

PROCEEDINGS OF THE JUDICIAL CONFERENCE
OF THE UNITED STATES, 1971

COMMUNICATION

FROM

CHIEF JUSTICE OF THE UNITED STATES

TRANSMITTING

PROCEEDINGS OF THE JUDICIAL CONFERENCE
OF THE UNITED STATES, APRIL 5-6, 1973



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SUPREME COURT OF THE UNITED STATES,
Washington, D.C., May 18, 1973.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor of transmitting to you a copy of the proceedings of the meeting of the Judicial Conference held in Washington, D.C., on April 5 and 6, 1973.

WARREN E. BURGER,
Chief Justice.

**ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS**

**Rowland F. Kirks
Director**

REPORT
of the
PROCEEDINGS OF THE
JUDICIAL CONFERENCE OF THE
UNITED STATES

APRIL 5-6, 1973

WASHINGTON, D.C.

1973

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, the chief judge of the Court of Customs and Patent Appeals, 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 338 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 or the chief judge of the Court of Customs and Patent Appeals 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 conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

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 the Judicial Conference of the United States

APRIL 5-6, 1973

The Judicial Conference of the United States convened on April 5, 1973, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. 331. The Conference continued in session on April 6. The Chief Justice presided and the following members of the Conference were present:

District of Columbia Circuit:

Chief Judge David L. Bazelon

Chief Judge John J. Sirica, District of Columbia

First Circuit:

Chief Judge Frank M. Coffin

Judge Edward T. Gignoux, District of Maine

Second Circuit:

Chief Judge Henry J. Friendly

Chief Judge David N. Edelstein, Southern District of New York

Third Circuit:

Chief Judge Collins J. Seitz

Chief Judge Michael H. Sheridan, Middle District of Pennsylvania

Fourth Circuit:

Chief Judge Clement F. Haynsworth, Jr.

Judge Oren R. Lewis, Eastern District of Virginia

Fifth Circuit:

Chief Judge John R. Brown

Judge E. Gordon West, Middle District of Louisiana

Sixth Circuit:

Chief Judge Harry Phillips

Judge Robert L. Taylor, Eastern District of Tennessee

Seventh Circuit:

Chief Judge Luther M. Swygert

Judge James E. Doyle, Western District of Wisconsin

Eighth Circuit:

Chief Judge M. C. Matthes

Chief Judge Oren Harris, Western District of Arkansas

Ninth Circuit:

Chief Judge Richard H. Chambers

Judge Jesse W. Curtis, Central District of California

Tenth Circuit:

Chief Judge David T. Lewis

Judge Hatfield Chilson, District of Colorado

Court of Claims:

Chief Judge Wilson Cowen

Court of Customs and Patent Appeals:

Chief Judge Howard T. Markey

(1)

Senior Circuit Judges Albert B. Maris, Elbert P. Tuttle; Circuit Judges Robert A. Ainsworth, Jr., Ruggero J. Aldisert, Irving R. Kaufman, Edward A. Tamm; Senior District Judges Roy W. Harper, Roszel C. Thomsen, Carl A. Weinman; and District Judges Charles M. Metzner, Edward Weinfeld, Albert C. Wollenberg and Alfonso J. Zirpoli attended all or some of the sessions of the Conference.

The Honorable Erwin N. Griswold, Solicitor General of the United States, addressed the Conference at the opening of the first session.

Noting that Solicitor General Griswold would complete his term of office with the expiration of the present term of the Supreme Court of the United States, the Conference, on motion of Chief Judge Henry J. Friendly, adopted the following resolution:

The Judicial Conference of the United States takes note of the retirement of Erwin N. Griswold as Solicitor General of the United States, effective at the close of the current Term of the Supreme Court.

Solicitor General Griswold was appointed by President Lyndon B. Johnson in 1967 and has served as Solicitor General for longer than all but two of his predecessors. He brought to his work of representing the interests of the United States before the Supreme Court and in the appellate courts a rich background of experience and scholarship. Mr. Griswold previously served as Assistant to the Solicitor General, 1929-1934, and was a Professor of Law at the Harvard Law School and, thereafter, distinguished himself as Dean of the Harvard Law School for more than twenty years.

In his service to his country as Solicitor General, Mr. Griswold was noted for the brilliance of his legal reasoning, the skillfulness of his arguments, the thoroughness of his legal research, and his fidelity to his office. His contribution to the administration of justice will not be easily matched.

The Conference, therefore, takes this occasion to extend its best wishes to him and Mrs. Griswold with the hope of many future years of happiness.

The Honorable Alfred P. Murrah, Director of the Federal Judicial Center and Chairman of the Panel on Multidistrict Litigation, reported on the activities of the Center and of the Panel and presented a detailed written report to the Conference on the work of the Panel.

Mr. Mark Cannon, Administrative Assistant to the Chief Justice, Mr. Rowland F. Kirks, Director of the Administrative Office of the United States Courts, and Mr. William E. Foley, Deputy Director, attended all of the sessions of the Conference.

ELECTIONS

Upon nomination of the Executive Committee, the Judicial Conference approved for membership on the Board of the Federal

Judicial Center Judge Griffin B. Bell of the United States Court of Appeals for the Fifth Circuit. Judge Bell succeeds Judge Wade H. McCree, Jr., whose full four-year term as a member of the Board expired at the end of March 1973.

Upon nomination of the Executive Committee, the Judicial Conference approved the nomination of Chief Judge Howard T. Markey of the Court of Customs and Patent Appeals as a member of the Board of Certification to fill the term of Judge Roger Robb whose resignation became effective March 14, 1973 and for a new three-year term, beginning July 1, 1973.

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

The Director of the Administrative Office, Mr. Kirks, in addressing the Conference pointed out that during the first half of fiscal year 1973 the total civil and criminal litigation in the United States districts courts was down from the level of the same period in the prior fiscal year. Sixty-seven thousand, five hundred and thirty-five actions were filed in the six-month period ending December 31, 1972 as compared to 70,067 at the mid-point of fiscal year 1972. This drop of 3.5 percent is attributable to the fall-off in criminal matters because civil filings increased 1.6 percent over the prior year. This drop in criminal business partially reflects the impact of the United States magistrates on the work of the judiciary.

Filings in the courts of appeals increased six percent in the first six months of fiscal year 1973 over the same period in fiscal year 1972, whereas terminations in these courts increased nine percent over the same period in the prior year.

In the area of bankruptcy, the 85,000 cases filed in the first six months of fiscal year 1973 are seven percent less than last year. The 88,000 bankruptcy terminations are three percent less than the prior year.

The workload of the probation system continues to increase. At the end of January 1973 there were 51,528 persons under supervision of the federal probation system, an increase of over 2,500 offenders in less than seven months. In the first half of the fiscal year probation officers completed 13,791 presentence investigations as compared with 12,118 over the same period in the prior year.

Mr. Kirks also reported to the Conference on the success of the court visitation program instituted in 1972 by the Administrative Office and he reported to the Conference on the status of legislation of interest to the judiciary.

COURT ADMINISTRATION

The Chairman of the Committee on Court Administration, Judge Robert A. Ainsworth, Jr., presented the committee's report.

CHANGE OF NAME FOR SUBCOMMITTEE

In order more adequately to describe the duties and responsibilities being exercised by the Subcommittee on Judicial Salaries, Annuities and Tenure the Conference agreed with the recommendation that the name of the subcommittee be changed to Subcommittee on Judicial Improvements.

ACCOMMODATIONS FOR CIRCUIT JUDGES

The Conference approved S. 1175, a bill which would amend Section 142 of Title 28, United States Code, to permit the Administrator of General Services, on request of the Director of the Administrative Office of the United States Courts, to provide accommodations for judges of the United States courts of appeals at places other than those where regular terms are authorized by law to be held, if such accommodations have been approved as necessary by the judicial council of the appropriate circuit and if space is available without additional cost to the government. The Conference noted that in two recent instances a newly appointed circuit judge has requested that chambers be made available to him in a federal building in the city of his residence and been refused because that city had not been designated as a regular place of holding court. Special legislation was required in one instance to accomplish this purpose. In the other instance, the judge has been forced to rent quarters at his own expense.

FILING FEES IN FEDERAL COURTS

The Committee on Court Administration has under study the fees of the offices of the clerks of the courts of appeals and of the district courts which have not been modified or increased since 1945. At the present time the Judicial Conference has authorization to

fix filing fees in the courts of appeals whereas filing fees in civil actions in the district courts, in admiralty proceedings and in proceedings in bankruptcy are controlled by statute. The Conference approved in principle legislation which would place the fixing of fees in all proceedings in the courts of the United States under the control of the Judicial Conference in an effort to permit frequent review and greater flexibility. The Director of the Administrative Office was requested to prepare appropriate legislation to carry out this recommendation and to transmit it to the Congress.

JUDICIAL SURVIVORS ANNUITY ACT

The Conference reaffirmed its support of a bill originally introduced in 1969 in the Senate as S. 1511, the effect of which was to merge the Judicial Survivors Annuity Fund with the Civil Service Fund. The Conference agreed that such legislation was of the utmost importance in view of the fact that the Judicial Survivors Annuity Fund will be exhausted in a limited period of years.

COURT OF APPEALS OPINIONS

At its October 1972 session (Conf. Rept., p. 33) the Judicial Conference requested each circuit to develop an opinion publication plan by January 1, 1973 which was to be submitted to the Committee on Court Administration for a report back to the current session of the Conference. Because of a delay in preparation of some circuit publication plans, this study could not be undertaken and, therefore, the Conference approved an extension to December 31, 1973 of the time for the filing by each circuit of a report, including statistics of the experience of the circuit in its opinion publication plan. Such reports and statistical data are to be furnished to the Director of the Administrative Office for transmittal to the committee.

QUALIFICATION STANDARD FOR JUNIOR LAW CLERK

The Conference approved the following qualification standard for the position of junior law clerk (or clerk-law clerk) at JSP 9:

Minimum Qualifications—Graduation from a law school of recognized standing (or the completion of all law school studies and merely awaiting conferment of degree), but with little or no experience.

CHIEF DEPUTY CLERK POSITIONS

The Conference reaffirmed its approval of Grade JSP 15 for the chief deputy clerks in the large clerks' offices of the courts of appeals and in the large district courts with the proviso that a chief deputy's salary shall not exceed the first of the within-grade steps which meets or exceeds 90 percent of the per annum salary of the clerk of that court.

COURT OF APPEALS PERSONNEL

Upon the request of Chief Judge Brown of the Fifth Circuit, the Conference directed the Director of the Administrative Office to resubmit to the Congress legislation to meet the personnel requirements of the Court of Appeals for the Fifth Circuit to include a complement of staff attorneys and additional personnel, as follows:

Secretary for each judge.....	15
Law clerk for each judge.....	15
Clerical assistant for each judge.....	15
Assistant secretary for the Chief Judge.....	1

LEGISLATION

The Conference noted five legislative items previously approved and sent to the 92nd Congress on which no action was taken and agreed to reaffirm its position on each of these bills. The Director of the Administrative Office was requested to resubmit to the 93rd Congress the following five bills:

- (1) A bill to establish position of crier-clerk within the Judicial Branch;
- (2) A bill to appoint transcribers of official court reporters' transcripts in United States district courts;
- (3) A bill to provide accelerated within-grade salary increases for secretaries to judges of the United States;
- (4) A bill to appoint legal assistants in the courts of appeals;
- (5) A bill to appoint officers and employees to the Courts of Claims, Customs and Patent Appeals, and Customs.

APPOINTMENT OF ACTING UNITED STATES ATTORNEYS AND
MARSHALS

The Conference voted its disapproval of a bill proposed by the Department of Justice which would take from the federal judges

and vest in the Attorney General the authority to appoint acting United States Attorneys and acting United States marshals when a vacancy occurs.

RETIREMENT OF JUDGES

The Conference approved H.R. 3324, a bill which would permit the retirement of justices or judges at the age of 70 after ten years of service, at the age of 69 after 11 years of service, at the age of 68 after 12 years of service, at the age of 67 after 13 years of service, at the age of 66 after 14 years of service and at the age of 65 after 15 years of service.

REVIEW COMMITTEE

Judge Edward A. Tamm, Chairman, presented the report of the Review Committee.

During the current reporting period the committee reviewed 865 reports, filed by 600 judges, 181 referees in bankruptcy and 84 magistrates.

Pursuant to the resolution of the Conference at its March 1971 session (Conf. Rept., p. 24), as subsequently amended to include full-time referees and magistrates, Judge Tamm reported that 14 judges did not file reports for the six-month period ending December 31, 1972, as follows:

Second Circuit:

Kevin Thomas Duffy
U.S. District Judge

*Edmund L. Palmieri
U.S. Senior District Judge
Sylvester J. Ryan
U.S. Senior District Judge

*Edward Weinfeld
U.S. District Judge

*Inzer B. Wyatt
U.S. District Judge

Sixth Circuit:

*Frank J. Battisti
U.S. District Chief Judge

Ninth Circuit:
*William M. Byrne
U.S. Senior District Judge

*Walter Early Craig

U.S. District Chief Judge

*Warren H. Ferguson

U.S. District Judge

*Peirson M. Hall

U.S. Senior District Judge

*William D. Murray

U.S. Senior District Judge

*Harry Pregerson

U.S. District Judge

*Manuel L. Real

U.S. District Judge

Tenth Circuit:

Stephen S. Chandler

U.S. District Judge

*Judges declining to file as a "matter of principle"

The Conference approved several recommendations of the Review Committee, as follows: ¹

(1) That the Conference appropriately amend its resolution of the October 1940 Conference to embrace within its mandate all full-time referees in bankruptcy and full-time magistrates;

(2) That the conference amend its September 1963 resolution to bring within its mandate all full-time referees in bankruptcy and full-time magistrates;

(3) That the Conference extend the applicability of its March 1971 resolution relating to judges filing reports as to monies received from extrajudicial services, gifts, payments of excess expenses, positions held in business or other organizations and participation in cases where he had a financial interest to full-time referees in bankruptcy and full-time magistrates;

(4) That the Conference extend the applicability of its March 1971 resolution relating to judges who are not in compliance with the 1963 resolution of the Judicial Conference or who fail to file such report, to full-time referees in bankruptcy and full-time magistrates;

(5) That the Conference extend the mandate of its October 1971 resolution to include full-time referees in bankruptcy and full-time magistrates;

(6) That the Conference extend the provisions of its September 1958 resolution to include therein all full-time referees in bankruptcy and full-time magistrates;

(7) That the Conference, by resolution, make all advisory opinions of the Interim Advisory Committee applicable to full-time referees in bankruptcy and full-time magistrates;

(8) That the Conference authorize and direct the Review Committee to inquire of reporting judges for details concerning their reported affiliations as officers or fiduciaries with organizations whose modus operandi, purpose, activities and means of financing cannot be determined by the committee from the data initially furnished to it;

(9) That the Conference adopt as a standard for the guidance of referees in bankruptcy in conflict of interest situations the same standards for disqualification in contested matters as apply to federal judges;

¹ For citations of resolutions, see below p. 11.

(10) That the Conference amend the Public Report of Extra-Judicial Income form currently in use for referees to add to the "reporting instructions" the following additional requirement "to the Chief Judge of your District Court";

(11) That the Conference, by resolution, require each judge who supplements his report form with an explanatory letter, to file copies of that letter at all places where the report form is filed;

(12) That the Conference request the Administrative Office to furnish to all full-time referees in bankruptcy and full-time magistrates copies of the resolutions heretofore enumerated which are to be made applicable to full-time referees and full-time magistrates, and that the Administrative Office be requested to furnish those referees and magistrates with copies of all advisory opinions issued by the Interim Advisory Committee;

(13) That the Conference suggest to the Federal Judicial Center that in seminars for newly-appointed federal judges and judges of special courts, some reasonable period be devoted to a discussion of the requirements for the filing of public reports of extra-judicial income, the nature of the information to be set forth, the applicability and identity of Judicial Conference resolutions relating to these reports and the applicability of the advisory opinions of the Interim Advisory Committee;

(14) That the Conference authorize and direct the Committee to pose questions to the Advisory Committee without disclosing the identity of the reporting judge when reports contain information justifying such inquiry.

JOINT COMMITTEE ON STANDARDS OF JUDICIAL CONDUCT

The Judicial Conference at its April 1972 session (Conf. Rept., pp. 23, 24) authorized the appointment of a committee, including the members of the Review Committee and the Interim Advisory Committee on Judicial Activities, to examine the report of the American Bar Association's Special Committee on Judicial Conduct which was then expected to be approved by the House of Delegates of the ABA in August 1972. The combined committee was charged with reporting back to the Conference on the feasibility of adopting this report as applying to all federal judges and to determine whether any additional standards may be needed in the federal system. Subsequently, Judges Irving R. Kaufman and Ed-

ward T. Gignoux who were members of the ABA committee were appointed members of the combined committee to carry out the Conference resolution.

Judge Tuttle reported to the Conference on the recommendations of the Joint Committee. The Code of Judicial Conduct prepared by the Special Committee on Standards of Judicial Conduct of the American Bar Association was adopted by the House of Delegates on August 16, 1972. The Judicial Conference, on recommendation of the Joint Committee, adopted the Code of Judicial Conduct as thus approved to be applicable to all federal judges, full-time referees in bankruptcy and full-time magistrates, with the following modifications.

(1) The adoption of the Code will not restrict any functions or privileges accorded by statute or resolution of the Conference to part-time magistrates, part-time referees in bankruptcy or special masters;

(2) The adoption of the Code will not abrogate or modify any conflicting provisions of statutes or resolutions of the Conference. Except as provided in number (1) above, to the extent that any part of the enumerated statutes or Conference action is less restrictive than the Code, the latter will control;

(3) The provisions of the Code relating to "Effective Date of Compliance" shall be modified to read as follows:

A person to whom this Code becomes applicable should arrange his affairs as soon as reasonably possible to comply with it and should do so in any event within the period of one year. If, however, the demands on his time and the possibility of conflicts of interest are not substantial, a person who holds judicial office on the date this Code becomes effective may continue to act, without compensation, as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of his family, if terminating such relationship would unnecessarily jeopardize any substantial interest of the estate or person;

(4) The entire commentary under Canon 5C(2), (including the blackface, bracketed material) is deleted;

(5) It is the sense of the Conference that referees in bankruptcy shall not be required by any provisions of the Code to disqualify themselves because of any financial interest in any uncontested matter.

The Joint Committee was directed to give further study to the provisions of Canon 7 as it uniquely relates to federal judges.

In providing that the adoption of the Code will not abrogate or modify any conflicting provisions of statutes or resolutions of the Conference, the Conference noted particularly the following statutes and resolutions:

Nepotism:

28 U.S.C. 458; 18 U.S.C. 1910; 5 U.S.C. 3110.

Practice of Law:

28 U.S.C. 454; 28 U.S.C. 955; 28 U.S.C. 632(a); 11 U.S.C. 67(b).

Interest in Litigation:

28 U.S.C. 455.

(but note where the Code is more restrictive, the Code prevails)

Conflict of Interest:

18 U.S.C. 203, 205; 18 U.S.C. 155; 18 U.S.C. 291.

Participation in Business Corporations:

Resolution of Judicial Conference Sept. 1963 (Conf. Rept., p. 62)

Resolution of Judicial Conference March 1971 (Conf. Rept., p. 24)

Participation in Educational, Religious, Civic and Charitable Organizations:

Resolution of Judicial Conference Oct. 1971 (Conf. Rept., pp. 68, 69)

Resolution of Judicial Conference Sept. 1958 (Conf. Rept., p. 18)

Resolution of Judicial Conference, October 1940:

That no secretary or law clerk should do any work outside the salary paid to him in the capacity of secretary or law clerk, or occupy or be appointed to any office in any federal or state court, including masterships, receiverships, etc., or practice law.

Financial reporting:

Resolutions of Judicial Conference Oct. 1969 (Conf. Rept., p. 51); March 1970 (Conf. Rept., p. 7); Oct. 1970 (Conf. Rept., p. 77); March 1971 (Conf. Rept., p. 24); Oct. 1972 (Conf. Rept., p. 42).

Extrajudicial service:

Resolution of Judicial Conference Oct. 1971 (Conf. Rept., pp. 68, 69)

Courtroom Photography:

Resolution of Judicial Conference March 1962 (Conf. Rept., pp. 9, 10); March 1965 (Conf. Rept., p. 11).

ADVISORY COMMITTEE ON JUDICIAL ACTIVITIES

Judge Elbert P. Tuttle, Chairman, presented the report of the Advisory Committee.

The Conference agreed that upon adoption of the report of the Joint Committee the Advisory Committee should continue in existence but should no longer be termed an interim committee.

The Conference was further of the view that the committee should be authorized to reply to inquiries not only from federal

judges but from all referees in bankruptcy and magistrates, whether full-time or part-time appointees.

Judge Tuttle reported that only one formal opinion (Number 26) had been handed down by the committee since the last session of the Conference. This opinion expressed the view of the committee that a judge's enjoyment of the Blue Cross-Blue Shield coverage was not a disqualification in litigation between either or both of these organizations or other insurers who are in competition for coverage of doctors and hospital services.

COMMITTEE ON THE OPERATION OF THE JURY SYSTEM

Judge Irving R. Kaufman, Chairman of the Committee on the Operation of the Jury System, presented the committee's report to the Conference.

GRAND JUROR UTILIZATION

It was pointed out to the Conference that the Administrative Office does not have adequate statistical records to determine whether grand jurors are being utilized efficiently. At the present time the Administrative Office now spends in excess of \$3,000,000 for grand jurors. Accordingly, the Conference agreed to adopt the following policies:

(1) Each clerk of court should maintain the following minimal statistical records:

- (a) An order impaneling the grand jury;
- (b) A sign-in sheet or equivalent record that will show attendance of grand jurors on a daily basis and the total hours served on each day of service;
- (c) Copies of payroll vouchers of individual grand jurors and covering payroll vouchers for each grand jury;
- (d) Grand jury votes on indictment;
- (e) Any order extending the term of grand jury; and the order discharging the grand jury;

(2) For the convenience of grand jurors and to achieve the maximum utilization of their services, sessions should be scheduled for days certain when a sufficient accumulation of business exists fully to occupy their time.

PERIODIC REPORT UNDER THE JURY SELECTION AND SERVICE ACT

At its October 1969 session (Conf. Rept., p. 65), the Conference approved regulations implementing reporting requirements of the Jury Selection and Service Act of 1968. The Conference agreed with the recommendations of the committee to make the following amendments to these regulations:

(1) The filing date in Regulation 1 for periodic reports is changed from September 1, 1971 to March 1, 1974 to reflect the new timetable for refilling master jury wheels fixed by Public Law 92-269 which lowers the juror age to 18;

(2) Regulation 4 is amended to omit the requirement of occupational data for those persons covered by periodic reports;

(3) The reference in Regulation 5 to distribution of reporting forms "prior to September 1, 1971" is omitted.

NEW JUROR QUALIFICATION QUESTIONNAIRE

Public Law 92-437 requires a response to questions on the juror qualification form seeking the race and occupation of prospective jurors. Accordingly, the Administrative Office and the committee redesigned the juror qualification form to comply with this statute and the Conference approved the new form.

BIFURCATION OF JURY TRIALS

The Conference approved the distribution of a report prepared after an extensive survey on the use of bifurcated trials in civil jury cases for determining liability and damages. The Conference noted the suggestion of the committee that the final decision on using bifurcated juries should be left to the discretion of the judge after careful consideration of the advantages and disadvantages thereof for the particular situation.

SIZE OF CIVIL JURIES

The Conference, with the Chairman taking no part in the discussion, reaffirmed its support of legislation which would revise the number of jurors in civil trials to six persons and the number of peremptory challenges to two.

COMMITTEE ON THE ADMINISTRATION OF THE CRIMINAL LAW

The report of the Committee on the Administration of the Criminal Law was presented by the Committee Chairman, Judge Alfonso J. Zirpoli. The report of the Subcommittee on the Study of the New Criminal Code was presented by Subcommittee Chairman, Judge Ruggero J. Aldisert.

WITNESS FEES

The Conference approved the Department of Justice's draft bill to amend 28 U.S.C. 1821 to provide that witnesses required to travel are entitled to the actual reasonable expenses of travel and to provide that witnesses held for want of security for their appearance are entitled to receive \$20 per day rather than the \$1.00 per day now provided.

JUVENILE DELINQUENCY ACT

The Conference approved a committee recommendation to amend 18 U.S.C. 5031 to provide that the Juvenile Delinquency Act shall not be applicable to petty offenses. This amendment is necessary to empower United States magistrates to process petty offenses involving juveniles who commit petty offenses on federal enclaves, particularly traffic violations which run into the hundreds each year.

NARCOTIC ADDICT REHABILITATION ACT

The Conference noted that its views had been requested on four bills, H.R. 1540, H.R. 5612, H.R. 10453 and H.R. 15760, all 92nd Congress, which would amend the Narcotic Addict Rehabilitation Act of 1966 by expending the provisions of Titles 18 and 28 of the United States Code relating to the treatment of drug-dependent persons. The Conference agreed that these bills all involved policy matters for the decision of the Congress and, accordingly, took no action with respect to these bills.

STANDARDS FOR DISCHARGE AND DISMISSAL

To implement the provisions of Section 844(b)(1) of Title 21, United States Code, the Conference approved a standard order for the discharge and dismissal of defendants, as follows:

The Court, pursuant to 21 U.S.C. 844(b) (1) hereby discharges defendant from probation and dismisses those proceedings under which probation had been ordered and orders that the case files and other court records pertinent to this case be sealed and turned over to the clerk of this court.

PROPOSED NEW FEDERAL CRIMINAL CODE

The Judicial Conference of the United States, taking note of the report of the Committee on the Administration of the Criminal Law calling its attention to various measures that have been proposed to the Congress for the enactment of a new Federal Criminal Code, and considering, on the one hand, the danger of rendering the great body of precedent developed over the past obsolete and, on the other, the desirability of curing many anomalies and inconsistencies in the present Code:

(1) Approved in principle the proposal for a new or amended Federal Criminal Code consisting of three parts, the first of which would outline the bases of federal jurisdiction and prescribe certain principles of general application, the second of which would define specific crimes and their jurisdictional bases, and the third of which would deal with sentences; and

(2) Accepted the report of the Committee on the Administration of the Criminal Law which deals with the first part of the proposed measures, directed that the report be forwarded to the Congress without prejudice to reconsideration of specific items by the committee and by the Conference as may seem wise in the light of future developments, and instructed the committee to continue its work on other parts of the proposed measures and to submit further reports to the Conference or, if developments should require, directly to the Congress, as soon as practicable.

COMMITTEE ON HABEAS CORPUS

Judge Walter E. Hoffman, Chairman of the committee, submitted a written report, relating to S. 567, a bill which provides for certain amendments to Sections 2253, 2254 and 2255 of Title 28, United States Code. This bill is identical with S. 3833, 92nd Congress, which the Conference had previously regarded as a policy matter for the consideration of the Congress. After considerable discussion it was decided that the Congress should have the benefit of judicial experience in the field of habeas corpus and, accordingly, agreed that if the views of the Conference are requested on

this legislation the committee should study the problem in depth and avail itself, if necessary, of the resources of the Federal Judicial Center in order to submit a meaningful report based on judicial experience to the Congress.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

Judge Edward Weinfeld, Chairman, presented the report of the Committee on the Administration of the Bankruptcy System.

SALARIES AND ARRANGEMENTS FOR REFEREES

The committee considered the recommendation contained in the survey report of the Director of the Administrative Office, dated December 29, 1972, and the recommendations of the circuit councils and district judges concerned for continuation of new terms about to become vacant by expiration of term, for the elimination of two referee positions and for changes in arrangements in referee service in four districts. The Conference approved the committee's report and recommendations, with changes to be effective May 1, 1973, unless otherwise indicated and subject to the availability of funds:

FIRST CIRCUIT

District of Maine

- (1) Authorized the continuance of the full-time referee position at Bangor to become vacant by expiration of term on June 30, 1973, for a term of six years, effective July 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

SECOND CIRCUIT

District of Vermont

- (1) Authorized the continuance of the part-time referee position at Rutland to become vacant by expiration of term on June 30, 1973, for a term of six years, effective July 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

THIRD CIRCUIT

Western District of Pennsylvania

- (1) Authorized the discontinuance of part-time referee position at Johnstown;
- (2) Established concurrent district-wide jurisdiction for the two full-time referees of the district;

- (3) Designated Pittsburgh, Greensburg, Johnstown, Erie, Beaver, Mercer, Franklin, Warren, and Ebensburg as places of holding court for the referees of the district.

FOURTH CIRCUIT

Eastern District of North Carolina

- (1) Authorized the discontinuance of Wilmington as a place of holding court for the part-time referee at Wilson;
- (2) Designated Fayetteville and New Bern as additional places of holding court.

Middle District of North Carolina

- (1) Authorized the continuance of the full-time referee position at Greensboro to become vacant by expiration of term on June 30, 1973, for a term of six years, effective July 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

FIFTH CIRCUIT

Middle District of Alabama

- (1) Authorized the continuance of the full-time referee position at Montgomery to become vacant by expiration of term on August 31, 1973, for a term of six years, effective September 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

SIXTH CIRCUIT

Eastern District of Kentucky

- (1) Authorized the continuance of the full-time referee position at Lexington to become vacant by expiration of term on August 31, 1973, for a term of six years, effective September 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Eastern District of Michigan

- (1) Authorized the continuance of the full-time referee position at Flint to become vacant by expiration of term on August 31, 1973, for a term of six years, effective September 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

SEVENTH CIRCUIT

Eastern District of Illinois

- (1) Authorized the continuance of the part-time referee position at Danville to become vacant by expiration of term on June 30, 1973, for a term of six years, effective July 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

Southern District of Illinois

- (1) Authorized the continuance of the full-time referee position at Springfield to become vacant by expiration of term on June 30, 1973, for a term of six years, effective July 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

six years, effective August 7, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

TENTH CIRCUIT

Western District of Oklahoma

- (1) Authorized the continuance of the full-time referee position at Oklahoma City to become vacant by expiration of term on August 31, 1973, for a term of six years, effective September 1, 1973, at the present salary, the regular place of office, territory and places of holding court to remain as at present.

No recommendations were requested for continuation of two terms of office of referees in bankruptcy which were to expire at Mobile in the Southern District of Alabama and at Los Angeles in the Central District of California.

REFEREES' SALARY AND EXPENSE FUND

The Conference was advised that in fiscal year 1973 the recurring expenses of the bankruptcy system were estimated at \$19,851,000, while payment to the Referees' Salary and Expense Fund is estimated at \$13,200,000. This would result in a deficit of \$6,651,000 which will make the eighth consecutive year in which receipts have not equaled disbursements. The Conference was informed that, to bring the Fund into balance, all fifty-dollar filing fees would have to be increased to ninety dollars and that fees in Chapter XIII wage-earner cases would have to be increased to forty dollars. In addition, an increase in the percentage charges of one-half of one percent would be needed. After full consideration, the Conference agreed not to make any changes in filing fees or fee schedules, which is consistent with the position taken by the Conference at its March 1969 and April 1972 sessions.

LEGISLATION

Although noting that several bills relating to the Bankruptcy Act had been introduced in the 92nd Congress, the Conference agreed to take no action on any legislative proposals until the report of the Commission to Study the Bankruptcy Laws of the United States has been received and studied.

COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATES SYSTEM

Judge Charles M. Metzner, Chairman of the Committee on the Administration of the Magistrates System, presented the report of the committee.

SALARY INCREASES

The committee recommended that the 5.14 percent comparability salary increase recently granted to government employees generally pursuant to 5 U.S.C. 5301 be authorized for the part-time United States magistrates other than those whose present salary is higher than that justified by present caseloads or who have recently received a significant increase in salary. It was the view of the committee that the comparability increase should not be authorized for those magistrates who already receive adequate compensation for the performance of their duties. Upon recommendation of the committee, the Conference approved the pay increases in accordance with the schedule appended to the committee's report.

MAGISTRATE POSITIONS

The committee reported that it had considered various requests for the creation of additional magistrate positions, changes in salaries of magistrates and changes in arrangements. These requests have also been considered by the judicial councils of the circuits. In accordance with the recommendation of the committee, the Conference approved the following changes in the numbers, locations, arrangements, and salaries of magistrates and directed that, unless otherwise noted, these changes be made effective at such time as appropriated funds are available.

SECOND CIRCUIT

District of Vermont

- (1) Increased the salary of the part-time magistrate position at St. Albans from \$527 to \$2,400 per annum.
- (2) Authorized an additional part-time magistrate position at Newport at a salary of \$2,400 per annum.
- (3) Discontinued the part-time magistrate position at Brattleboro.

THIRD CIRCUIT

District of New Jersey

- (1) Continued the part-time magistrate position authorized at Camden during the pilot program for an additional four-year term.
- (2) Increased the salary of the part-time magistrate position at Camden from \$9,495 to \$12,000 per annum.
- (3) Continued the part-time magistrate position authorized at Atlantic City during the pilot program for an additional four-year term.
- (4) Increased the salary of the part-time magistrate position at Atlantic City from \$527 to \$1,200 per annum.

Western District of Pennsylvania

- (1) Authorized a part-time magistrate position at Johnstown, in lieu of the combined part-time referee and magistrate position, at a salary of \$211, effective at the expiration of sixty days.

FOURTH CIRCUIT

Eastern District of Virginia

- (1) Continued the part-time magistrate position authorized at Richmond during the pilot program for an additional four-year period at the currently authorized salary of \$12,000.
- (2) Continued the part-time magistrate position authorized at Alexandria during the pilot program for an additional four-year period at the currently authorized salary of \$10,550.
- (3) Continued the part-time magistrate position authorized at Chesterfield Courthouse for an additional four-year period at the currently authorized salary of \$10,000.

FIFTH CIRCUIT

Northern District of Alabama

- (1) Increased the salary of the part-time magistrate position at Huntsville from \$7,912 to \$12,000 per annum.
- (2) Increased the salary of the part-time magistrate position at Anniston from \$2,743 to \$7,200 per annum.
- (3) Increased the salary of the part-time magistrate position at Florence from \$2,110 to \$2,400 per annum.
- (4) Discontinued the part-time magistrate position at Haleyville.

Southern District of Georgia

- (1) Discontinued the part-time magistrate position at Hinesville, and transferred the duties thereof to the part-time position at Savannah.
- (2) Increased the salary of the part-time magistrate position at Savannah from \$12,000 to \$14,500 per annum.
- (3) Increased the salary of the part-time magistrate position at Augusta from \$3,165 to \$12,000 per annum.
- (4) In view of the cost savings resulting from the discontinuance of the part-time position at Hinesville, these salary increases are to be made effective July 1, 1973.

Western District of Texas

- (1) Increased the salary of the part-time magistrate position at San Antonio from \$7,912 to \$12,000 per annum.

EIGHTH CIRCUIT

District of South Dakota

- (1) Increased the salary of the part-time magistrate position at Winner from \$316 to \$422 per annum.
- (2) Made this increase effective July 1, 1973.

NINTH CIRCUIT

Southern District of California

- (1) Continued the part-time magistrate position authorized at San Diego during the pilot program for an additional four-year term at the currently authorized salary of \$12,000.

District of Oregon

- (1) Abolished the part-time magistrate positions at Crater Lake and Eugene and authorized a combined referee-magistrate position at Eugene with an additional salary of \$4,000 per annum, effective at the expiration of sixty days.

TENTH CIRCUIT

District of Colorado

- (1) Increased the salary of the part-time magistrate position at Colorado Springs from \$1,582 to \$7,200 per annum.

District of Kansas

- (1) Continued the part-time magistrate position authorized at Junction City during the pilot program for an additional four-year term.
- (2) Increased the salary of the part-time magistrate position at Junction City from \$527 to \$800 per annum.
- (3) Continued the part-time magistrate position authorized at Leavenworth during the pilot program for an additional four-year term at the currently authorized salary of \$211 per annum.
- (4) Continued the part-time magistrate position authorized at Parsons during the pilot program for an additional four-year term at the currently authorized salary of \$211 per annum.
- (5) Continued the part-time magistrate position authorized at Salina during the pilot program for an additional four-year term at the currently authorized salary of \$211 per annum.
- (6) Continued the part-time magistrate position authorized at Colby during the pilot program for an additional four-year period.
- (7) Increased the salary of the part-time magistrate position at Colby from \$105 to \$200 per annum.
- (8) Continued the part-time magistrate position authorized at Garden City during the pilot program for an additional four-year period.
- (9) Increased the salary of the part-time position at Garden City from \$105 to \$400 per annum.
- (10) Continued the part-time magistrate position authorized at Hays during the pilot program for an additional four-year period.
- (11) Increased the salary of the part-time position at Hays from \$105 to \$400 per annum.
- (12) Discontinued the part-time magistrate position at Lawrence.
- (13) Discontinued the part-time magistrate position at Hutchinson.

ADMINISTRATIVE REGULATIONS

The Conference, upon recommendation of the committee, approved a change in Section 1.1 of the REGULATIONS OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE, relating to the payment of the salary of part-time magistrates, by deleting the reference to a yearly payment of the salary of magistrates earning \$600 or less per year.

SERVICE AS SPECIAL MASTER

The committee reported that it had received an inquiry concerning the propriety of taxing civil litigants fees for work performed by a full-time magistrate serving as a special master. Upon recommendation of the committee, the Conference decided, as a matter of policy, that no fees should be taxed to the litigants for the services performed by a full-time United States magistrate serving under appointment as a special master.

The committee was authorized to consider further the propriety of a part-time magistrate accepting a fee for service as a special master.

CONFLICTS OF INTEREST

The Chief Judge of the Eastern District of Virginia had requested a change in Rule 4 of the conflict-of-interest rules adopted by the Conference in March 1969 (Conf. Rept., p. 33) so as to permit the partners and associates of a part-time United States magistrate to participate in any criminal case in the federal court in which the magistrate serves, provided that the magistrate had no prior connection with the case. The Conference approved the recommendation of the committee that no change be made in this conflict-of-interest rule.

COMMITTEE ON THE ADMINISTRATION OF THE
PROBATION SYSTEM

Judge Albert C. Wollenberg, Chairman of the Committee on the Administration of the Probation System, presented the committee report.

BACKGROUND INVESTIGATIONS OF NEW APPOINTEES

The Conference at its September 1968 session (Conf. Rept., pp. 68-69) instructed the Director of the Administrative Office to arrange for a full-field investigation by the Federal Bureau of Investigation of the background of each person appointed as a probation officer. The Conference noted that of the 168 additional officers authorized by the Congress for fiscal year 1973, by February 1973 17 district courts had appointed a total of 33 probation officers prior to the completion of the investigation by the F.B.I. Subsequently, several of the investigative reports revealed information which, in the view of the committee, should have been available to the court for consideration before the applicant was appointed. Accordingly, the Conference adopted the committee recommendation and instructed the Director of the Administrative Office that he is not to place on the payroll any person appointed to the position of probation officer until the F.B.I. investigation has been completed and a summary of the results of the investigation has been furnished to the appointing court, except when the Director of the Administrative Office determines that an emergency situation requiring immediate appointment exists.

SENTENCING INSTITUTES

The Conference resolved that henceforth the Federal Judicial Center, in cooperation with the Committee on the Administration of the Probation System and the Attorney General of the United States, shall assist in the formulation and preparation of all future sentencing institutes held in accordance with the provisions of Section 334 of Title 28, United States Code.

LEGISLATION

(1) The Conference approved in principle the draft bill by Senator Burdick to establish a Parole Commission. This bill is a revision of S. 3993, 92nd Congress. The Conference noted its specific approval of four basic principles in the bill, namely:

- (1) Regionalization of Parole Board hearings and original actions with provision for appeal to the National Parole Commission ;
- (2) That applicants for parole be allowed to select a non-lawyer advocate ;
- (3) That applicants for parole and their advocates shall have reasonable access to their files with certain exceptions ; and

(4) That the Parole Commission shall furnish each applicant for parole a written statement of reasons for its actions when the application is denied.

If access to any part of the presentence investigation report is denied, the Commission must summarize the basic content thereof and furnish the summary to the inmate or his advocate. The Conference agreed with the committee recommendation that Section 4203(b)(4) which provides that the appropriate court may retain the discretion to approve any such summary of any presentence report be followed by the words "by written direction or order."

(2) The Conference disapproved H.R. 1598, a bill which would also create a regionalized Federal Board of Parole as an independent establishment in the Executive Branch, insofar as it varies from the Parole Commission Act commented upon above. The Conference specifically disapproved the proposal to provide for the judicial review of Parole Board decisions.

(3) The Conference approved in principle H.R. 385, a bill which would amend certain provisions of Chapter 311 of Title 18, United States Code, relating to parole. The Conference did, however, question the desirability of requiring as a condition of eligibility for release on parole that the prisoner "has made positive efforts toward his own rehabilitation." The Conference also recommends that the provisions of 18 U.S.C. 4208(a)(2) which are omitted from H.R. 385 be restored.

(4) The Conference approved in principle S. 798 which provides that a committing officer on recommendation of the attorney for the government may release a person charged with an offense against the United States by diverting him to a voluntary program of community supervision and services. The Conference, however, expressed the view that the federal probation system should be designated as the agency to provide the programs of supervision and services rather than an agency of the Department of Justice and that the Congress should authorize sufficient funds for the federal probation system to provide these services. The Conference further recommended that Section 3(4) of the proposed bill be amended so as to define "committing officer" as any judge or magistrate "in any case in which he has potential trial jurisdiction or in any case which has been assigned to him by the court for such purpose."

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

Judge Roy W. Harper, Chairman of the Committee on Intercircuit Assignments, presented the report of the committee.

The report covered intercircuit assignments for the period September 15, 1972 to March 1, 1973. During this period the Committee recommended 89 assignments to be undertaken by 56 judges, four of whom are circuit judges in active status, 13 senior circuit judges, 11 district judges in active status and 22 senior district judges. One retired Supreme Court Justice, one active and two senior judges of the Court of Claims, one active judge of the Court of Customs and Patent Appeals and one senior judge of the Customs Court participated in 12 assignments. There were 49 assignments to the courts of appeals, one to the Court of Customs and Patent Appeals and three to the Court of Claims.

Judge Harper reported that the bulk of the regular intercircuit assignments were carried out by senior judges and that most of the assignments of active judges were for special purposes, such as handling assignments in multidistrict litigation cases.

COMMITTEE TO IMPLEMENT THE CRIMINAL JUSTICE ACT

Judge Roszel C. Thomsen, Chairman, presented the report of the Committee to Implement the Criminal Justice Act.

The Conference noted and authorized for distribution the Report of the Director of the Administrative Office on Appointments and Payments under the Criminal Justice Act, as amended, for the period ending December 31, 1972. During the first half of fiscal year '73 private attorneys were appointed to represent 20,272 persons. The federal public defenders and the community defender organizations reviewed 4,902 cases. Over all, during the first half of fiscal year 1973 there was an increase of 8.6 percent in the number of persons represented, due in large measure to appointments in petty offense cases, consistent with the Supreme Court decision in *Argersinger v. Hamlin*. A substantial increase in discretionary appointments for probation violators, habeas corpus petitioners and material witnesses also was noted.

Payments to private attorneys appointed during fiscal year 1972 averaged \$648 for services rendered in the courts of appeals and \$271 for services in the district courts of the United States. Claims

for compensation for attorneys in extended or complex representation as approved by the chief judges of the circuits in this period aggregated \$433,737 and averaged \$2,106. A substantial increase was noted in the first six months of fiscal 1973 in payments for transcripts, investigative, expert and other services which aggregated \$325,684 as compared with \$197,826 in the first six months of fiscal year 1972. The largest element in this increase was for the payment of transcripts.

During fiscal year 1973 the sum of \$1,775,000 was allocated for the operation of the eight federal public defender offices and the sum of \$1,194,288 for the five community defender organizations which operate on sustaining grants.

The Conference also noted the report of the Director of the Administrative Office furnished pursuant to the directive of the Judicial Conference at the October 1972 session (Conf. Rept., p. 54) which requires him to report on a semiannual basis to the chief judges of the circuit and district courts the names of any attorneys who during the preceding six-month period received more than \$6,000 as payment for services rendered pursuant to appointment by that court under the Criminal Justice Act. The Conference noted that the appropriate pages of the report have been sent to the courts involved.

COMMUNITY DEFENDER ORGANIZATIONS

Pursuant to the authority vested in it by Section (h) (2) of the Criminal Justice Act, as amended, the Conference approved the following grants to community defender organizations for fiscal year 1974:

Federal Defender Program, Inc., Chicago, Illinois.....	\$204,000
Legal Aid and Defender Association of Detroit, Michigan.....	208,000
Community Defender Organization of Minneapolis, Minnesota.....	29,910
Federal Defender Services Unit of the Legal Aid Society of New York..	650,000
Defender Association of Philadelphia.....	202,000

GUIDELINES

The Conference approved the adoption of two additional guidelines for use in implementing the Criminal Justice Act, as follows:

In accordance with the decision in *United States v. John Sun King Kang* (9 CA, 468 F. 2nd 1368, decided October 5, 1972), counsel may be appointed under the Criminal Justice Act, as amended, for a person charged with civil contempt who faces loss of liberty for failure to comply with an order of the court.

Neither the Criminal Justice Act, as amended, nor Public Law 91-545, December 11, 1970, which amended 28 U.S.C. 753, requires that, in a direct appeal in a case in which counsel is assigned pursuant to the Criminal Justice Act, a pauper's oath be signed for obtaining necessary parts of the transcript or, if required, the entire transcript.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

Judge Albert B. Maris, Chairman, presented the Report of the Committee on Rules of Practice and Procedure.

CRIMINAL RULES

Judge Maris reported that the standing committee and a subcommittee of the Advisory Committee on Criminal Rules had met with counsel of the Subcommittee on Criminal Laws and Procedure of the United States Senate pursuant to authority granted by the Judicial Conference at the October 1972 session (Conf. Rept., p. 47). He stated that the committees were able to consider all of the proposals contained in Title 2 of S. 1, 93rd Congress, and to reach a unanimous judgment, with which counsel for the Senate subcommittee concurred, as to those provisions which should be retained in the statute, those which should be transferred to the Rules and those which should be dropped as obsolete. The form which the provisions should take which are to be transferred to the Rules was agreed upon in principle and is being worked out in detail by the reporter for the advisory committee to present to the Senate Subcommittee in specific form at a later hearing.

Judge Maris stated that the Advisory Committee on Criminal Rules had approved amendments to the rules which have been distributed to the bench and bar in pamphlet form, with February 1, 1974 as the deadline fixed for the receipt of comments and suggestions.

BANKRUPTCY RULES

Judge Maris stated that preliminary drafts of Chapter XI Rules (Arrangements) and Chapter X Rules (Corporate Reorganizations) are now before the bench and bar for comment. The advisory committee has also approved for publication a preliminary draft of rules for proceedings under Chapter XII (Real Property Arrangements) of the Bankruptcy Act which will be distributed to the

bench and bar shortly. Work is progressing or has been planned on rules to cover Chapter IX (Composition of Indebtedness of Local Taxing Agencies) and Section 77 of Chapter VIII (Railroad Reorganization).

COMMITTEE ON THE BUDGET

Judge Carl Weinman, Chairman of the Budget Committee, advised the Conference that the hearings on the 1974 appropriations had been completed before both the House and Senate Subcommittees on Appropriations.

Judge Weinman stated that the request for the judiciary appropriation was approximately \$16,000,000 higher than that of the current fiscal year, with almost \$7,000,000 of that amount attributable to increased personnel for the federal probation service. The appropriation for fiscal year 1973 was \$188,840,600. In addition, a supplemental in the amount of \$6,313,000 is being sought for the current fiscal year. The total request for fiscal year 1974 is in the amount of \$205,441,000.

Judge Weinman pointed out to the Conference the desirability in future years of having all committee reports which pertain to the budget in the hands of the Administrative Office by July 15 in order to meet the requirements of the budget cycle. The need for written justifications for any requests for additional appropriations was also stressed.

The Conference rejected the motion of Chief Judge Bazelon that it rescind the action taken at the October 1972 session (Conf. Rept., p. 32) relating to Criminal Justice Act appropriations for the local courts of the District of Columbia.

PRETERMISSION OF TERMS OF COURTS OF APPEALS

The Conference approved the pretermission of terms of courts of appeals, pursuant to 28 U.S.C. 48, for those sessions of the Court of Appeals for the Fourth Circuit to be held at Asheville, North Carolina, during the court year 1973-1974 and for those sessions of the Court of Appeals for the Eighth Circuit to be held at places other than St. Louis, Missouri, and St. Paul, Minnesota, during the court year 1973-1974.

RELEASE OF CONFERENCE ACTION

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

WARREN E. BURGER,
Chief Justice of the United States.

APRIL 21, 1973

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