeting of creditors in order to participate in the debtors' plan. The Committee stated that there is considerable doubt under the present law whether claims need to be filed, although Section 656b of the Act provides that the court, before confirming a plan, shall require proof from each creditor filing a claim that such claim is free from usury. It, therefore, seemed advisable to the Committee that Chapter XIII be amended to incorporate in it the provisions of Section 57n relating to the filing of proofs of claim.

The Conference approved both recommendations of the Committee with respect to Chapter XIII.

(3) *Time for filing claims in Chapter XI cases.*—Creditors in Chapter XI cases are not required to file claims, but those listed in the debtor's schedule participate in the plan to the extent of the amount scheduled, unless objection is filed. The Committee was of the view that claims in Chapter XI proceedings should be filed within 6 months after the first date set for the first meeting of creditors and that notice of the first meeting of creditors should set forth the last date for filing claims. The Committee therefore recommended that Chapter XI be amended accordingly and the Conference approved the proposal.

(4) *Time for review of referee's orders.*—The Committee reported that uncertainty as to the finality of a referee's decision now exists because of the holdings of some courts that a referee must accept belatedly filed petitions for review and certify them to the judge who must determine whether he will hear the same on the merits or dismiss them for being filed too late. The Conference thereupon approved the recommendation of the Committee

that Section 39c of the Bankruptcy Act be amended to read as follows:

A person aggrieved by an order of a referee may, within ten days after the entry thereof or within such extended time as the court *upon petition filed within such 10 day period* may for cause shown allow, file with the referee a petition for review of such order by a judge, and serve a copy of such petition upon the adverse parties who were represented at the hearing. Such petition shall set forth the order complained of and the alleged errors in respect thereto. [New language in italics.]

(5) *Verification of pleadings.*—The Committee pointed out that Section 18c of the Bankruptcy Act (11 U.S.C. 41c) requires all pleadings setting up matters of fact to be verified. On the other hand the Rules of Civil Procedure, made applicable to bankruptcy proceedings by General Order 37 insofar as they are not inconsistent with the Act, do not require pleadings to be verified. Because of the inconsistency, Section 18c applies. It was the view of the Committee that the verification of pleadings was unnecessary, and, therefore, recommended that Section 18c be repealed and that the subsections following it be relettered accordingly. The Conference approved the Committee's recommendation.

(6) *Terms of referees.*—The Conference on the recommendation of the Committee approved a proposal to amend Section 34 of the Bankruptcy Act (11 U.S.C. 62) to increase the term of a referee in bankruptcy from 6 to 12 years, provided there is incorporated in the bill, or enacted by separate legislation, an adequate provision for the compulsory retirement of referees at an age not greater than 75.

(7) *Salaries of referees.*—The Conference concurred in the recommendation of the Committee that no increase be provided at this time in the maximum salaries of full-time and part-time referees set forth in Section 40a of the Bankruptcy Act (11 U.S.C. 68a).

GENERAL STUDY OF SECTION 58 RELATING TO NOTICES

In accordance with the Committee's recommendation, the Conference directed the Administrative Office to make a general study of Section 58 relating to notices and to report thereon at the next meeting of the Bankruptcy Committee.

TRAINING COURSE FOR NEW REFEREES

Judge Phillips reported that it has been the practice of the Chief of the Bankruptcy Division, or a member of his staff, to visit new referees as soon as possible after their appointment for the purpose of familiarizing them with the facilities of the Bankruptcy Division, as well as with other divisions of the Administrative Office, and that it was the view of the Committee that much could be gained through an administrative and procedural training course for new referees which had been proposed to the Committee by the Administrative Office. On recommendation of the Committee, the Conference thereupon authorized a 4-day conference of newly appointed referees to be held in Washington, D.C., subject to the availability of appropriated funds.

PROPOSAL TO SUBMIT SURVEY REPORTS BY CIRCUITS RATHER THAN
ON A NATIONAL BASIS

Judge Phillips reported that the task of compiling, duplicating and circulating the complete survey reports to all circuit and district judges concerned places a tremendous peak load on the various Divisions and Sections of the Administrative Office. To relieve this situation the Administrative Office has suggested that instead of sending at the same time the complete report to all judges, it send to the circuit and district judges only the material relating to their districts and circuits as it is completed. The work would thus be leveled out. An identical transmittal letter and report on the operations of the Bankruptcy System would be sent in each case as is done at present.

The Committee recommended approval of the proposal, and the Conference agreed.

SCHEDULE OF FEES FOR COPY WORK

The Committee brought to the attention of the Conference the schedule of special charges to be made by the referees, which was promulgated on July 1, 1947, pursuant to Section 40c(3) of the Bankruptcy Act (11 U.S.C. 68c(3)), for making copies (except photographic reproductions) of records or papers and the comparing thereof. The schedule as originally adopted did not provide a charge for making photographic reproductions, but since

that time a number of referees' offices have been supplied with photocopying machines.

In order to provide for such a charge for photographic reproductions and to conform with the charges authorized to be made by the clerks of court, the Committee recommended that paragraph numbered 4 of the schedule of special charges for referees' services be amended, effective April 1, 1959, to read as follows:

4. For making a copy (except a photographic reproduction) of any record or paper, and certification thereof, 65 cents per page of 250 words or fraction thereof; for comparing for certification a copy (except a photographic reproduction) of any transcript of record, entry, record or paper when such copy is furnished by the person requesting its certification, 10 cents for each page of 250 words or fraction thereof.

For a photographic reproduction of any record or paper, and the certification thereof, 50 cents for each page; and for comparing with the original thereof any photographic reproduction of any record or paper not made by the referee, 5 cents for each page.

The Conference approved this recommendation.

COSTS OF BANKRUPTCY ADMINISTRATION

The Committee reported that the Bankruptcy Division of the Administrative Office had made complete studies of the costs of Bankruptcy administration for the fiscal year 1957 in 19 districts and had brought the results thereof to the attention of the referees by personal conferences in some districts and by mail in others. Figures for the fiscal year 1958 show that the percentage costs of administration of bankruptcy estates nationally declined slightly from 25.9 percent in 1957 to 25.7 percent in 1958. The average size of the estates administered in 1957 was \$6,725, while in 1958 it was \$6,054. Normally, the percentage cost of administration will rise as the size of the estate decreases and vice versa, so that the decline of 0.2 of 1 percent in 1958 was really greater than the figures indicate.

The Committee reported that in its opinion the cost studies have been effective and recommended that they be continued. The Conference approved this recommendation.

* * * * *

On recommendation of the Committee of the Conference authorized the immediate release of the action of the Conference with respect to the recommendations contained in the Committee's report.

COMMITTEE ON HABEAS CORPUS

Judge Orie L. Phillips, Chairman of the Committee on Habeas Corpus, reported that the Committee had reviewed the proposal previously recommended by the Judicial Conference embodied in H.R. 3216, H.R. 4958 and similar bills, 86th Congress, with reference to habeas corpus applications to the United States courts by persons in custody pursuant to the judgment of a State court. This proposal was originally approved by the Conference at its March 1955 session (Conf. Rept., p. 18).

The Committee reported that considerable opposition had developed recently to the restrictions contained in the bill on the use of the writ of habeas corpus and that several members of the Supreme Court of the United States were apprehensive that the bill, if enacted, would unduly increase the work of that Court. The Supreme Court is not constituted to hear contested applications for habeas corpus and if such legislation were enacted the Court would have to refer them to district judges sitting as special masters to hear the applications and report findings and conclusions to the Supreme Court.

The Committee presented to the Conference a draft of a bill which in the view of the Committee reasonably meets and should satisfy the objections raised by the States to the review by a single federal judge of a decision by the highest court of a State. The bill would limit the grounds for habeas corpus applications by state prisoners to federal constitutional questions; provide that a state prisoner may not relitigate in a lower federal court a federal constitutional question previously presented to the Supreme Court and actually adjudicated adversely to him, unless he shows a material and controlling fact not on the record in the Supreme Court and which, by the exercise of reasonable diligence, could not have been brought upon the record in the Supreme Court; and provide for a hearing before a district court of three judges of all cases in which the writ is issued. The decision of the district court of three judges would be reviewable only on writ of certiorari to the Supreme Court of the United States. It was

the view of the Committee that only a very few applications will present substantial grounds for relief and require the issuance of the writ and the creation of the three-judge court.

The Conference approved the proposal as a substitute for its previous recommendation and directed the Committee, with the assistance of Judge Albert B. Maris, to effect any desirable technical improvements in the bill prior to its transmittal to Congress.

The Committee also reported that it had considered the proposal to amend 28 U.S.C. 2241(b) to eliminate the necessity for formal hearing of the many habeas corpus applications transferred to the district courts, which can be determined under existing laws merely upon consideration of the averments of the petition and the accompanying documents. Upon the recommendation of the Committee, the Conference approved the following draft of a bill:

A BILL

To amend Section 2241(b) of Title 28 of the United States Code in reference to the power of federal courts to grant writs of habeas corpus.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2241(b) of Title 28, United States Code, is amended by striking therefrom the words "hearing and" immediately preceding the word "determination", so that Section 2241(b), Title 28, United States Code, shall read as amended as follows:

"(b) The Supreme Court, any justice thereof, and any circuit judge may decline to entertain an application for a writ of habeas corpus and may transfer the application for determination to the district court having jurisdiction to entertain it."

The Conference directed that the Committee on Habeas Corpus be continued for the further study of habeas corpus procedures and related matters.

COMMITTEE ON JUDICIAL STATISTICS

Chief Judge Charles E. Clark, Chairman of the Committee on Judicial Statistics, presented to the Conference the results of the survey of the Committee of the effect on the judicial business of

the various district courts of the recent statute altering the jurisdiction of the district courts in diversity of citizenship and certain federal question cases. The action of the Conference with respect to the Committee's recommendations for the creation of additional judgeships is set forth above.

The Committee again recommended that as a means of furnishing more accurate information on pre-trial conferences conducted in the district courts the Administrative Office be authorized to request the clerks of the district courts in their monthly reports to classify pre-trial conferences in accordance with whether or not a pre-trial order was entered. (See Conf. Rept., Sept. 1958, p. 34.) After a full discussion the Conference approved the recommendation of the Committee.

COMMITTEE ON THE REVISION OF THE LAWS

Circuit Judge Albert B. Maris, Chairman, submitted the report of the Committee on Revision of the Laws.

Upon the recommendation of the Committee, the Conference approved the following bills which contain proposals previously approved by the Judicial Conference:

(1) *S. 172 and H.R. 4085, to provide cost of living allowances to judicial employees stationed outside the continental United States or in Alaska.*—These bills are identical with S. 3374 and H.R. 5801, 85th Congress, which were approved by the Judicial Conference in March 1957 (Conf. Rept., p. 24).

(2) *H.R. 157, to authorize distribution of the Congressional Record to judges and court libraries requesting it.*—This bill is identical with H.R. 1164, 85th Congress, which was approved by the Conference at its March 1957 session (Conf. Rept., p. 26).

(3) *H.R. 2976, to extend the protection statutes to probation officers.*—This proposal was last approved by the Judicial Conference at its September 1957 session (Conf. Rept., p. 40).

(4) *H.R. 2979, to authorize district judges to employ law clerks and secretaries in the same manner as they are employed by circuit judges.*—This bill is identical with H.R. 3816, 85th Congress, which was approved by the Conference at its September 1957 session (Conf. Rept., pp. 17-18).

(5) *H.R. 290, to provide life tenure for district judges in Hawaii and Puerto Rico.*—The bill is identical with H.R. 3811, 85th Congress, approved by the Conference at its March 1957 session (Conf.

Rept., p. 26). Since Hawaii is now a State, the Conference renewed its recommendation only with respect to Puerto Rico.

(6) *H.R. 2981, to authorize the assignment of retired territorial judges to active duty.*—This bill is identical with H.R. 3371, 85th Congress, which was approved by the Conference at its March 1957 session (Conf. Rept., p. 26).

(7) *H.R. 2982, to establish the official station of a retired judge assigned to active duty.*—This bill is identical with the bill approved by the Conference at its September 1958 session (Conf. Rept., pp. 39-40).

(8) *H.R. 4151, to authorize the Judicial Conference to establish minimum qualification standards for probation officers.*—This bill is identical with H.R. 3817, 85th Congress, which was approved by the Conference at its September 1957 session (Conf. Rept., p. 42).

(9) *H.R. 4153, to permit recovery of costs in tax refund suits against District Directors of Internal Revenue.*—This bill is identical with S. 3875 and H.R. 12664 which were approved by the Conference at its September 1958 session (Conf. Rept., p. 39).

The Committee reported as follows concerning proposals previously considered by the Conference:

(1) *S. 286 and H.R. 448, relating to venue in tort actions in the district in which the act or omission complained of occurred.*—These bills would add a subdivision (e) to 28 U.S.C. 1391 to permit a suit on a tort claim in the district in which the tortious act took place as well as in the districts of the residence of the defendant and the plaintiff. S. 286 would also add a subsection (f) which is intended to broaden the venue statute so as to permit suit against any person or corporation in any judicial district which is the residence of a state official who, by operation of state law rather than by actual appointment, becomes the agent of that person or corporation to receive service of process. This latter proposal was contained in S. 1000, 85th Congress, which the Conference disapproved at its September session (Conf. Rept., pp. 36-37). Upon the recommendation of the Committee, the Conference approved H.R. 448 and S. 286, 86th Congress, the latter, however, with an amendment striking out proposed subsection (f) from the bill.

(2) *S. 353 and H.R. 495, to permit the registration and enforcement of support orders in certain state and federal courts.*—These

bills are similar to S. 183 and H.R. 285, 85th Congress. At its September 1957 session (Conf. Rept., p. 37), the Conference disapproved the provisions of these bills which would provide for the registration and enforcement of support orders by federal district courts and expressed no opinion on the other features of the bills. Upon the recommendation of the Committee, the Conference reaffirmed this action with respect to S. 353 and H.R. 495, 86th Congress.

(3) *H.R. 590, H.R. 2238, and H.R. 3091, to authorize members of the bar of the Supreme Court of the United States to practice before the courts of appeals and district courts except the district court for the District of Columbia.*—These bills are similar to H.R. 815, 85th Congress, disapproved by the Conference at its March 1957 session (Conf. Rept., pp. 26-27). Upon the recommendation of the Committee, the Conference reaffirmed its disapproval of the proposals contained in H.R. 590, H.R. 2238, and H.R. 3091, 86th Congress.

(4) *H.R. 5396, to authorize the transfer of cases between the district courts and the Court of Claims.*—The Committee reported that the Secretary of Commerce had proposed several amendments to H.R. 3046, 85th Congress, approved by the Conference in September 1957 (Conf. Rept., p. 35). These proposed amendments would make the transfer of cases between the district courts and the Court of Claims discretionary with the court in the interests of justice rather than mandatory and would provide that in the case of a transfer from the Court of Claims to a district court the case should proceed as if it had been filed in the district court on the date it was filed in the Court of Claims, so that the application of any defense of laches or statute of limitations would not be affected by the transfer. The Committee was of the view that these amendments are desirable, and upon its recommendation the Conference approved H.R. 5396, with these two amendments suggested by the Secretary of Commerce.

(5) *H.R. 5257, to permit noncitizens to proceed in forma pauperis.*—The Committee reported that the Director of the Administrative Office had suggested that 28 U.S.C. 1915(a) be amended to make the *in forma pauperis* procedure available to all individuals, regardless of whether they are citizens of the United States. The Committee was of the view that the present statutory restriction of the *in forma pauperis* procedure to citizens is

not justified and should be eliminated. Upon the recommendation of the Committee, the Conference approved the proposal contained in H.R. 5257.

OPERATION OF THE JURY SYSTEM

Chief Judge Harry E. Watkins, Chairman of the Committee on the Operation of the Jury System, submitted the report of the Committee.

LEGISLATION

Judge Watkins informed the Conference that several bills containing proposals previously approved by the Conference had been introduced in the 86th Congress. At the suggestion of Judge Watkins the Conference reaffirmed its approval of the proposals contained in the following bills:

(1) H.R. 2978, to authorize additional peremptory challenges to multiple plaintiffs in civil actions as well as to multiple defendants;

(2) H.R. 4157, to increase the compensation of jury commissioners from \$5 to \$10 per day with no limit on the number of days of service; and

(3) H.R. 4343, to provide a jury commission for each United States district court, to regulate its compensation, to prescribe its duties and for other purposes.

The Conference reaffirmed its disapproval of the proposal contained in H.R. 591 and H.R. 1095, to provide that in a civil case the number of jurors required to constitute the jury and the number who must agree for a valid verdict shall be determined by the law of the State in which the action is tried.

HANDBOOK FOR PETIT JURORS

Chief Judge Watkins presented to the Conference a revised handbook for petit jurors serving in the United States district courts. He informed the Conference that following the circulation of the revised handbook to the members of the Judicial Conference in September 1958, additional suggestions had been made, all of which have been incorporated in the revision. He stated that it was the desire of the Committee to obviate any possible challenge of the handbook in future cases and to secure its widest possible use. He informed the Conference that the Committee

knows of no case now pending in the courts challenging the use of the handbook.

Upon the recommendation of the Committee, the Conference approved the handbook, as revised, and authorized the Administrative Office to have it printed and distributed to those district courts which express a desire to use it.

ADMINISTRATION OF THE CRIMINAL LAW

The Conference was informed that due to the illness or death of several of its members the Committee on the Administration of the Criminal Law had not met. Thereupon the Conference requested the Chief Justice to reconstitute the Committee on the Administration of the Criminal Law as soon as possible and directed the Committee to consider the views of the National Legal Aid Society on the proposal to authorize grants to legal aid societies and other organizations providing free legal services to indigent persons accused of crime in the federal courts, which was disapproved by the Conference at its March 1958 session (Conf. Rept., p. 33) and to report promptly to the Conference. (See Conf. Rept., Sept. 1958, p. 32.)

Judge Dimock brought to the attention of the Conference the observation of Judge Irving Kaufman of the lack of any provision for the automatic setting aside of the conviction of a youth offender who successfully completes a term of probation under 18 U.S.C. 5010, although the conviction of a *committed* youth offender may be set aside under 18 U.S.C. 5021. The matter was referred to the Committee on the Administration of the Criminal Law for study and report to the Conference.

On motion of Judge Campbell, the Conference approved the convening of a 2-day Institute on Sentencing in conjunction with the Seminar on Protracted Cases to be held at the University of Colorado in Boulder, Colorado, in July 1959.

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

At the request of Chief Judge Gardner, the Conference, pursuant to 28 U.S.C. 48, consented that terms of the Court of Appeals for the Eighth Circuit at places other than St. Louis be pretermitted during the fiscal year commencing July 1, 1959.

At the request of Chief Judge Bratton, the Conference consented that terms of the Court of Appeals for the Tenth Circuit at places other than Denver be pretermitted during the fiscal year commencing July 1, 1959.

MASTERS IN PATENT CASES

At the request of Judge Paul Jones, the Conference referred to the Committee to be appointed on Rules of Practice and Procedure a proposal to liberalize the Rules of Civil Procedure with regard to the reference of patent cases to masters.

CASES AND MOTIONS UNDER ADVISEMENT

The Administrative Office submitted to the Conference a list of 13 cases and motions which had been held under advisement in the district courts for more than 6 months as of January 1, 1959, and were still pending. Where necessary, these will be brought to the attention of the Circuit Council by the Chief Judge of the circuit.

COMMITTEES

On motion of Chief Judge Biggs, the Conference authorized the Chief Justice to refer to the appropriate Committee of the Conference any matter brought to the attention of the Conference at this session.

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.

Washington, D.C., *May 29, 1959.*

INDEX

	Page
Additional judgeships.....	5
Appropriations	7
Attorney General, report of.....	4
Budget, committee on Report of.....	7
Bankruptcy Administration:	
Amendment of Section 60 of the Act.....	19
Attorneys' fees.....	21
Bonds for referees and other personnel.....	19
Chapter XI, time for filing claims.....	23
Chapter XIII proceedings:	
Limitations on filing, removal of.....	18
Notices in.....	22
Committee on, report of.....	14
Concealment of assets.....	19
Costs of administration of estates.....	26
General Orders and Official Forms, revision of.....	22
Notices, study of Section 58 of the Act.....	24
Omnibus noncontroversial bankruptcy bill.....	20
Preferences, liens and title to property.....	18
Procedures and administration:	
Adjudication, voluntary cases.....	20
Oath on proof of claim, elimination of.....	20
Retention of case files by referees.....	19
Survey reports by circuits.....	25
Trustees in small cases.....	21
Verification of pleadings.....	24
Provable debts, dischargeability of.....	18
Referees:	
Retirement of.....	20
Salaries.....	24
Salaries and arrangements.....	16
Terms of.....	24
Training course.....	25
Vacancies, filling of.....	19
Review of referees' orders, time for.....	23
Salary and expense funds, consolidation of.....	20
Summary jurisdiction.....	19
Trustees, fees of.....	22
Cases and motions under advisement.....	34
Committees.....	34
Conference, call of.....	1
Court Administration:	
Clerks' offices, Saturday closing.....	10
Diversity jurisdiction.....	12

	Page
Court Administration—Continued	
Maintenance and travel expenses of judges.....	8
New districts, creation of.....	12
Standing masters under Rule 53.....	14
Terms of court, abolition of.....	13
Witness' fees in habeas corpus cases.....	14
Court reporting system, salaries of reporters.....	11
Courts:	
Court of Claims:	
Personnel of.....	10
Transfer of cases to the district courts.....	31
Courts of Appeals:	
Pretermission of terms of court.....	33
District Courts:	
Cases and motions under advisement.....	34
Clerks' fees for copy work.....	8
Costs in tax refund suits against District Directors.....	30
Jurisdiction in diversity cases.....	12
New districts, creation of.....	12
Saturday closing of clerks' offices.....	10
Transfer of cases to the Court of Claims.....	31
Geographical organization of.....	4
Criminal Law Administration:	
Committee on.....	33
Indigent defendants, compensation of counsel for.....	33
Institute on Sentencing.....	33
Youth offenders, setting aside conviction of.....	33
Expedition of court business.....	4
Habeas Corpus:	
Committee on, report of.....	27
Hearings under 28 U.S.C. 2241.....	28
State prisoners, applications of.....	27
Witness' fees <i>in forma pauperis</i> cases.....	14
House Committee on the Judiciary, legislative studies.....	4
Indigent litigants:	
Compensation of counsel for criminal defendants.....	33
<i>In forma pauperis</i> procedure for noncitizens.....	31
Judges:	
Maintenance and travel expenses of.....	8
Puerto Rico, tenure and retirement of.....	29
Station of retired judges for travel expense purposes.....	30
Territorial judges, retired, assignment to duty.....	30
Judgeships—additional.....	5
Judicial Councils, powers and organization of.....	4
Jurisdiction and Venue:	
Diversity of citizenship cases.....	12
Venue in tort actions.....	30
Jury System:	
Committee on the Operation of, report of.....	32
Handbook for petit jurors.....	32
Jury commission, establishment of.....	32
Jury commissioners, compensation of.....	32

	Page
Jury System—Continued	
Peremptory challenges.....	32
Verdicts in civil cases less than unanimous.....	32
Law clerks and secretaries for district judges.....	10
Law libraries, Congressional Record, distribution of.....	29
Masters in patent cases.....	34
Memorial:	
Honorable William Denman.....	3
Honorable Bolitha J. Laws.....	3
Pretrial conferences, classification of.....	29
Probation Service:	
Protection of probation officers.....	29
Qualifications of probation officers.....	30
Statistics, judicial:	
Committee on, report of.....	28
Pre-trial conferences, classification of.....	29
Revision of the Laws:	
Alaska, cost-of-living allowances to judicial employees.....	29
Committee on, report of.....	29
Costs in tax refund suits against District Directors.....	30
<i>In forma pauperis</i> procedure for noncitizens.....	31
Judges:	
Station of retired judges.....	30
Territorial judges, retired, assignment to duty.....	30
Law clerks and secretaries for district judges.....	29
Law libraries, distribution of Congressional Record.....	29
Practice of law by members of Supreme Court bar.....	31
Probation service:	
Protection of probation officers.....	29
Qualifications of probation officers.....	30
Support orders, registration of.....	30
Transfer of cases between district courts and the Court of Claims....	31
Venue in tort actions.....	30
Supporting personnel:	
Alaska, cost-of-living allowances.....	29
Committee on, report of.....	7
Court of Claims personnel.....	10
Court reporters, salaries of.....	11
Criers, uniforms for.....	11
Deputy clerks.....	9
Law clerks and secretaries.....	10
Messengers, District of Columbia.....	12
National Park Commissioner, Grand Canyon Park.....	11
Per diem allowances.....	13
Retired employees or annuitants, reemployment of.....	9
Retirement provisions.....	13
United States Commissioners:	
Compensation of.....	12
Jurisdiction.....	13
Retirement of.....	13
Study of Commissioner system.....	4