

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

**March 13, 1990**

The Judicial Conference of the United States convened on March 13, 1990, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. 331. The Chief Justice presided and the following members of the Conference were present:

**First Circuit:**

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

**Second Circuit:**

**Chief Judge James L. Oakes  
Chief Judge Charles L. Brieant,  
Southern District of New York**

**Third Circuit:**

**Chief Judge A. Leon Higginbotham  
Judge William J. Nealon, Jr.,  
Middle District of Pennsylvania**

**Fourth Circuit:**

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

**Fifth Circuit:**

**Chief Judge Charles Clark  
Chief Judge Barefoot Sanders,  
Northern District of Texas**

**Sixth Circuit:**

**Chief Judge Gilbert S. Merritt  
Judge James P. Churchill,  
Eastern District of Michigan**

**Seventh Circuit:**

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

**Eighth Circuit:**

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

**Ninth Circuit:**

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

**Tenth Circuit:**

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

**Eleventh Circuit:**

**Chief Judge Gerald B. Tjoflat  
Chief Judge Sam C. Pointer, Jr.,  
Northern District of Alabama**

**District of Columbia Circuit:**

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

**Federal Circuit:**

**Chief Judge Howard T. Markey**

**Court of International Trade:**

**Chief Judge Edward D. Re**

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

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

L. Ralph Mecham, Director of the Administrative Office of the United States Courts, attended the sessions of the Conference, as did James E. Macklin, Jr., Deputy Director; William R. Burchill, Jr., General Counsel; Robert E. Feidler, Legislative and Public Affairs Officer; Karen K. Siegel, Chief, Office

of the Judicial Conference Secretariat; and David A. Sellers, Public Information Officer. Judge John C. Godbold, Director of the Federal Judicial Center, also attended the sessions of the Conference, as did Lawrence H. Averill, Jr., Administrative Assistant to the Chief Justice; Charles W. Nihan, Deputy Director of the Judicial Center; and Judicial Fellows Robert George, Kevin Jones, and Linda Mullenix.

The Director of the Federal Judicial Center, Judge Godbold, presented a report on the activities of the Center.

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

The Director of the Administrative Office of the United States Courts, Mr. Mecham, submitted a brief report summarizing the workload of the federal judiciary during the calendar year 1989.

#### JUDICIAL BUSINESS OF THE COURTS

Mr. Mecham reported that filings in the 12 regional courts of appeals rose more than three percent during 1989, to a record high of 40,266. The overall increase in appeals resulted from a substantial jump in criminal appeals from the district courts. These appeals climbed 27 percent due to sentencing appeals and increases in the drug-related criminal caseload of the district courts. There were 1,556 appeals in 1989 involving only sentences, 18 percent of all criminal appeals. Drug-related cases appealed to the courts of appeals continued their dramatic rise this year, up 36 percent over 1988, and accounted for 56 percent of all criminal appeals filed. Appeals from rulings of the district courts on state and federal prisoner petitions also rose this year, by three percent. With the exception of original proceedings, all other appeals categories (civil, bankruptcy, and administrative) were lower compared to a year ago. During the year, dispositions in the regional courts of appeals reached an all-time high of 37,604, an increase of more than two percent from 1988. Despite this increase in terminations, the pending caseload rose nine percent, to 31,836 on December 31, 1989.

Filings in the U.S. Court of Appeals for the Federal Circuit rose nearly eight percent, from 1,303 in 1988 to 1,407 in 1989. The largest increases were in appeals from the U.S. district courts and from the Patent and Trademark Office. Although appeals from the Merit Systems Protection Board (MSPB) remained relatively constant (up one percent), MSPB appeals continued to account for more than 40 percent of the court's total workload. The court's dispositions also increased this year, rising eight percent to 1,419. The overall increase in terminations resulted from significant rises in dispositions of appeals from the MSPB and the district courts. Since terminations outnumbered filings, the pending caseload dropped slightly (less than two percent), to 632 on December 31, 1989.

Civil filings in district courts fell seven percent this year, to 223,113 cases. Filings involving the United States declined by 11 percent, and private cases declined by six percent. Despite the overall decline in civil filings, increases were reported in several categories, most notably U.S. actions to recover defaulted student loans and prisoner civil rights petitions. Throughout most of the past decade, the changes in the volume of civil filings have been determined by the number of cases involving the U.S. in two areas: actions by the U.S. to recover overpayment of veterans' benefits (VA cases) and actions against the U.S. regarding social security disability insurance benefits. These actions were again major factors during 1989. Filings of VA cases declined almost 6,000 during the year, down from 12,124 in 1988; as recently as 1985, filings of VA cases totaled more than 45,000. Social security disability insurance cases declined almost 3,000 in 1989, down to 6,374; at the peak of activity in 1983, more than 22,000 of these cases were filed.

While the case types noted above have been the primary factors in the decline in civil filings in the past, a new factor was introduced this year. In May, 1989, the jurisdictional amount in diversity cases increased from \$10,000 to \$50,000. As a result, diversity cases declined 14 percent in 1989, to 60,183 cases, the lowest level since 1984. Diversity filings during the last six months of 1989 totaled 27,267, down more than 20 percent from the 34,362 such cases filed during the same period in 1988, and more than 17 percent below the 32,916 filed during the first six months of 1989. The number of civil cases closed was also

lower, falling six percent to 224,514. Even with the decline, terminations outnumbered filings, resulting in a slight reduction in the pending caseload. The civil pending caseload, which has remained relatively steady throughout most of the 1980s, declined less than one percent, to 244,198 cases.

Criminal cases filed in the district courts continued to increase this year to 47,779 cases, up seven percent over the 44,761 cases filed in 1988. There were several offense categories with increased levels of prosecutions. The most significant increase was for drug offenses, where case filings rose from 10,904 last year, to 12,782 in 1989, an increase of 17 percent. Over the last five years, criminal case filings overall have grown by 17 percent, while drug filings alone have increased by 75 percent. Drug cases have accounted for 80 percent of the overall increase in case filings during that time, and now represent 27 percent of all criminal cases. The number of criminal cases closed also increased this year by seven percent to 44,068 cases, up from 41,136 cases last year. With filings still exceeding closings, however, the pending caseload rose by 12 percent. On December 31, 1989, there were 33,586 pending criminal cases, involving 49,914 defendants.

During 1989, there were 679,980 bankruptcy petitions filed in the bankruptcy courts, an increase of 11 percent over 1988. The overall increase in filings this year was the result of a 12 percent increase in non-business filings, with increases of ten percent in Chapter 7 liquidations and 18 percent in Chapter 13 debt adjustments. Filings under Chapter 11, which represent only a fraction of the non-business total, declined for the third straight year. Overall, there was a small decrease (one percent) in business filings. This resulted from a three percent drop in Chapter 7 filings. Despite the overall decline in business filings, Chapter 11 business reorganizations rose five percent to 16,303, the first increase since 1986. Chapter 13 business debt adjustments also increased in 1989, up six percent. Filings of family farmer business debt adjustments under Chapter 12, which was initiated in 1986, continued to decline. Only 1,440 petitions were filed under Chapter 12 in 1989, down almost 30 percent from the 2,037 filed in 1988, and down more than 70 percent

from the high in 1987. The number of terminations in 1989 increased to 594,237, up more than two percent from a year ago. As a result of the large volume of new filings, the pending caseload reached an all-time high of 927,437 petitions as of December 31, 1989, more than ten percent above the 841,694 petitions pending last year. The rate of increase in the pending caseload is up substantially from the four percent rate reported in 1988.

Mr. Mecham also reported that as of March 13, 1990, there were 18 vacancies among the 168 judgeship positions authorized for the United States courts of appeals, 45 vacancies among the 575 positions authorized for the United States district courts, and one vacancy on the United States Court of International Trade.

### FEDERAL HABEAS CORPUS IN CAPITAL CASES

In June, 1988, the Chief Justice appointed an Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, to inquire into "the necessity and desirability of legislation directed toward avoiding delay and the lack of finality" in capital cases in which the prisoner had or had been offered counsel. Retired Associate Justice Lewis F. Powell, Jr., chaired the Committee, which also included Judges Charles Clark, Paul H. Roney, William Terrell Hodges, and Barefoot Sanders.

In September, 1989 (Conf. Rpt., pp. 83-84), the Judicial Conference received the report of its Ad Hoc Committee, which proposed draft legislation to revise the existing habeas corpus statutory procedure with respect to those states that establish a system for the appointment and compensation of competent counsel throughout all stages of state post-conviction review. The draft bill recommended by the Ad Hoc Committee would limit the period within which a federal habeas petition must be filed; establish an automatic stay of execution until federal habeas proceedings are completed; and preclude relief or further stays of execution if prisoners file successive petitions for habeas corpus in federal court after they have had one full course of federal collateral review, absent extraordinary circumstances and a colorable showing of factual innocence. The Conference

determined at that time to release the report to the public, discharge the Ad Hoc Committee from further service, and postpone additional consideration of its report until the current meeting.

The Conference revised the recommendations of the Ad Hoc Committee report, together with five proposals for modification submitted by Conference members. After renewed consideration, the Conference endorsed the objectives of the Ad Hoc Committee report (1) to eliminate piecemeal appeals; (2) to provide an automatic stay in capital cases in order to obviate successful petitions for stay; and (3) to provide competent counsel on state post-conviction cases. It further endorsed the recommendations of the Ad Hoc Committee report with the following modifications:

1. Specific mandatory standards similar to those set forth in the Anti-Drug Abuse Act of 1988 should be required with respect to the appointment and compensation of counsel for capital defendants at all stages of the state and federal capital punishment litigation.
2. A federal court should entertain a second or successive petition for habeas corpus relief if (a) the request for relief is based on a claim not previously presented by the prisoner in the state and federal courts and the failure to raise the claim is the result of state action in violation of the Constitution or laws of the United States, the result of Supreme Court recognition of a new federal right that is retroactively applicable, or based on a factual predicate that could not have been discovered through the exercise of reasonable diligence; and (b) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed, or in the appropriateness of the sentence of death.



## EXECUTIVE COMMITTEE

### CIVIL JUSTICE REFORM ACT

S. 2027 and H.R. 3898 (101st Congress), the proposed Civil Justice Reform Act, would, inter alia, require all federal district courts to adopt "civil justice expense and delay reduction plans" within one year of enactment. The bills are based on the recommendations of a Brookings Institution task force report entitled, "Justice for All, Reducing Costs and Delay in Civil Litigation".

In recognition of the substantial impact this legislation would have on the federal courts if enacted, and of the proposed "fast track" for enactment, the Executive Committee appointed a subcommittee composed of District Judges Robert F. Peckham (chairman), Sarah Evans Barker, John F. Nangle, and Aubrey E. Robinson, Jr., to develop a strategy for consideration and appropriate Conference action.

Between February 28 and March 9, 1990, the Executive Committee held four teleconferences to discuss this matter, and agreed to recommend that, at its March 13 session, the Judicial Conference oppose this legislation in its present form; approve a description and analysis of the bills; reaffirm its long-standing commitment to case management by adopting a "Statement on Case Management"; and authorize the Secretary of the Conference to disseminate the Conference's position to all judicial officers and to others in the judicial community.

On March 13, 1990, the Judicial Conference unanimously approved these recommendations.

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The Executive Committee also reported that, since the last session of the Conference in September, 1989, it had addressed the following matters on the Conference's behalf:

## APPROPRIATIONS FOR THE FISCAL YEAR 1990

On December 18, 1989, the Executive Committee approved spending plans for the "Salaries and Expenses" and "Court Security" appropriations for the fiscal year 1990. In the aftermath of the tragic death of Judge Robert Vance, \$5,000,000 withheld in the "Court Security" spending plan was restored by the Committee on February 14, 1990.

## ADDITIONAL JUDGESHIPS

The Executive Committee agreed to revise the 1988 Judgeship Survey to include five additional judgeships for the Sixth Circuit, and one additional judgeship for the Northern District of Texas.

## TRAVEL REGULATIONS FOR JUSTICES AND JUDGES

Effective January 1, 1990, the Committee amended the travel regulations for justices and judges to raise the alternative maximum actual subsistence expense allowance to \$175 per day.<sup>1</sup>

## SENIOR JUDGE LEGISLATION

Section 705 of the Ethics Reform Act of 1989 (Public Law 101-194) enacted new section 371(f) of title 28, creating a new work certification requirement for senior judges. With respect to work performed after January 1, 1990, in order to continue receiving the full salary of the office including increases of a non-routine nature, senior judges must be certified by the chief judge of the circuit as having met one of five specified work requirements. Rules and standards for meeting the work requirements are to be promulgated by the Judicial Conference.

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<sup>1</sup> Effective March 13, 1990, the Conference in plenary session raised the \$175 alternative maximum subsistence rate to \$225 daily, with annual increases to account for inflation. See "Travel Regulations for Justices and Judges", *infra* p. 22.

On February 14, 1990, the Executive Committee promulgated interim rules for senior judge workload certifications for the calendar year 1990. See also "Senior Judge Legislation", infra p. 20.

#### FEDERAL COURTS STUDY COMMITTEE

Title I of Public Law 100-702, the Federal Courts Study Act, established within the Judicial Conference a Federal Courts Study Committee on the future of the federal judiciary. No later than April 2, 1990, the Committee is required to file its final report with the Conference, the President, the Congress, and others.

In a draft dated December 22, 1989, the Study Committee circulated recommendations for public comment and, on the Conference's behalf, the Executive Committee agreed that comment on two matters would be appropriate. The Executive Committee advised the Study Committee of its support for the establishment of a long-range strategic planning committee for the judiciary, to be placed under the Executive Committee of the Conference, with staffing of the function to be determined by the Executive Committee. The Executive Committee also endorsed a recommendation to the Study Committee to retain in the Administrative Office responsibility for developing judicial impact statements.

The Study Committee's final recommendations will be circulated to all Conference committees for further comment and subsequent action by the Executive Committee.

#### MISCELLANEOUS ACTIONS

The Executive Committee declined to take a position on Title II of H.R. 1620, 101st Congress, which would create a National Commission on Judicial Impeachment; directed that an incentive award be conferred upon the Director of the Administrative Office; approved the convening of a sentencing institute in September, 1990, for the judges of the Fifth and Eleventh Circuits; authorized the Ninth Circuit to grant special awards to court employees who displayed exemplary dedication following the recent earthquake, and extended the same opportunity to the First, Third, and Fourth Circuits for similar

actions during and following Hurricane Hugo (see also, "Resolution", *infra* p. 26); approved technical amendments to the bankruptcy court miscellaneous fee schedule; directed the Administrative Office to draft amendments to improve the Judicial Survivors' Annuities System (JSAS); and approved amendments to the "computer-assisted legal research in chambers" program.

#### **COMMITTEE ON THE ADMINISTRATIVE OFFICE**

The Committee on the Administrative Office reported on briefings and tours of the agency, held in November, 1989. The Committee concluded that, overall, the Administrative Office is functioning appropriately. The Director, advised of areas of concern, agreed to address those areas.

#### **COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM**

##### **ADDITIONAL JUDGESHIPS**

In order to respond to sharp and steady increases in bankruptcy filings, the Conference voted to recommend that Congress authorize one additional bankruptcy judgeship each for the District of Colorado, the District of Maryland, the District of Puerto Rico, the Southern District of Florida, the Eastern District of Virginia to be stationed at Norfolk, and two additional judgeships for the Middle District of Florida to be stationed at Orlando and Tampa.

##### **BANKRUPTCY ADMINISTRATOR PROGRAM**

The Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554), which provided for the expansion of the United States trustee program nationwide, excepted the judicial districts in Alabama and North Carolina until October 1, 1992 (or the election by a district to be included in the U.S. trustee system).

The Federal Judicial Center is studying the operation of the bankruptcy administrator program. In an interim report, the Judicial Center has concluded that, although bankruptcy administrators are not statutorily afforded standing to raise issues

and be heard in court, the program appears to be accomplishing its statutory tasks.

The Conference agreed to recommend that Congress enact legislation (a) continuing the bankruptcy administrator program; (b) granting bankruptcy administrators status similar to United States trustees; and (c) permitting judicial districts to opt out of the U.S. trustee system and into the bankruptcy administrator program.

#### ADDITIONAL DUTY STATIONS AND PLACES OF HOLDING COURT FOR BANKRUPTCY JUDGES

The Conference changed the official duty station of a bankruptcy judge from Spokane to Yakima, Washington, and designated Phoenix, Arizona, as the official duty station for the additional judgeship for the District of Arizona authorized by Public Law 100-587.

#### NOTICING GUIDELINES

In order to conform the Conference's bankruptcy noticing guidelines with recent changes in the schedule of miscellaneous fees to be charged in the bankruptcy courts, the Conference amended Guideline 5 to read as follows:

5. Fee for Noticing by Clerks. For all notices generated in cases filed under title 11 of the United States Code, 50 cents each. Notices dated prior to January 1, 1987, should be charged at the rate of 25 cents for each notice in excess of fifty notices per set. Notice fees are payable only from the estate and only to the extent there is an estate.

#### COMMITTEE ON THE BICENTENNIAL OF THE CONSTITUTION

The Committee on the Bicentennial of the Constitution reported on its participation in the Bicentennial effort. The Committee has been active in promoting and funding Bicentennial activities, including the International Appellate Judges Conference. See infra, p. 20.

## COMMITTEE ON THE BUDGET'

### ASSET FORFEITURE FUND AMENDMENTS

In the Anti-Drug Abuse Act of 1988 (Public Law 100-690), Congress authorized reimbursement to the judicial branch from the Crime Victims Fund for the judiciary's administrative costs of monitoring and collection. Observing that reimbursement from the Asset Forfeiture Fund is indistinguishable in principle from reimbursement from the Crime Victims Fund, the Budget and Criminal Law and Probation Administration Committees recommended that 28 U.S.C. 524(c) be amended to authorize such reimbursement for adjudication and home detention costs. The Conference agreed, voting to seek such an amendment from the Congress.

## COMMITTEE ON THE CODES OF CONDUCT

### FEDERAL ETHICS LAW REFORM

Among other things, the Ethics Reform Act of 1989 (Public Law 101-194) imposed new statutory rules for officers and employees in the judiciary governing the receipt of gifts and honoraria, outside earned income, and other outside activities. The Act authorizes the Judicial Conference to issue regulations with respect to the judicial branch under Titles III (relating to gifts to federal employees) and VI (relating to limitations on outside earned income, outside employment, and honoraria). This gives the Judicial Conference a supervisory and regulatory role over the Supreme Court and the Federal Judicial Center, two entities over which the Conference has heretofore had no jurisdiction.

The Judicial Conference authorized the Executive Committee to adopt and implement regulations under these titles, and the Committee on Codes of Conduct to issue advisory opinions interpreting these titles, for all officers and employees of the judicial branch except those of the Supreme Court and the Federal Judicial Center. The Conference also authorized the Executive Committee to amend the Code of Conduct for United States Judges and the comparable canons for other members of

the judicial branch to conform, where appropriate, to the regulations adopted under Titles III and VI. With respect to adopting and implementing regulations for officers and employees of the Supreme Court and the Judicial Center, the Conference delegated its authority to the Chief Justice of the United States and the Judicial Center Board, respectively.

#### **JUDICIAL DISCIPLINE AND IMPEACHMENT**

S.J. Res. 11, 232, and 233 (101st Congress) propose constitutional amendments concerning the impeachment of judges. The Conference voted to oppose all three measures as unnecessary, unwise, and threatening to judicial independence.

#### **COMMITTEE ON THE COURT SECURITY**

##### **PARTICIPATION ON LOCAL COURT SECURITY COMMITTEES**

In March, 1989 (Conf. Rpt., p. 13), in order to improve the security of the courts, the Judicial Conference approved expanding the membership of district court security committees to include a representative of the bankruptcy court and, where there is a court of appeals within the district, a representative of that court. At this session, noting that United States magistrates are often the first line of the judiciary in criminal proceedings, the Conference approved expanding the membership of district court security committees to include a magistrate.

#### **OFF-SITE SECURITY OF JUDICIAL OFFICERS AND THEIR FAMILIES**

The Conference approved the following resolution declaring a state of emergency as to the off-site security of judicial officers and their families, and requesting that the Attorney General address the situation immediately:

The death of District Judge Richard J. Daronco at his home two years ago, the recent death of Circuit Judge Robert S. Vance at his home in Birmingham, the bomb intercepted at the courthouse in Atlanta, the public threats against all

federal judges in the Eleventh Circuit, and the bombs mailed to offices of persons engaged in Civil Rights activities, convince the Judicial Conference that a state of emergency exists as to the off-site security of judicial officers and their families, and the Judicial Conference requests that the Attorney General of the United States immediately address the situation.

**COMMITTEE ON CRIMINAL LAW  
AND PROBATION ADMINISTRATION**

**MANDATORY MINIMUM SENTENCES**

Observing that the Third, Eighth, Ninth, and Tenth Circuits had passed resolutions in opposition to mandatory minimum sentences, the Judicial Conference voted to urge the Congress to reconsider the wisdom of mandatory minimum sentence statutes and to restructure such statutes so that the U.S. Sentencing Commission may uniformly establish guidelines for all criminal statutes to avoid unwarranted disparities from the scheme of the Sentencing Reform Act (Title II of the Comprehensive Crime Control Act of 1984, Public Law 98-473).

**PRETRIAL DETENTION CRISIS**

Noting that the average number of defendants in pretrial detention has more than doubled in the past four years, and that many of these defendants must be detained at great distance from places of trial, the Conference adopted a resolution recognizing this pretrial detention crisis, and recommending that the Congress provide adequate funding to the Bureau of Prisons, the U. S. Marshals Service, and U. S. pretrial services officers to provide for adequate custody and supervision of pretrial detainees. The Conference also supported the development of alternatives to incarceration for some offenders, and broader experimentation with remedies such as video access to prisoners at remote facilities by attorneys and other court officers.



## **MANDATORY DETENTION FOR OFFENDERS CONVICTED OF SERIOUS CRIMES ACT**

S. 1259 (101st Congress) would amend 18 U.S.C. 3143 to require the detention of any person found guilty of a violent offense or serious drug offenses, pending sentence or appeal. Since courts have ample legal authority to detain convicted defendants when circumstances warrant, the Conference voted to oppose the bill.

## **PRETRIAL SERVICES REPORTS**

In order to increase local flexibility, the Conference agreed to recommend that Congress amend 18 U.S.C. 3154 to remove the requirement for pretrial services reports in Class A misdemeanor cases.

## **COMMITTEE ON DEFENDER SERVICES**

### **APPOINTMENTS AND PAYMENTS**

The Defender Services Committee reported that, during the fiscal year 1989, approximately 69,954 persons were represented under the Criminal Justice Act, compared to 65,507 persons during the fiscal year 1988, an increase of 6.8 percent. Of the 69,954 persons represented, approximately 36,000, or 51.5 percent, were represented by federal public and community defender organizations.

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

The Committee approved a request from the Federal Public Defender Organization for the Southern District of West Virginia for an increase in its allocation of \$56,500, to support the employment of an automation specialist to provide field support for national automation efforts. The Committee also approved a sustaining grant for the fiscal year 1991 for a sixteenth death penalty resource center, for the Northern and Southern Districts of Ohio, in the amount of \$960,047, contingent upon the organization's securing the requisite amount of non-CJA funds, and further contingent upon the approval of amendments to the CJA plans for the districts to be served.

## REDUCTION OF CJA VOUCHERS

The Judicial Conference declined to replace the language in Paragraph 2.22(D) of the Guidelines for the Administration of the Criminal Justice Act with language advising judicial officers to provide appointed counsel with the opportunity to respond to proposed reductions in vouchers. The Conference also declined to approve the transmittal of a recommendation to the circuit councils that they adopt local procedures providing that presiding judicial officers shall afford counsel an opportunity to respond to a proposed fee reduction.

## COMMITTEE ON FEDERAL-STATE JURISDICTION

### STATE-FEDERAL JUDICIAL COUNCIL

The Judicial Conference approved in principle creation of a National State-Federal Judicial Council, as suggested by the Conference of [State] Chief Justices. A specific proposal will be presented to the Conference in September, 1990.

## PORNOGRAPHY VICTIMS' COMPENSATION ACT

The Conference voted to oppose H.R. 3785 (101st Congress), the proposed Pornography Victims' Compensation Act, insofar as it would create a private right of action in the federal courts by victims of violent crime against producers and distributors of sexually explicit materials in certain circumstances. The subject matter of the legislation falls within the traditional scope of state law, and there is no need for actions in the federal court to vindicate federal interests or policies.

## INTERSTATE GREYHOUND RACING ACT

Since enforcement of state regulatory schemes relating to matters such as off-track betting on greyhound racing is a matter traditionally left to the states, the Conference opposed S. 1745 (101st Congress), the proposed Interstate Greyhound Racing Act of 1989, insofar as it would create a private right of action in federal courts for damages resulting from the making of interstate off-track wagers on greyhound races.

## CIVIL PRIORITIES

The appropriations act for the Department of the Interior for the fiscal year 1990 establishes a priority for federal court actions challenging timber sales in forests with the northern spotted owl, and also requires that final decisions in such matters must be rendered within 45 days. Establishing civil priorities, and imposing time limits on the judicial decision-making process, are inimical to effective civil case management and unduly hamper exercise of the necessary discretion in the performance of judicial functions. Accordingly, the Conference voted to oppose reenactment of these provisions.

## COMMERCE IN INDIAN-PRODUCED GOODS

The Conference opposed H.R. 2006 (101st Congress), insofar as the bill would provide a private right of action in the federal courts for damages for false representations that goods are Indian-produced.

## TRAVEL REGULATIONS FOR JUSTICES AND JUDGES

The Conference resolved that a joint meeting of the Conference of Chief Justices and the Judicial Conference of the United States in Washington, D.C., on September 10, 1990, shall be considered a "Judicial Conference Committee meeting" for purposes of section D.1.a(5) of the travel regulations for justices and judges. See also "Travel Regulations for Justices and Judges", *infra* p. 20.

## COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

The Committee on Intercircuit Assignments reported that during the period August 15, 1989, through January 30, 1990, the Committee had recommended 89 intercircuit assignments to be undertaken by 72 judges. Of this number, 18 were senior circuit judges, three were active circuit judges, 27 were senior district judges, 18 were active district judges, two were senior judges of the Court of International Trade, and four were active judges of the Court of International Trade.

Of the 89 assignments approved, 46 judges undertook 58 assignments to the courts of appeals, and 28 judges undertook 31 assignments to the district courts.

**COMMITTEE ON THE INTERNATIONAL  
APPELLATE JUDGES CONFERENCE OF 1990**

**TRAVEL REGULATIONS FOR JUSTICES AND JUDGES**

The Conference resolved that the International Appellate Judges Conference shall be considered a "Judicial Conference Committee meeting" for purposes of section D.1.a(5) of the travel regulations for justices and judges. See also "Travel Regulations for Justices and Judges", supra p. 19.

**COMMITTEE ON THE JUDICIAL BRANCH**

**SENIOR JUDGE LEGISLATION**

As noted supra pp. 10-11, on February 14, 1990, the Executive Committee promulgated interim rules for senior judge workload certifications for the calendar year 1990.

On March 13, 1990, the Conference in plenary session approved a two-step procedure for promulgating permanent rules for certification of senior judges under 28 U.S.C. 371(f): first, the interim rules would be distributed to all Article III judges for notice and comment; and second, after comments had been taken into account, permanent rules for calendar year 1991 and thereafter would be presented to the Judicial Conference in September, 1990.

**COMMITTEE ON JUDICIAL ETHICS**

The Committee on Judicial Ethics reported that as of January, 1990, the Committee had received 2,509 financial disclosure reports and certifications for the calendar year 1988, including 1,024 reports and certifications from judicial officers and 1,485 reports and certifications from judicial employees.

## COMMITTEE ON JUDICIAL IMPROVEMENTS

### AUTOMATION

The Judicial Conference approved the 1990 update to the Long Range Plan for Automation in the United States Courts. The Conference declined to delegate authority to the Judicial Improvements Committee to approve the annual updates of the Plan on the Conference's behalf.

### MISCELLANEOUS FEES

The Conference amended the schedules of fees to be charged in the district and bankruptcy courts to establish the following rates for electronic access to court data on the PACER system, barring congressional objection. PACER allows a law firm, or other organization or individual, to use a personal computer to access a court's computer and extract public data in the form of docket sheets, calendars, and other records.

#### Yearly Subscription Rate:

Commercial - \$60 per court  
Non-profit - \$30 per court

#### Per Minute Charge:

Commercial - \$1.00  
Non-profit - \$0.50

Under language included in the judiciary's appropriations act for the fiscal year 1990 (Public Law 101-162), the judiciary will be entitled to retain the fees collected for PACER services in the bankruptcy courts. The Conference agreed to seek similar legislative language to permit the judiciary to retain the fees collected for district court PACER services.

## COURT-ANNEXED ARBITRATION

Title IX of the Judicial Improvements and Access to Justice Act (Public Law 100-702) provided statutory authorization for the current ten-district court-annexed arbitration program. It also authorized ten additional courts to establish programs of arbitration by consent of the parties.

The Judicial Conference approved for inclusion in the consensual arbitration program the Northern and Western Districts of New York, the Western District of Pennsylvania, the Eastern District of Texas, the Western District of Kentucky, the bankruptcy court of the Southern District of Indiana, the Eastern District of Washington, the District of Utah, and the Middle District of Georgia. The Conference delegated authority to the Committee to authorize a tenth court for future inclusion in the consensual arbitration program, and to replace any court that might withdraw.

## TRAVEL REGULATIONS FOR JUSTICES AND JUDGES

As noted supra p. 10, the Executive Committee amended the travel regulations for justices and judges to raise the alternative maximum actual subsistence expense allowance to \$175 per day. Effective March 13, 1990, the Conference in plenary session further increased the \$175 maximum to \$225 per day, with annual increases authorized to account for future inflation.

In addition, observing that it would be appropriate for judges to receive local subsistence at irregular and special conferences such as meetings of Judicial Conference committees or circuit judicial conferences, the Conference voted to seek amendments to 28 U.S.C. 456(a) and 604(a)(7) to authorize payment of subsistence and local travel expenses to judicial officers when conducting official business (not ordinarily performed in the daily conduct of official duties) at their official stations.

## COMPUTER-ASSISTED LEGAL RESEARCH

Computer-assisted legal research (CALR) is now widely used by the bench, bar, and public. Accordingly, the Conference agreed to adopt a policy encouraging courts to allow the use of parallel electronic citations to federal court opinions.

## NATURALIZATION PROCEEDINGS

Both the House and Senate in the 101st Congress have passed separate bills (Title II of S. 358; H.R. 1630) that would shift the substantial administrative responsibilities of the courts in the current naturalization process to the Immigration and Naturalization Service, including the oath ceremony (unless the alien asks for a court oath ceremony).

At the Committee's direction, a survey was conducted of the chief judges and clerks of court of the fourteen districts in which two-thirds of the total petitions for naturalization are filed. After obtaining comments, the Committee recommended that the Judicial Conference support these bills in principle, and also propose:

1. an amendment to relieve clerks of additional routine record-keeping responsibilities;
2. an amendment to provide a period of 45 days after certification by the INS to a court of the eligibility of an alien for citizenship, during which the court would have exclusive jurisdiction to conduct the naturalization ceremony, all or part of such period to be subject to waiver by the court on an individual, group, or across-the-board basis as provided by local rule or otherwise; and
3. that the legislative history of the bills emphasize the fundamental interest in a dignified, citizenship-oriented ceremony similar to current judicial ceremonies, and encourage the Immigration and Naturalization Service to

develop a model plan that would include coordination with, and participation of, federal judges interested in enhancing the effectiveness of the administrative naturalization ceremony.

The Conference voted to support the recommendations.

## **COMMITTEE ON JUDICIAL RESOURCES**

### **JUDICIARY SALARY PLAN MODIFICATIONS**

On recommendation of the Committee on Judicial Resources, the Judicial Conference approved the following modifications to the Judiciary Salary Plan (JSP):

1. Establishing an organizational structure for a JSP-15 chief deputy position (JSP-16 if meeting criteria for consolidated courts) and up to two JSP-14 mid-managerial positions, exclusive of appropriately classified deputy-in-charge positions, in courts where the clerk of court or chief probation officer position warrants a grade JSP-17 classification.
2. Deleting from the jury administrator classification standard the requirements that courts must have five or more judicial officers and hold 50 or more jury trials to be authorized a JSP-10 position.
3. Eliminating the "career" designation requirement for appointment or promotion of law clerks and staff attorneys to JSP-13 and JSP-14. For retirement purposes only, the Conference reaffirmed its March, 1987 resolution (Conf. Rpt., p. 11), that an individual hired in one of these positions for a period understood to be less than four years shall be appointed as a "term" employee and subject only to contributions for social security, not federal retirement.



4. Establishing the position of deputy circuit executive, grade JSP-15, in each circuit executive's office, with no additional personnel to be assigned for this purpose, or additional promotions authorized where an administrative assistant to the circuit executive currently holds the JSP-15 grade.
5. Reclassifying circuit librarian positions from JSP-14 to JSP-15.
6. Establishing four automation-related position classifications to support personal computer-based automation efforts: supervisor, JSP-12; PC system administrator, JSP-11; automation support specialist, JSP-9; and depot maintenance technician, JSP-9.

#### EMPLOYEE RECOGNITION PLAN

Section 604(a)(22) of title 28 authorizes the Director of the Administrative Office, under the supervision of the Judicial Conference, to establish an Employee Recognition Program for judicial branch employees. On the Committee's recommendation, the Conference approved an Employee Recognition Plan, including special service awards, quality step increases, and the recently-approved longevity bonus program (see September 1989 session, Conf. Rpt., p. 72).

#### "SAVED GRADE AND SAVED PAY" POLICY

On March 14, 1989 (Conf. Rpt., p. 21), the Judicial Conference approved a "saved grade and saved pay" policy for judiciary employees whose positions are abolished and who are qualified for, and selected for, lower graded positions in the judiciary. At this session, the Conference amended the policy to apply prospectively only, from the date the policy was enacted in March, 1989.

#### BANKRUPTCY WORK MEASUREMENT FORMULA

The Conference endorsed two modifications of the bankruptcy work measurement formula, to revise the credit given for divisional offices and to increase the credit for Chapter 13 cases.

## RESOLUTION

The Conference passed the following resolution in recognition of extraordinary performance by court employees to ensure quick return of normal operations in courts affected by Hurricane Hugo:

The Judicial Conference of the United States notes the extraordinary performance and exemplary dedication to the federal court system of all the court employees in those courts that were affected by Hurricane Hugo. The Conference expresses special thanks to the employees of the federal courts in the United States Virgin Islands, Old San Juan and Hato Rey, Puerto Rico, and Charleston, South Carolina, where the devastating effects of the hurricane were felt most directly. The courage and hard work of the court employees in those locations helped to ensure the quick return of those courts to normal operations.

By this resolution, the Conference recognizes the fine efforts of all employees involved and expresses its deepest appreciation.

See also "Miscellaneous Actions" of the Executive Committee, supra p. 12.

### COMMITTEE ON THE ADMINISTRATION OF THE FEDERAL MAGISTRATES SYSTEM

#### SALARIES OF PART-TIME MAGISTRATES

In accordance with the Ethics Reform Act of 1989 (Public Law 101-194), full-time U.S. magistrates received a 7.9 percent cost-of-living adjustment, effective February 1, 1990. By Judicial Conference resolution of March, 1988 (Conf. Rpt., pp. 34-35), part-time magistrates are authorized the same cost-of-living adjustments granted to full-time magistrates, effective upon the same date as the adjustments for full-time magistrates. As part of the transition to the 1988 salary structure, the salaries of

certain part-time magistrates in the pre-1988 structure were maintained at existing levels until further specific action of the Conference.

As approved, effective February 1, 1990, the new salary structure is as follows:

<u>Level</u>	<u>Amount</u>
1	\$ 2,444
2	\$ 4,444
3	\$ 6,665
4	\$ 8,887
5	\$11,109
6	\$13,331
7	\$15,553
8	\$17,774
9	\$22,218
10	\$26,662
11	\$31,105
12	\$35,549
13	\$39,992
14	\$44,436

The Conference withheld the 7.9 percent cost-of-living adjustments from magistrate positions compensated at frozen pay levels \$3,265, \$4,354, \$7,740, and \$21,650 in the pre-1988 structure, except that, retroactive to February 1, 1990:

- (a) the salaries of the following part-time magistrate positions, previously frozen at \$4,354 per annum, were increased to \$4,444 per annum:

Cape Girardeau, Missouri  
Vancouver, Washington  
Bellingham, Washington  
Dublin (or Statesboro), Georgia; and

- (b) the salaries of the following part-time magistrate positions, previously frozen at \$21,650 per annum, were increased to \$22,218 per annum:

Erie, Pennsylvania  
Midland (or Odessa), Texas  
Hot Springs, Arkansas  
Oklahoma City, Oklahoma.<sup>2</sup>

### CHANGES IN MAGISTRATE POSITIONS

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

#### FIRST CIRCUIT

##### Massachusetts:

Increased the salary of the part-time magistrate position at Cape Cod National Seashore from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

##### Rhode Island:

1. Established a part-time magistrate position at Providence at a salary of \$31,105 per annum, in lieu of the clerk/magistrate position; and
2. Continued the authority of the clerk of court to perform magistrate duties for an additional four-year term, but discontinued such authority upon appointment of the part-time magistrate.

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<sup>2</sup> The part-time magistrate position at Jackson, Tennessee, was erroneously included by the Judicial Conference in this category. However, in March, 1989 (Conf. Rpt., p. 28), the Judicial Conference increased the salary of this position to level 10 of the part-time magistrate structure. In accordance with the new salary structure (see above), the salary of that position is currently \$26,662.

## SECOND CIRCUIT

### New York, Northern:

1. Converted the part-time magistrate position at Watertown to a full-time position at that location;
2. Authorized a part-time magistrate position to serve the court at Syracuse or Utica at a salary of \$44,436 per annum; and
3. Continued the part-time magistrate position at Plattsburgh for an additional four-year term and increased the salary of the position from \$4,354 per annum to \$6,665 per annum.

### New York, Southern:

Authorized an additional full-time magistrate position to serve the court at New York City.

### New York, Western:

Authorized an additional full-time magistrate position to serve the court at Buffalo (or Rochester).

## THIRD CIRCUIT

### Pennsylvania, Middle:

1. Continued the part-time magistrate position at Stroudsburg for an additional four-year term at the currently authorized salary of \$17,774 per annum; and
2. Continued the part-time magistrate position at Williamsport for an additional four-year term and increased the salary from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

**Pennsylvania, Western:**

Continued the part-time magistrate position at Erie for an additional four-year term but deferred action on any change in the salary of the position for the new term.

**Virgin Islands:**

Converted the part-time magistrate position at Christiansted to a full-time position at that location.

**FOURTH CIRCUIT**

**Maryland:**

Increased the salary of the part-time magistrate position at Salisbury (and Assateague Island National Seashore) from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

**West Virginia, Southern: .**

Made no change in the status of the part-time magistrate position at Beckley/Bluefield.

**FIFTH CIRCUIT**

**Louisiana, Western:**

1. Continued the full-time magistrate position at Lafayette (or Opelousas) for an additional eight-year term; and
2. Made no change in the status of the part-time magistrate position at Lafayette (or Opelousas).

**Texas, Northern:**

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

2. Continued the part-time magistrate position at San Angelo for an additional four-year term and increased the salary from \$2,264 per annum to \$6,665 per annum; and
3. Continued the part-time magistrate position at Abilene for an additional four-year term and increased the salary from \$2,264 per annum to \$6,665 per annum.

Texas, Western:

1. Continued the full-time magistrate position at El Paso which is due to expire on January 25, 1991, for an additional eight-year term;
2. Continued the full-time magistrate position at Del Rio for an additional eight-year term; and
3. Increased the salary of the part-time magistrate position at Big Bend National Park from \$16,468 per annum to \$26,662 per annum.

SIXTH CIRCUIT

Kentucky, Eastern:

Continued the part-time magistrate position at Covington for an additional four-year term and increased the salary from \$12,351 per annum to \$35,549 per annum.

Tennessee, Eastern:

1. Authorized an additional full-time magistrate position to serve the court at Knoxville (or Chattanooga); and
2. Discontinued the part-time magistrate position at Sevierville (or Gatlinburg), effective upon the appointment of the new full-time magistrate.

Tennessee, Western:

Converted the part-time magistrate position at Jackson to a full-time position to serve the court at Jackson or Memphis.

SEVENTH CIRCUIT

Wisconsin, Eastern:

1. Continued the full-time magistrate position at Milwaukee which is due to expire on December 29, 1991, for an additional eight-year term; and
2. Continued the part-time magistrate position at Green Bay for an additional four-year term but decreased the salary from \$4,354 per annum to \$2,444 per annum, effective upon commencement of the new term.

EIGHTH CIRCUIT

Arkansas, Eastern:

Authorized a fourth full-time magistrate position to serve the court at Little Rock.

Arkansas, Western:

1. Continued the part-time magistrate position at El Dorado for an additional four-year term and increased the salary from \$2,264 per annum to \$4,444 per annum; and
2. Continued the part-time magistrate position at Harrison for an additional four-year term and increased the salary from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

Iowa, Northern:

Maintained the salary of the part-time magistrate position at Sioux City at the current level of \$3,265 per annum until further specific action on the position.



**Iowa, Southern:**

Increased the salary of the part-time magistrate position at Burlington from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

**Minnesota:**

Continued the part-time magistrate position at Bemidji for an additional four-year term at the currently authorized salary of \$2,444 per annum.

**Nebraska:**

Continued the part-time magistrate position at North Platte for an additional four-year term at the currently authorized salary of \$2,444 per annum.

**South Dakota:**

Continued the part-time magistrate position at Aberdeen for an additional four-year term and increased the salary from \$3,265 per annum to \$4,444 per annum.

**NINTH CIRCUIT**

**Alaska:**

Increased the salary of the part-time magistrate position at Kodiak from \$3,265 per annum to \$4,444 per annum.

**Arizona:**

1. Authorized a full-time magistrate position at Flagstaff;
2. Discontinued the part-time magistrate position at Flagstaff upon the appointment of the full-time magistrate at that location;

3. Discontinued the part-time magistrate position at Grand Canyon National Park upon the expiration of the current term or upon the appointment of the full-time magistrate at Flagstaff, whichever is later;
4. Discontinued the part-time magistrate position at Window Rock (or Holbrook) upon the expiration of the current term; and
5. Discontinued the part-time magistrate position at Kingman.

**California, Northern:**

Continued the part-time magistrate position at Eureka for an additional four-year term and increased the salary of the position from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

**California, Eastern:**

1. Continued the part-time magistrate position at Yreka for an additional four-year term and increased the salary from \$3,265 per annum to \$4,444 per annum; and
2. Increased the salary of the part-time magistrate position at Susanville from \$3,265 per annum to \$15,553 per annum for a four-month period commencing April 1, 1990, with a reduction to \$6,665 per annum thereafter.

**California, Central:**

Continued the part-time magistrate position at Palm Springs (or Twentynine Palms) for an additional four-year term and increased the salary from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

**Montana:**

1. Continued the part-time magistrate position at Helena for an additional four-year term and increased the salary from \$4,354 per annum to \$6,665 per annum;

2. Increased the salary of the part-time magistrate position at Missoula from \$3,265 per annum to \$4,444 per annum; and
3. Continued the part-time magistrate position at Cut Bank for an additional four-year term at the currently authorized salary of \$2,444 per annum.

Oregon:

1. Increased the salary of the part-time magistrate position at Bend from \$3,265 per annum to \$4,444 per annum; and
2. Increased the salary of the part-time magistrate position at Pendleton from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

Washington, Eastern:

Continued the part-time magistrate position at Yakima for an additional four-year term at the currently authorized salary of \$26,662 per annum.

TENTH CIRCUIT

Colorado:

Continued the part-time magistrate position at Colorado Springs for an additional four-year term at the currently authorized salary of \$44,436 per annum.

New Mexico:

1. Increased the salary of the part-time magistrate position at Alamogordo from \$3,265 per annum to \$6,665 per annum;
2. Increased the salary of the part-time magistrate position at Santa Fe from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990; and

3. Increased the salary of the part-time magistrate position at Farmington from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

Oklahoma, Western:

1. Continued the full-time magistrate position at Oklahoma City which is due to expire on December 12, 1991, for an additional eight-year term;
2. Reaffirmed the need for four full-time magistrate positions in the district; and
3. Continued the part-time magistrate position at Lawton for an additional four-year term at the currently authorized salary of \$44,436 per annum.

Utah:

1. Continued the full-time magistrate position at Salt Lake City for an additional eight-year term;
2. Continued the part-time magistrate position at Salt Lake City for an additional four-year term at the currently authorized salary of \$44,436 per annum;
3. Continued the part-time magistrate position at Cedar City for an additional four-year term and increased the salary from \$3,265 per annum to \$4,444 per annum;
4. Continued the part-time magistrate position at Vernal (or Roosevelt) for an additional four-year term and increased the salary from \$3,265 per annum to \$4,444 per annum; and
5. Continued the part-time magistrate position at Monticello (or Moab) for an additional four-year term and increased the salary from \$4,354 per annum to \$4,444 per annum, retroactive to February 1, 1990.

**Wyoming:**

Maintained the salary of the part-time magistrate position at Sheridan at the current level of \$3,265 per annum until further specific action on the position.

**ELEVENTH CIRCUIT**

**Florida, Southern:**

1. Authorized two additional full-time magistrate positions to serve the court at Miami;
2. Continued the full-time magistrate position at Miami which expires on September 11, 1991, for an additional eight-year term; and
3. Continued the part-time magistrate position at Fort Pierce for an additional four-year term and increased the salary from \$3,265 per annum to \$4,444 per annum.

**COMMITTEE ON PACIFIC TERRITORIES**

The Committee on Pacific Territories reported on legal developments in the Pacific Islands and progress on pending legislation of interest to the Committee.

**COMMITTEE ON RULES  
OF PRACTICE AND PROCEDURE**

**CRIMINAL RULES**

The Committee on Rules of Practice and Procedure submitted to the Conference proposed amendments to Rules 5 ("Initial Appearance Before the Magistrate"), 41(a) ("Search and Seizure"), and 54 ("Application and Exception"), and new Rule 58 ("Procedure for Misdemeanors and Other Petty Offenses") of the Federal Rules of Criminal Procedure, together with Committee notes explaining their purpose and intent. The Conference approved them for transmission to the Supreme Court for

consideration, with the recommendation that they be approved by the Court and transmitted to the Congress pursuant to law.

In addition, the Conference was informed that Congress is considering, as part of S. 1171, 101st Congress, an amendment to Rule 24(b) of the Federal Rules of Criminal Procedure to equalize the number of peremptory challenges available to the defense and the prosecution. The Conference agreed to advise the Congress that, in its view, the Rules Enabling Act is the appropriate vehicle for amendment of Rule 24(b). The Congress will also be advised that a similar amendment has already been circulated to the bench and bar for comment by the Advisory Committee on the Federal Rules of Criminal Procedure.

## **COMMITTEE ON SPACE AND FACILITIES**

### **RESOLUTIONS**

On recommendation of the Committee on Space and Facilities, the Judicial Conference approved the following resolution conveying the sympathy of the judiciary to Mrs. Helen Vance on the recent and tragic death of Judge Robert S. Vance, chairman:

The Judicial Conference notes with sadness  
the death of the

Honorable Robert S. Vance

on December 16, 1989, in Birmingham, Alabama.

Judge Vance served with distinction as a United States Circuit Judge. He also served the judiciary as the first Chairman of the Judicial Conference Committee on Space and Facilities. During his tenure as Chairman, Judge Vance was responsible for initiating a review and examination of court space standards, gaining endorsement by the Judicial Conference of legislation which would

provide the judiciary with independent real property authorities, and initiating a program which will provide a standard method for projecting the judiciary's space needs.

The members of the Judicial Conference and the Committee on Space and Facilities convey their deepest sympathies to Judge Vance's family and request that this resolution be sent to his widow, Helen Vance, as a sign of their affection and respect.

The Conference also resolved to request that Congress enact legislation designating the United States Courthouse at 1800 Fifth Avenue North, in Birmingham, Alabama, as the Robert Smith Vance United States Courthouse.

#### **AD HOC COMMITTEE ON CAMERAS IN THE COURTROOM**

The Ad Hoc Committee on Cameras in the Courtroom reported on its progress in reviewing the current rules governing cameras in federal courtrooms. The Committee will receive presentations from media representatives later this spring, and transmit final recommendations for Conference action in September, 1990.

#### **FUNDING**

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

## RESOLUTIONS

On behalf of the Judicial Conference, the Executive Committee adopted the following resolutions in appreciation of Judge John C. Godbold and Chief Judge Levin H. Campbell, as follows:

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

Honorable John C. Godbold,

Director of the Federal Judicial Center from August 1, 1987 to March 24, 1990.

Judge Godbold has made innumerable contributions to the judiciary and the Nation as a Judge of the United States Court of Appeals for the Fifth Circuit from 1966 to 1981, serving as its Chief Judge for seven months prior to becoming Chief Judge of the new Eleventh Circuit on October 1, 1981. He thus began his service as a member of the Judicial Conference as the Chief Judge of the Fifth Circuit in 1981, and completed his Conference membership as the Chief Judge of the Eleventh Circuit in 1986. He was appointed as the Director of the Federal Judicial Center in 1987, and his substantial contributions continued throughout his two and one-half years as the Director of the Federal Judicial Center.

By his appointment as the Director of the Federal Judicial Center, Chief Justice Rehnquist and the Center's Board of Directors clearly demonstrated their respect for and confidence in Judge Godbold's leadership abilities. He brought a rich understanding of the federal courts and the judicial process, drawing not only on his career as one of the country's leading jurists, but also on his prior experience as a member of the Board of the



Center from 1976 to 1981. He carried on the tradition of excellence established by his four predecessors at the Center with skillful and distinguished leadership.

While we will miss his friendship and counsel at Judicial Conference sessions, we are proud to acknowledge his dedicated service to the judiciary in this capacity, and we extend our sincere gratitude and esteem to Judge and Mrs. Godbold as they return to the Eleventh Circuit. We hope and anticipate that they will both continue their association with the Judicial Conference and the Federal Judicial Center in the years to come.

\* \* \* \* \*

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

Honorable Levin H. Campbell,

Chief Judge of the United States Court of Appeals for the First Circuit, and a member of this Conference from March 31, 1983, until he completes his term on March 31, 1990.

During his career on the federal bench, Judge Campbell has served the Conference in many capacities, including membership on the Committees on Court Administration and the Bicentennial of the Declaration of Independence. He chaired the Subcommittee on Supporting Personnel for three years just prior to becoming the Chief Judge of the First Circuit and a member of the Judicial Conference. Former Chief Justice Burger, recognizing Judge Campbell's wise counsel and stewardship, appointed him to the Executive Committee of the Conference in 1985. Chief Justice Rehnquist extended his appointment on the Executive Committee in 1987. He also called on

Judge Campbell to serve on the Committee to Study the Judicial Conference in 1986, and on the congressionally-mandated Federal Courts Study Committee in 1988. Recently, Chief Justice Rehnquist has asked Judge Campbell to serve further, as a member of the Committee to Review Circuit Council Conduct and Disability Orders.

Judge Campbell has carried out his responsibilities to the Conference, the Executive Committee, and the First Circuit with great skill and distinction. His numerous appointments clearly demonstrate that he has earned the confidence and respect of two Chief Justices, as well as his many colleagues and friends on the Conference and its committees. While we will miss his wisdom and friendship during the sessions of the Judicial Conference, we congratulate him on a successful and rewarding career as a member of the Conference and as the Chief Judge of the First Circuit.

We extend our sincere gratitude and esteem to Judge and Mrs. Campbell, and we will look forward to their association with the Judicial Conference in the years to come.

#### MEMORIAL RESOLUTIONS

Noting the deaths of Judges Clement F. Haynsworth, Jr., Jean Galloway Bissell, and Philip Nichols, Jr., the Conference adopted the following resolutions:

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

Honorable Clement F. Haynsworth, Jr.,

on November 22, 1989, in Greenville, South Carolina.

Judge Haynsworth was a summa cum laude graduate of Furman University and a graduate of the Harvard Law School. He practiced law in one of the leading firms of South Carolina in which he was of the fifth generation to bear his family name. He served as a circuit judge of the United States Court of Appeals for the Fourth Circuit since 1957, as its Chief Judge for 17 years, and as a member of this Conference for 17 years. He knew each of his brothers on the Fourth Circuit intimately and had the qualities of mind and of character that ensured a collegial bench. As his successor, former Chief Judge Harrison L. Winter stated, his brothers thought of Judge Clement Haynsworth as "the judge first in our hearts". Judge Haynsworth was truly a sensitive, highly intelligent person who conducted himself throughout his life with great dignity and courage.

The members of the Judicial Conference convey their sympathies to Judge Haynsworth's widow, Dorothy Haynsworth, and to his family, and ask that this Resolution be sent to them as a token of their profound respect and affection for Judge Haynsworth.

\* \* \* \* \*

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

Honorable Jean Galloway Bissell,

on February 4, 1990, in Washington, D.C.

Judge Bissell served with distinction as a United States Circuit Judge on the United States Court of Appeals for the Federal Circuit from September 4, 1984, until her untimely death. She was greatly loved by her colleagues, and her indelible contributions to the collegiality of that court will long survive her passing.

Judge Bissell brought to the court broad experience gained in the private practice of law, in the teaching of law, and in the leadership of a major banking corporation. She was an extremely productive appellate judge, and her opinions reflected both her exemplary judicial temperament and her comprehensive knowledge of legal and commercial matters.

Judge Bissell also served on the Committee on the Judicial Branch, where she made important contributions toward the restoration of judicial compensation to its rightful place in the hierarchy of constitutional values.

The members of the Judicial Conference convey their deepest sympathies to Judge Bissell's family and request that this Resolution be sent to her widower, Gregg C. Bissell, as a sign of their affection and respect.

\* \* \* \* \*

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

Honorable Philip Nichols, Jr.,

on January 26, 1990, in Washington, D.C.

Judge Nichols served with distinction as a United States Circuit Judge on the United States Court of Appeals for the Federal Circuit from its founding until his death, when he was serving as a senior judge. His distinguished judicial career spanned more than 25 years, and included service as a Judge of the United States Customs Court and as a Judge of the United States Court of Claims. He is remembered by his colleagues as the kindest of men and the most patient of judges.

Judge Nichols's long and rewarding career also included the private practice of law in Boston, Massachusetts, military service as a Naval officer during World War II, and extensive service in the Executive Branch culminating as the Commissioner of Customs.

The members of the Judicial Conference convey their deepest sympathies to Judge Nichols's family and request that this Resolution be sent to his widow, Dorothy Jackson Nichols, as a sign of their affection and respect.

#### RELEASE OF CONFERENCE ACTION

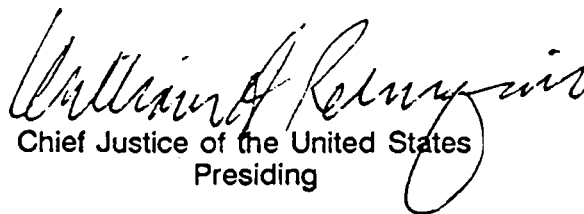
The Conference authorized the immediate release of matters considered at this session where necessary for legislative or administrative action.

\* \* \* \* \*

#### ELECTION

On March 26, 1990, by mail vote, the Conference elected to membership on the Board of the Federal Judicial Center Judge Diana Murphy, for a four-year term commencing March 28, 1990.

April 16, 1990

  
Chief Justice of the United States  
Presiding