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THE WHITE HOUSE

WASHINGTON

November 25, 1975

MEMO FOR: PHIL BUCHEN
FROM: KEN LAZARUS

Attached are:

- (1) A briefing paper on judicial salaries which was prepared by OMB pursuant to our request.
- (2) The report of the House Committee on Post Office and Civil Service, published two weeks ago, which supplements the briefing paper (see especially pp 14-15).

Do you need any additional material?

Attachments



BRIEFING PAPER ON JUDICIAL SALARIES

Most of the top officials of the executive, legislative and judicial branches of the Federal Government are paid under the Executive Level salary schedule. The present rates are shown in Attachment A.

As shown in that attachment:

-- the salary of the Chief Justice of the Supreme Court is currently \$65,600--the same as the Vice President.

-- Associate Justices of the Supreme Court earn \$63,000--the same as the Department heads in the Cabinet (Level I)

-- Circuit Court Judges earn \$44,600--the same as Members of Congress, some Cabinet Undersecretaries, heads of independent agencies and regulatory commissions, etc. (Level II)

-- District Court judges earn \$42,000--the same as other Cabinet Undersecretaries, members of regulatory commissions, etc. (Level III)

Background

Historically, Executive Level salaries have been adjusted only by legislation. Thus, Congress and the President have determined the relationship between the salaries of members of the judiciary, Members of Congress, and executive branch officials.

For a number of years there has been a traditional relationship between Executive Level salaries and those paid to members of the judiciary. An historical table of judicial salary rates is shown in Attachment B.

In 1967, a special procedure was enacted which provides for a Commission on Executive, Legislative, and Judicial Salaries (Quadrennial Commission, or "Quad Comm") to be established every four years, beginning in 1968. The Quad Comm reviews the rates of pay for the Executive Schedule and for positions at a comparable level in the legislative and judicial branches and submits recommended changes to the President. The President decides what pay rates he considers to be appropriate (which may be different from those of the Quad Comm), and must include his recommendations in the next annual budget transmitted after the Quad Comm makes its report. The President's proposed rates go into effect a month later if neither the Senate nor the House disapproves.



The Quad Comms have made pay recommendations to the President under procedures of the 1967 law. The first was established in 1968 under the chairmanship of Frederick R. Kappel and the other in 1972 with Arch Patton as its Chairman.

1968 Quad Comm

The first Commission submitted recommendations on new pay rates to the President in December 1968 to replace those which had been set legislatively in 1964. Because of congressional sensitivity over the 67 percent pay increase proposed for Senators and Representatives, President Johnson decided it was necessary to cut back sharply on the Kappel Commission's recommendations. In addition to reducing the proposed congressional increase to 42 percent, President Johnson also reduced all other Executive Level pay rates and those for the judiciary.

<u>1968 Quad Comm</u>	<u>Commission's Proposal</u>	<u>President's Proposal</u>
Chief Justice	\$67,500	\$62,500
Associate Justices	65,000	60,000
Circuit judges	50,000	42,500
District judges	47,500	40,000

There was active opposition in the Congress to the new pay rates proposed by the President. However, a resolution disapproving the President's recommendations was defeated in the Senate, 47-34, in February 1969. As a result, the President's proposed rates went into effect in March 1969.

1973 Quad Comm

President Nixon delayed establishing the next Quad Comm so that its report was due by July 1973. Thus, under the law, the President's recommendations would be sent to Congress with the subsequent budget--January 1974, an election year. The Commission recommended salary increases of 25 percent, with smaller increases for Level I and the Supreme Court. The 25 percent increase was so controversial two congressional members of the Commission dissented. Further, the congressional leadership indicated there was little likelihood of congressional acceptance of a Presidential recommendation for a 25 percent increase. Earlier, the Administration had actually favored a bill which would have made the pay recommendations effective September 1973 and thus avoid the election year timing. This bill failed enactment because of strong House opposition, reportedly in large part because Congressmen were badly shaken by the adverse publicity surrounding their 42 percent increase in 1969.



The President recommended a 7.5 percent increase for each of three years, with no increase the first year for Cabinet positions or the Supreme Court. On March 6, 1974, the Senate voted 71-26 to disapprove the President's recommendation. Thus, the salary of Supreme Court justices, Circuit Court judges, and District Court judges remained at the levels established in 1969.

After the defeat of the Budget proposal--and as an interim measure to relieve compression at the top career grades (supergrades)--President Nixon on May 7, 1974, submitted legislation to increase Levels V, IV, and III of the Executive Schedule from \$36,000, \$38,000, and \$40,000, to \$40,000, \$41,000, and \$41,500, respectively. Although the Administration proposed no parallel changes in legislative and judicial salaries. Senator Fong introduced legislation to provide similar increases in those systems. None of this legislation was enacted.

94th Congress developments

In August 1975 the President approved P.L. 94-82, which provides for automatic annual pay adjustments for Supreme Court justices and Federal judges, as well as Members of Congress, the Vice President, Cabinet members, and certain other top officials in the three branches of the Federal Government. This new law, however, leaves intact the regular "Quad Comm" mechanism for review of Executive Level salaries.

P.L. 94-82 ties the pay increases of top officials to the "comparability" adjustments applicable annually to Federal white collar employees. Accordingly, these officials--approximately 785 executive branch officials, 560 Members of Congress and legislative branch officials, and 1,083 judges and judicial branch officials--will receive an amount (rounded to the nearest \$100) equal to the overall percentage increase authorized each year for employees paid under the General Schedule and other statutory systems. The proposed adjustments would take effect at the same time as those for General Schedule employees, which is the beginning of the first applicable pay period commencing on or after October 1 of each year. The amount and effective date of these adjustments can be varied if the President proposes an alternative plan which is not disapproved by either House of Congress. As a result of an alternative plan submitted by President Ford, the October 1975 pay increase was five percent.

Other 94th Congress proposals

Prior to enactment of P.L. 94-82, several bills were introduced which sought to adjust either the entire Executive Level salary schedule--which would include judicial salaries--or some part of it, such as judicial salaries alone. Several of these are listed below. All of these would now appear to be moot, given enactment of P.L. 94-82. (It should be noted that the "current" salaries are those which existed at the time the bills were introduced last spring.)

H.R. 6150 (Railsback (R) Illinois)

Deputy Attorney General Tyler testified on this bill in June, 1975, generally supporting increases in judicial salaries, but urging the Congress to look at the issue of Executive Level salaries across the board, in all branches of Government.

H.R. 7779 (Whalen (R) Ohio)

This bill provides for, among other things, the following increases:

-- District judges	from \$40,000 to \$41,000	
-- Commissioners, Court of Claims	\$36,000	\$38,000
-- Referees in Bankruptcy (full-time)	\$36,000	\$38,000 (maximum)

S. 2040 (Abourezk (D) South Dakota) and H.R. 8977 (Dent (D) Pennsylvania)

In addition to proposing certain procedural changes for adjustment of judicial salaries under the Quadrennial Commission referred to above, these bills propose the following adjustments in judicial salaries:

-- Chief Justice	from \$62,500 to \$74,500	
-- Associate Justices	\$60,000	\$72,000
-- Circuit Court judges	\$42,500	\$51,000
-- District Court judges	\$40,000	\$48,000
-- Court of Customs & Patent Appeals	\$42,500	\$51,000
-- Customs Court judges	\$40,000	\$48,000
-- Commissioners, Court of Claims	\$36,000	\$39,600
-- Tax Court judges	\$40,000	\$48,000
-- Referees in Bankruptcy (full-time)	\$36,000	\$43,200 (maximum)

S. 2096 (Fong (R) Hawaii)

S. 2096 is similar to the bill proposed by the Nixon Administration in the spring of 1974. In addition to proposing certain changes relating to rates of compensation of certain positions in the legislative and executive branches, the bill would make the following changes with respect to judicial salaries:

-- District Court judges	from \$40,000 to \$42,000	
-- Customs Court judges	\$40,000	\$42,000
-- Court of Claims		
commissioners	\$36,000	\$41,000
-- Referees in Bankruptcy		
(full-time)	\$36,000	\$41,000
		(maximum)

Attachments

Vice President and the Executive Schedule

Vice President	\$65,600
Level I	\$63,000
Level II	\$44,600
Level III	\$42,000
Level IV	\$39,900
Level V	\$37,800

Schedule 6

Congressional Salaries

Senator	\$44,600
Member of the House of Representatives	\$44,600
Delegate to the House of Representatives	\$44,600
Resident Commissioner from Puerto Rico	\$44,600
President pro tempore of the Senate	\$52,000
Majority leader and minority leader of Senate	\$52,000
Majority leader and minority leader of House of Representatives	\$52,000
Speaker of the House of Representatives	\$65,600

Schedule 7

Judicial Salaries

Chief Justice of the Supreme Court	\$65,600
Associate Justices of the Supreme Court	\$63,000
Circuit Judges	\$44,600
District Judges	\$42,000
Judges of the Court of Claims	\$44,600
Judges of the Court of Customs and Patent Appeals	\$44,600
Judges of the Customs Court	\$42,000
Commissioners of the Court of Claims	\$37,800
Referees in Bankruptcy (full-time)	\$37,800

JUDICIAL SALARIES

	<u>1955</u>	<u>1964</u>	<u>1969</u>	<u>1975</u>
Chief Justice	\$35,500	\$40,000	\$62,500	\$65,600
Associate Justices	35,000	39,500	60,000	63,000
Circuit Judges	25,500	33,000	42,500	44,600
District Judges	22,500	30,000	40,000	42,000

CURRENT SALARY SCHEDULES OF FEDERAL
OFFICERS AND EMPLOYEES TOGETHER WITH
A HISTORY OF SALARY AND RETIREMENT
ANNUITY ADJUSTMENTS

COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES



NOVEMBER 12, 1975

Printed for the use of the Committee on Post Office and Civil Service

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PART I.—CURRENT SALARY RATES

GENERAL SCHEDULE

[Effective on the 1st day of the 1st pay period beginning on or after Oct. 1, 1975]

Grade	Annual rates and steps									
	1	2	3	4	5	6	7	8	9	10
GS-1.....	\$5,559	\$5,744	\$5,929	\$6,114	\$6,299	\$6,484	\$6,669	\$6,854	\$7,039	\$7,224
GS-2.....	6,296	6,506	6,716	6,926	7,136	7,346	7,556	7,766	7,976	8,186
GS-3.....	7,102	7,339	7,576	7,813	8,050	8,287	8,524	8,761	8,998	9,235
GS-4.....	7,976	8,242	8,508	8,774	9,040	9,306	9,572	9,838	10,104	10,370
GS-5.....	8,925	9,223	9,521	9,819	10,117	10,415	10,713	11,011	11,309	11,607
GS-6.....	9,946	10,278	10,610	10,942	11,274	11,606	11,938	12,270	12,602	12,934
GS-7.....	11,046	11,414	11,782	12,150	12,518	12,886	13,254	13,622	13,990	14,358
GS-8.....	12,222	12,629	13,036	13,443	13,850	14,257	14,664	15,071	15,478	15,885
GS-9.....	13,482	13,931	14,380	14,829	15,278	15,727	16,176	16,625	17,074	17,523
GS-10.....	14,824	15,318	15,812	16,306	16,800	17,294	17,788	18,282	18,776	19,270
GS-11.....	16,255	16,797	17,339	17,881	18,423	18,965	19,507	20,049	20,591	21,133
GS-12.....	19,386	20,032	20,678	21,324	21,970	22,616	23,262	23,908	24,554	25,200
GS-13.....	22,906	23,670	24,434	25,198	25,962	26,726	27,490	28,254	29,018	29,782
GS-14.....	26,861	27,756	28,651	29,546	30,441	31,336	32,231	33,126	34,021	34,916
GS-15.....	31,309	32,353	33,397	34,441	35,485	36,529	37,573	¹ 38,617	¹ 39,661	¹ 40,705
GS-16.....	36,338	37,549	¹ 38,760	¹ 39,971	¹ 41,182	¹ 42,393	¹ 43,604	¹ 44,815	¹ 46,026	-----
GS-17.....	¹ 42,066	¹ 43,468	¹ 44,870	¹ 46,272	¹ 47,674	-----	-----	-----	-----	-----
GS-18.....	¹ 48,654	-----	-----	-----	-----	-----	-----	-----	-----	-----

¹ The rate of basic pay for employees at these rates is limited by section 5308 of title 5 of the United States Code to the rate for level V of the Executive Schedule (as of the effective date of this schedule, \$37,800).

SCHEDULES FOR THE DEPARTMENT OF MEDICINE AND SURGERY OF THE VETERANS' ADMINISTRATION

SECTION 4103 SCHEDULE

Position	Salary (minimum to maximum)
Associate Deputy Chief Medical Director, the annual rate provided for positions in level V of the Executive Schedule, currently \$37,800.	
Assistant Chief Medical Director.....	¹ \$48, 654
Medical Director.....	¹ \$42, 066- ¹ \$47, 674
Director of Nursing Service.....	¹ \$42, 066- ¹ \$47, 674
Director of Chaplain Service.....	\$36, 338- ¹ \$46, 026
Director of Pharmacy Service.....	\$36, 338- ¹ \$46, 026
Director of Dietetic Service.....	\$36, 338- ¹ \$46, 026
Director of Optometry.....	\$36, 338- ¹ \$46, 026

PHYSICIAN AND DENTIST SCHEDULE

Director grade.....	\$36, 338- ¹ \$46, 026
Executive grade.....	\$33, 736- ¹ \$43, 861
Chief grade.....	\$31, 309-\$40, 705
Senior grade.....	\$26, 861-\$34, 916
Intermediate grade.....	\$22, 906-\$29, 782
Full grade.....	\$19, 386-\$25, 200
Associate grade.....	\$16, 255-\$21, 133

NURSE SCHEDULE

Director grade.....	\$31, 309- ¹ \$40, 705
Assistant Director grade.....	\$26, 861-\$34, 916
Chief grade.....	\$22, 906-\$29, 782
Senior grade.....	\$19, 386-\$25, 200
Intermediate grade.....	\$16, 255-\$21, 133
Full grade.....	\$13, 482-\$17, 523
Associate grade.....	\$11, 622-\$15, 106
Junior grade.....	\$9, 946-\$12, 934

¹ The salary for employees at these rates is limited by section 5308 of title 5 of the United States Code to the rate for level V of the Executive Schedule (as of the effective date of this salary adjustment, \$37,800).

(2)

FOREIGN SERVICE OFFICERS SCHEDULE

[Effective on the 1st day of the 1st pay period beginning on or after Oct. 1, 1975]

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Class 1.....	¹ \$46, 045	¹ \$47, 580	¹ \$48, 654	¹ \$39, 701	¹ \$40, 904	¹ \$42, 107	¹ \$43, 310
Class 2.....	36, 092	37, 295	38, 498	31, 441	32, 394	33, 347	34, 300
Class 3.....	28, 582	29, 535	30, 488	25, 198	25, 962	26, 726	27, 490
Class 4.....	22, 906	23, 670	24, 434	20, 472	21, 092	21, 712	22, 332
Class 5.....	18, 612	19, 232	19, 852	16, 895	17, 407	17, 919	18, 431
Class 6.....	15, 359	15, 871	16, 383	14, 189	14, 619	15, 049	15, 479
Class 7.....	12, 899	13, 329	13, 759	12, 150	12, 518	12, 886	13, 254
Class 8.....	11, 046	11, 414	11, 782				

¹ The salary for employees at these rates is limited by sec. 5308 of title 5 of the United States Code, as added by the Federal Pay Comparability Act of 1970, to the rate for level V of the Executive Schedule (as of the effective date of this salary adjustment, \$37,800).

FOREIGN SERVICE STAFF OFFICERS AND EMPLOYEES SCHEDULE

[Effective on the 1st day of the 1st pay period beginning on or after Oct. 1, 1975]

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Class 1.....	\$28,582	\$29,535	\$30,488	\$31,441	\$32,394	\$33,347	\$34,300	\$35,253	\$36,206	\$37,159
Class 2.....	22,906	23,670	24,434	25,198	25,962	26,726	27,490	28,254	29,018	29,782
Class 3.....	18,612	19,232	19,852	20,472	21,092	21,712	22,332	22,952	23,572	24,192
Class 4.....	15,359	15,871	16,383	16,895	17,407	17,919	18,431	18,943	19,455	19,967
Class 5.....	13,770	14,229	14,688	15,147	15,606	16,065	16,524	16,983	17,442	17,901
Class 6.....	12,345	12,757	13,169	13,581	13,993	14,405	14,817	15,229	15,641	16,053
Class 7.....	11,068	11,437	11,806	12,175	12,544	12,913	13,282	13,651	14,020	14,389
Class 8.....	9,923	10,254	10,585	10,916	11,247	11,578	11,909	12,240	12,571	12,902
Class 9.....	8,896	9,193	9,490	9,787	10,084	10,381	10,678	10,975	11,272	11,569
Class 10.....	7,976	8,242	8,508	8,774	9,040	9,306	9,572	9,838	10,104	10,370

POSTAL SERVICE SALARY SCHEDULES

FULL-TIME EMPLOYEES, EFFECTIVE JULY 21, 1975

Per annum rates and steps												
	1	2	3	4	5	6	7	8	9	10	11	12
PS level:												
1-----	\$9,404	\$9,577	\$9,750	\$9,923	\$10,096	\$10,269	\$10,442	\$10,615	\$10,788	\$10,961	\$11,134	\$11,307
2-----	9,823	10,010	10,197	10,384	10,571	10,758	10,945	11,132	11,319	11,506	11,693	11,880
3-----	10,276	10,478	10,680	10,882	11,084	11,286	11,488	11,690	11,892	12,094	12,296	12,498
4-----	10,766	10,984	11,202	11,420	11,638	11,856	12,074	12,292	12,510	12,728	12,946	13,164
5-----	11,298	11,533	11,768	12,003	12,238	12,473	12,708	12,943	13,178	13,413	13,648	13,883
6-----	11,869	12,124	12,379	12,634	12,889	13,144	13,399	13,654	13,909	14,164	14,419	14,674
7-----	12,488	12,763	13,038	13,313	13,588	13,863	14,138	14,413	14,688	14,963	15,238	15,513
8-----	13,157	13,455	13,753	14,051	14,349	14,647	14,945	15,234	15,541	15,839	16,137	-----
9-----	13,881	14,203	14,525	14,847	15,169	15,491	15,813	16,135	16,457	16,779	-----	-----
10-----	14,643	14,991	15,339	15,687	16,035	16,383	16,731	17,079	17,427	17,775	-----	-----
11-----	15,800	16,186	16,572	16,958	17,344	17,730	18,116	18,502	18,888	19,274	-----	-----

POSTAL MANAGEMENT SALARY STRUCTURE (PMS), EFFECTIVE JULY 5, 1975

	Steps								Step increase
	1	2	3	4	5	6	7	8	
PMS grade:									
1-----	\$10,281	\$10,624	\$10,967	\$11,310	\$11,653	\$11,996	\$12,339	\$12,682	\$343
2-----	10,306	10,650	10,994	11,338	11,682	12,026	12,370	12,714	344
3-----	10,355	10,701	11,047	11,393	11,739	12,085	12,431	12,777	346
4-----	10,430	10,780	11,130	11,480	11,830	12,180	12,530	12,880	350
5-----	10,530	10,885	11,240	11,595	11,950	12,305	12,660	13,015	355
6-----	10,658	11,020	11,382	11,744	12,106	12,468	12,830	13,192	362
7-----	10,815	11,185	11,555	11,925	12,295	12,665	13,035	13,405	370
8-----	11,003	11,383	11,763	12,143	12,523	12,903	13,283	13,663	380
9-----	11,224	11,617	12,010	12,403	12,796	13,189	13,582	13,975	393
10-----	11,480	11,887	12,294	12,701	13,108	13,515	13,926	14,329	407
11-----	11,776	12,200	12,624	13,048	13,472	13,896	14,320	14,744	424
12-----	12,165	12,600	13,035	13,470	13,905	14,340	14,775	15,210	435
13-----	12,578	13,033	13,488	13,943	14,398	14,853	15,308	15,763	455
14-----	13,063	13,540	14,017	14,494	14,971	15,448	15,925	16,402	477
15-----	13,594	14,099	14,604	15,109	15,614	16,119	16,624	17,129	505
16-----	14,187	14,725	15,263	15,801	16,339	16,877	17,415	17,953	538

POST OFFICE SALARY SCHEDULE—NONCITY DELIVERY

[Effective July 5, 1975]

	Steps							
	1	2	3	4	5	6	7	8
Noncity delivery:								
17-----	\$14,655	\$15,229	\$15,803	\$16,377	\$16,951	\$17,525	\$18,099	\$18,673
15-----	13,319	13,824	14,329	14,834	15,339	15,844	16,349	16,854
12-----	11,890	12,325	12,760	13,195	13,630	14,065	14,500	14,935
7-----	11,890	12,325	12,760	13,195	13,630	14,065	14,500	14,935
6-----	10,404	10,784	11,164	11,544	11,924	12,304	12,684	13,064
5-----	8,918	9,244	9,570	9,896	10,222	10,548	10,874	11,200
4-----	7,431	7,703	7,975	8,247	8,519	8,791	9,063	9,335
3-----	5,945	6,162	6,379	6,596	6,813	7,030	7,247	7,464
2-----	4,459	4,622	4,785	4,948	5,111	5,274	5,437	5,600
1-----	2,972	3,081	3,190	3,299	3,408	3,517	3,626	3,735

POSTAL EXECUTIVE SALARY STRUCTURE (PES), EFFECTIVE
JULY 5, 1975

Grade	Minimum	Midpoint	Maximum
17-----	\$14,366	\$16,758	\$19,149
18-----	14,812	17,542	20,271
19-----	15,362	18,449	21,536
20-----	16,063	19,518	22,973
21-----	16,908	20,757	24,606
22-----	18,242	22,354	26,466
23-----	19,763	24,173	28,583
24-----	21,500	25,821	30,141
25-----	23,488	28,160	32,831
26-----	25,767	30,840	35,913
27-----	28,386	33,922	39,458
28-----	29,800	35,000	40,200
29-----	31,350	36,775	42,200
30-----	32,800	38,550	44,300
31-----	34,400	40,400	46,400
32-----	35,900	42,150	48,400
33-----	37,450	43,975	50,500
34-----	39,000	45,800	52,600
35-----	40,450	47,550	54,650
36-----	42,000	49,350	56,700
37-----	43,500	50,350	57,200
38-----	45,000	51,400	57,800
39-----	46,500	52,425	58,350
40-----	48,000	53,450	58,900
41-----	49,500	54,475	59,450
42-----	60,000	60,000	60,000

EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

OCTOBER 1975

Position	Salary	Statutory authority
President of the United States-----	\$200,000	Public Law 91-1, Jan. 17, 1969, 83 Stat. 3.
Vice President of the United States-----	65,600	Public Law 94-82, Aug. 9, 1975, 89 Stat. 419.
Members of Congress, including the Resident Commissioner from Puerto Rico and the Delegates from the District of Columbia, Guam, and the Virgin Islands.	44,600	Do.
Speaker of the House of Representatives-----	65,600	Do.
President pro tempore of the Senate-----	52,000	Do.
Majority and minority leaders of the Senate and the House of Representatives.	52,000	Do.
Other offices in the legislative branch:		
Comptroller General of the United States-----	44,600	Do.
Deputy Comptroller General of the United States.	42,000	Do.
General Counsel of the United States General Accounting Office.	39,900	Do.
Librarian of Congress-----	39,900	Do.
Public Printer-----	39,900	Do.
Architect of the Capitol-----	39,900	Do.
Chief Justice of the United States-----	65,600	Do.
Associate Justices of the Supreme Court-----	63,000	Do.
Judges, Circuit Court of Appeals-----	44,600	Do.
Judges, Court of Claims-----	44,600	Do.
Judges, Court of Customs and Patent Appeals-----	44,600	Do.
Judges, District Courts-----	42,000	Do.
Judges, Customs Court-----	42,000	Do.
Judges, Tax Court of the United States-----	42,000	Do.
Other offices in the judicial branch:		
Director, Administrative Office of the United States Courts.	42,000	Do.
Deputy Director, Administrative Office of the United States Courts.	37,800	Do.
Commissioner, Court of Claims-----	37,800	Do.
Referees in Bankruptcy (full-time maxi- mum).	37,800	Do.
Offices and positions under the Federal Execu- tive Salary Schedule in subchapter II of chapter 53 of title 5 of the United States Code:		
Level I-----	63,000	Do.
Level II-----	44,600	Do.
Level III-----	42,000	Do.
Level IV-----	39,900	Do.
Level V-----	37,800	Do.
Governors, Board of Governors, U.S. Postal Service.	¹ 10,000	39 U.S.C. 202(a).

¹ Plus \$300 per day for each meeting up to 30 per year.

SPEAKER OF THE HOUSE

Year	Amount	Statutory authority
1789-----	¹ \$12	Act of Sept. 22, 1789, 1 Stat. 71.
1816-----	3, 000	Act of Mar. 19, 1816, 3 Stat. 257.
1818-----	¹ 16	Act of Jan. 22, 1818, 3 Stat. 404.
1856-----	6, 000	Act of Aug. 16, 1856, 11 Stat. 48.
1866-----	8, 000	Act of July 28, 1866, 14 Stat. 323.
1873-----	10, 000	Act of Mar. 3, 1873, 17 Stat. 486.
1874-----	8, 000	Act of Jan. 20, 1874, 18 Stat. (part 3) 4.
1907-----	12, 000	Sec. 4, Public Law 59-129, Feb. 26, 1907, 34 Stat. 994.
1925-----	15, 000	Sec. 4, Public Law 68-624, Mar. 4, 1925, 43 Stat. 1301.
1946-----	20, 000	Sec. 601, Public Law 79-601, Aug. 2, 1946, 60 Stat. 850.
1949-----	30, 000	Sec. 1, Public Law 81-2, Jan. 19, 1949, 63 Stat. 481.
1955-----	35, 000	Sec. 4, Public Law 84-9, Mar. 2, 1955, 69 Stat. 11.
1965-----	43, 000	Sec. 204, Public Law 88-426, Aug. 14, 1964, 78 Stat. 415, effective Jan. 3, 1965.
1969-----	62, 500	Public Law 91-67, Sept. 15, 1969, 83 Stat. 107, effective Mar. 1, 1969.
1975-----	65, 600	Automatic adjustment, Oct. 1, 1975, Public Law 94-82, Aug. 9, 1975, 89 Stat. 419.

¹ Per day in session.

ALLOWANCE

\$10,000 expense allowance (taxable) to assist in defraying expenses relating to official duties (2 U.S.C. 31b).

PRESIDENT PRO TEMPORE OF THE SENATE

Year	Amount	Statutory authority
1969-----	\$42, 500	Same as rate for other Members prior to 1969 except when there is no Vice President, then same rate as for Vice President (2 U.S.C. 32).
1969-----	49, 500	Public Law 91-67, Sept. 15, 1969, 83 Stat. 107, effective Mar. 1, 1969.
1975-----	52, 000	Automatic adjustment, Oct. 1, 1975, Public Law 94-82, Aug. 9, 1975, 89 Stat. 419.

MAJORITY AND MINORITY LEADERS OF HOUSE AND SENATE

Year	Amount	Statutory authority
1965-----	\$30, 000	Same as rate for other Members prior to 1965.
1965-----	35, 000	Sec. 11(e), Public Law 89-301, Oct. 29, 1965, 79 Stat. 1120, effective Oct. 1, 1965.
1969-----	49, 500	Public Law 91-67, Sept. 15, 1969, 83 Stat. 107 effective Mar. 1, 1969.
1975-----	52, 000	Automatic adjustment, Oct. 1, 1975, Public Law 94-82, Aug. 9, 1975, 89 Stat. 419.

PART II.—HISTORY OF SALARY ADJUSTMENTS

THE PRESIDENT

Year	Amount	Statutory authority
1789-----	\$25, 000	Act of Sept. 24, 1789, 1 Stat. 72. Act of Feb. 18, 1793, 1 Stat. 318.
1873-----	50, 000	Act of Mar. 3, 1873, 17 Stat. 486.
1909-----	75, 000	Public Law 60-326, Mar. 4, 1909, 35 Stat. 859.
1949-----	100, 000	Public Law 81-2, Jan. 19, 1949, 63 Stat. 4.
1969-----	200, 000	Public Law 91-1, Jan. 17, 1969, 83 Stat. 3.

THE VICE PRESIDENT

1789-----	\$5, 000	Act of Sept. 24, 1789, 1 Stat. 72. Act of Feb. 18, 1793, 1 Stat. 318.
1853-----	8, 000	Act of Mar. 3, 1853, 10 Stat. 212.
1873-----	10, 000	Act of Mar. 3, 1873, 17 Stat. 486.
1874-----	8, 000	Act of Jan. 20, 1874, 18 Stat. (part 3) 4.
1907-----	12, 000	Sec. 4, Public Law 59-129, Feb. 26, 1907, 34 Stat. 993.
1925-----	15, 000	Sec. 4, Public Law 68-624, Mar. 4, 1925, 43 Stat. 1301.
1946-----	20, 000	Sec. 601, Public Law 79-601, Aug. 2, 1946, 60 Stat. 850.
1949-----	30, 000	Sec. 1, Public Law 81-2, Jan. 19, 1949, 63 Stat. 4.
1955-----	35, 000	Sec. 4, Public Law 84-9, Mar. 2, 1955, 69 Stat. 11.
1964-----	43, 000	Public Law 88-426, Aug. 14, 1964, 78 Stat. 422.
1969-----	62, 500	Public Law 91-67, Sept. 15, 1969, 83 Stat. 107.
1975-----	65, 600	Automatic adjustment, Oct. 1, 1975, Public Law 94-82, Aug. 9, 1975, 89 Stat. 419.

Public Law 81-2, January 19, 1949, 63 Stat. 4, granted the President an annual tax exempt expense allowance of \$50,000, and the Vice President an annual allowance of \$10,000, "to assist in defraying expenses relating to or resulting from the discharge of his official duties." The tax exemption on these allowances was discontinued, effective January 20, 1953, by section 619, Public Law 82-183, the Revenue Act of 1951.

Economy legislation in effect in 1932-35 reduced the Vice President's salary by 15 percent, 10 percent, and 5 percent successively during that period. Full salary was restored on April 1, 1935.

RETIREMENT

Each former President is entitled to receive for the remainder of his life a monetary allowance at a rate per annum which is equal to the annual rate of basic pay of the head of an Executive department (currently \$60,000) (see sec. 6, Public Law 91-658) and the widow of a President is entitled to receive a pension of \$20,000 per annum if she waives the right to any Federal annuity or pension and does not remarry before age 60 (3 U.S.C. 102, note). Participation in the civil service retirement system (5 U.S.C. 8331-8348) is available to the Vice President on his application.

MEMBERS OF CONGRESS¹

Year	Amount	Statutory authority
1856-----	\$3,000	Act of Aug. 16, 1856, 11 Stat. 48.
1857-----	² 250	Act of Dec. 23, 1857, 11 Stat. 367.
1866-----	5,000	Act of July 28, 1866, 14 Stat. 323.
1873-----	7,500	Act of Mar. 3, 1873, 17 Stat. 486.
1874-----	5,000	Act of Jan. 20, 1874, 18 Stat. (part 3) 4.
Mar. 4, 1907----	7,500	Sec. 4, Public Law 59-129, Feb. 26, 1907, 34 Stat. 993.
Mar. 4, 1925----	10,000	Sec. 4, Public Law 68-624, Mar. 4, 1925, 43 Stat. 1301.
Jan. 3, 1947-----	12,500	Sec. 601(a), Public Law 79-601, act of Aug. 2, 1946, 60 Stat. 850.
Mar. 1, 1955-----	22,500	Sec. 4(a), Public Law 84-9, act of Mar. 2, 1955, 69 Stat. 11.
Jan. 3, 1965-----	30,000	Sec. 204, Public Law 88-426, act of Aug. 14, 1964, 78 Stat. 415.
Mar. 1, 1969-----	42,500	Recommendations of President under sec. 225, Public Law 90-206, Dec. 16, 1967, 81 Stat. 642.
1975-----	44,600	Automatic adjustment, Oct. 1, 1975, Public Law 94-82, Aug. 9, 1975, 89 Stat. 419.

¹ Same rates now apply to the Resident Commissioner from Puerto Rico and the Delegates from the District of Columbia, Guam and the Virgin Islands.

² Monthly.

From 1789 to 1856, Senators and Representatives received per diem pay while Congress was in session, except for the period 1815-1817 when they received \$1,500 a year. First established at \$6 a day, per diem was raised to \$8 in 1818 and remained there until 1856 when Members of Congress were placed on annual salaries.

Economy legislation in the period 1932-35 reduced the compensation of Members of Congress 15 percent, 10 percent, and 5 percent successively during that period. Full compensation was restored April 1, 1935.

RETIREMENT

Participation in the civil service retirement system (5 U.S.C. 8331-8348) is available to the Members of Congress on their application.

ALLOWANCES

\$2,500 expense allowance per annum effective January 3, 1947, to assist in defraying expenses relating to official duty, for which no tax liability shall incur. Section 601(b), act of August 2, 1946, 60 Stat. 850.

Effective January 3, 1953, expense allowance made subject to tax liability. Section 619(d), act of October 20, 1951 (Revenue Act of 1951) 65 Stat. 570.

Effective March 1, 1955, the expense allowance provisions of the 1946 act were repealed. Section 4(b), act of March 2, 1955, 69 Stat. 11.

CABINET OFFICERS

Year	Amount	Statutory authority
1789-----	\$3,500	Act of Sept. 11, 1789, 1 Stat. 68.
1799-----	5,000	Act of Mar. 2, 1799, 1 Stat. 730.
1819-----	6,000	Act of Feb. 20, 1819, 3 Stat. 484.
1853-----	8,000	Act of Mar. 3, 1853, 10 Stat. 212.
1873-----	10,000	Act of Mar. 3, 1873, 17 Stat. 486.
1874-----	8,000	Act of Jan. 20, 1874, 18 Stat. (pt. 3) 4.
1907-----	12,000	Sec. 4, Public Law 59-129, Feb. 26, 1907.
1925-----	15,000	Sec. 4, Public Law 68-624, Mar. 4, 1925.
1949-----	22,500	Sec. 1, Public Law 81-359, Oct. 15, 1949.
1956-----	25,000	Sec. 102, Public Law 84-854, July 31, 1956.
1964-----		(Included under level I of the Executive Schedule.)

The above rates have not applied to every job in the President's Cabinet through the years, but each rate was generally recognized as the established rate for the head of an executive department.

In 1873, the rates for top Government officials were increased, but the increases were repealed the next year.

Economy legislation effective in 1932-35 reduced rates 15 percent, 10 percent, and 5 percent successively during that period. Full salary was restored April 1, 1935.

THE EXECUTIVE SCHEDULE

	1964 ¹	1967 ²	1969 ³	1975 ⁴
Level I-----	\$35,000	(⁴)	⁵ \$60,000	\$63,000
Level II-----	30,000	(⁴)	42,500	44,600
Level III-----	28,500	\$29,500	40,000	42,000
Level IV-----	27,000	28,750	38,000	39,900
Level V-----	26,000	28,000	36,000	37,800

¹ Sec. 303, Public Law 88-426, approved Aug. 14, 1964.

² Sec. 215, Public Law 90-206, approved Dec. 16, 1967.

³ Adjustments based on recommendations of Commission on Executive, Legislative, and Judicial Salaries (sec. 225, Public Law 90-206, approved Dec. 16, 1967).

⁴ No change.

⁵ Public Law 93-178, approved Dec. 10, 1973, reduced the rate for Attorney General Saxbe to \$35,000.

⁶ Automatic adjustments, Oct. 1, 1975, Public Law 94-82, Aug. 9, 1975, 89 Stat. 419.

Note.—The President's recommendations for 1974 (Appendix, 1975 Fiscal Year Budget, p. 1030) were vetoed by S. Res. 293, adopted by a vote of 71-26 on Mar. 6, 1974.

Level I—Cabinet officers.

Level II—Deputy Secretaries of major departments, Secretaries of military departments and heads of major agencies.

Level III—Deputy Secretaries of minor departments, heads of middle level agencies.

Level IV—Assistant Secretaries and General Counsels of departments, heads of minor agencies, members of certain Boards and Commissions.

Level V—Administrators, Commissioners, Directors, and Members of Boards, Commissions, or units of agencies.

FEDERAL JUDGES' SALARY RATES, 1789-1974

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Year	Chief Justice of the United States	Associate Justices	Circuit Court of appeals judges ¹	District court judges	Court of claims judges	Court of customs and patent appeals judges	Customs court judges ²
1789-----	\$4,000	\$3,500					
	1 Stat. 72	1 Stat. 72					
1819-----	\$5,000	\$4,500					
	3 Stat. 484	3 Stat. 484					
1855-----	\$6,500	\$6,000			\$4,000		
	10 Stat. 655	10 Stat. 655			10 Stat. 612		
1869-----			\$5,000				
			16 Stat. 45				
1871-----	\$8,500	\$8,000	\$6,000				
	16 Stat. 494	16 Stat. 494	16 Stat. 494				
1872-----					\$4,500		
					17 Stat. 85		
1873-----	\$10,500	\$10,000					
	17 Stat. 486	17 Stat. 486					
1891-----				³ \$5,000			
				26 Stat. 783			
1903-----	\$13,000	\$12,500	\$7,000	\$6,000	⁴ \$6,500		
	32 Stat. 825	32 Stat. 825	32 Stat. 825	32 Stat. 825	32 Stat. 825		

1910-----						\$7,000	
						36 Stat. 530	
1911-----	\$15,000	\$14,500					
	36 Stat. 1152	36 Stat. 1152					
1919-----			\$8,500	\$7,500	⁴ \$8,000	\$8,500	
			40 Stat. 1157	40 Stat. 1156	40 Stat. 1157	40 Stat. 1157	
1926 ⁵ -----	\$20,500	\$20,000	\$12,500	\$10,000	\$12,500	\$12,500	\$10,000
	44 Stat. 919	44 Stat. 919	44 Stat. 919	44 Stat. 919	44 Stat. 919	44 Stat. 919	44 Stat. 919
1946-----	\$25,500	\$25,000	\$17,500	\$15,000	\$17,500	\$17,500	\$15,000
	60 Stat. 716	60 Stat. 716	60 Stat. 716	60 Stat. 716-717	60 Stat. 716	60 Stat. 716	60 Stat. 717
1955-----	\$35,500	\$35,000	\$25,500	\$22,500	\$25,500	\$25,500	\$22,500
	69 Stat. 9	69 Stat. 9	69 Stat. 10	69 Stat. 10	69 Stat. 10	69 Stat. 10	69 Stat. 10
1964-----	\$40,000	\$39,500	\$33,000	\$30,000	\$33,000	\$33,000	\$30,000
	78 Stat. 434	78 Stat. 434	78 Stat. 434	78 Stat. 434	78 Stat. 434	78 Stat. 434	78 Stat. 434
1969 ⁶ -----	\$62,500	\$60,000	\$42,500	\$40,000	\$42,500	\$42,500	\$40,000
1975 ⁷ -----	\$65,600	\$63,000	\$44,600	\$42,000	\$44,600	\$44,600	\$42,000

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¹ Circuit courts were established in 1789. The 13 judicial districts were divided into 3 circuits with 2 Justices of the Supreme Court and the district judge of the district of jurisdiction presiding (1 Stat. 74-75). Under the reorganization of the judicial system in 1869, 9 circuit judges were appointed and ordered to sit with designated Supreme Court Justices and district judges (16 Stat. 44-45). The Circuit Court of Appeals was established in 1891 (26 Stat. 826).

² The Board of General Appraisers was designated as the "U.S. Customs Court" by an act of May 28, 1926 (44 Stat. 669).

³ Prior to 1891, salaries of the district judges varied among the several districts. The 13 district judgeships established in 1789

ranged in salaries from \$800 to \$1,800 (1 Stat. 72). An act in 1891 established a uniform salary (26 Stat. 783).

⁴ Rate for presiding judge; others received \$500 less.

⁵ The salaries of Federal judges were unaffected by the reductions which took place during the period 1932 to 1935. Article III, section 1, of the Constitution provides that Federal judges' compensation "shall not be diminished during their continuance in office."

⁶ See p. 20 for information on the Commission on Executive, Legislative, and Judicial Salaries.

⁷ Automatic adjustment, Oct. 1, 1975. Public Law 94-82, 89 Stat. 419.

CLASSIFIED EMPLOYEES

Effective date	Average increase (percent)	Amount of increase	Public law and date approved
July 1, 1945	15.9	20 percent, for all employees, on 1st \$1,200; 10 percent on next \$3,400; 5 percent on remainder, subject to ceiling of \$10,000.	79-106, June 30, 1945.
July 1, 1946	14.0	14 percent for all employees, subject to minimum increase of \$250 and ceiling of \$10,000.	79-390, May 24, 1946.
June 30, 1948	11.0	\$330 for all employees, subject to ceiling of \$10,300.	80-900, July 3, 1948.
Oct. 28, 1949	4.0	\$140 for all employees, subject to ceiling of \$14,800.	81-429, Oct. 28, 1949.
June 30, 1951	10.0	10 percent for all employees, subject to minimum increase of \$300; maximum increase of \$800, and ceiling of \$14,800.	82-201, Oct. 24, 1951.
Feb. 28, 1955	7.5	7.5 percent for all employees, subject to ceiling of \$14,800.	84-94, June 28, 1955.
June 30, 1956	-----	Ceiling of \$16,000.	84-854, July 31, 1956.
Jan. 1, 1958	10.0	10 percent for all employees, subject to ceiling of \$17,500.	85-462, June 20, 1958.
July 1, 1960	7.5	7½ percent for all employees.	86-568, July 1, 1960.
Oct. 11, 1962	5.5	5.5 percent for all employees Oct. 11, 1962, plus additional step for 1st 3 grades; 4.1 percent January 1964.	87-793, Oct. 11, 1962.
Jan. 1, 1964	4.1	4.2 percent for all employees.	88-426, Aug. 14, 1964.
July 1, 1964	4.2	4.2 percent for all employees.	89-301, Oct. 29, 1965.
Oct. 1, 1965	3.6	3.6 percent for all employees.	89-504, July 18, 1966.
July 1, 1966	2.9	2.9 percent for all employees.	90-206, Dec. 16, 1967.
Oct. 1, 1967	4.5	4.5 percent for all employees.	90-206, Dec. 16, 1967, H. Doc. 90-327.
July 1, 1968	4.9	3 percent minimum, or ½ comparability.	H. Doc. 91-131.
July 1, 1969	9.1	Full comparability.	91-231, Apr. 15, 1970.
Dec. 27, 1969	6.0	6 percent for all employees.	5 U.S.C. 5305.
Jan. 1, 1971	6.0	6.0 percent for all employees (annual comparability pay adjustment).	92-210, Dec. 22, 1971.
Jan. 1, 1972	5.5	5.5 percent for all employees.	5 U.S.C. 5305.
Jan. 1, 1973 ¹	5.1	5.1 percent for all employees (annual comparability pay adjustment).	5 U.S.C. 5305.
Oct. 1, 1973	4.8	4.8 percent average increase for all employees (annual comparability pay adjustment).	5 U.S.C. 5305.
Oct. 1, 1974	5.5	5.5 percent average increase for all employees (annual comparability pay adjustment).	5 U.S.C. 5305.
Oct. 1, 1975	5.0	5.0 percent average increase for all employees (annual comparability pay adjustment).	5 U.S.C. 5305.

¹ Effective date of Jan. 1, 1973, was subsequently changed, retroactively, to Oct. 1, 1972, by Executive Order 11777 (Apr. 12, 1974), as result of court case (*National Treasury Employees Union v. Richard M. Nixon*, 492 F. 2d 587).

POSTAL EMPLOYEES

Effective date	Average increase (percent)	Amount of increase	Public law and date approved
July 1, 1945	20.0	20 percent or \$400, which ever is the lesser.	79-134, July 6, 1945.
Jan. 1, 1946	20.0	\$400 for annual rate employees; 20 cents per hour for hourly rate employees; 20 percent for 4th-class postmasters.	79-386, May 21, 1946.
June 30, 1948	25.0	\$450 for annual rate employees; 25 cents per hour for hourly rate employees; 25 percent for 4th-class postmasters.	80-900, July 3, 1948.
Nov. 1, 1949	5.0	\$120 for annual rate employees; 2½ cents per hour for hourly rate employees; 5 percent for 4th-class postmasters; \$200 increase in entrance salary for regular employees; \$100 increase in entrance salary for temporary employees; 3 longevity grades.	81-428, Oct. 28, 1949.
July 1, 1951	20.0	\$400 for annual rate employees; 20 cents per hour for hourly rate employees; 20 percent for 4th-class postmasters; advancement of 2 grades for most employees.	82-204, Oct. 24, 1951.
Mar. 1, 1955	6.0	6 percent for all employees; 2.1 percent upon reclassification of positions.	84-68, June 10, 1955.
Dec. 3, 1955	2.1	7½ percent for all employees; 2½-percent additional temporary increase, levels 1-6; 1½-percent additional temporary for level 7. (2½-percent temporary extended to all levels—Public Law 85-462, June 20, 1958.)	85-426, May 27, 1958.
Jan. 1, 1958	10.0	8.4 percent, levels 1-6; 7½ percent above level 6.	86-568, July 1, 1960.
July 1, 1960	8.0	8.6 percent for all employees, plus additional step for 1st 4 levels.	87-793, Oct. 11, 1962.
Oct. 11, 1962	8.6	2.6 percent for all employees.	88-426, Aug. 14, 1964.
Jan. 1, 1964	2.6	5.6 percent for all employees.	89-301, Oct. 29, 1965.
July 1, 1964	5.6	3.6 percent for all employees.	89-504, July 18, 1966.
Oct. 1, 1965	3.6	2.9 percent for all employees.	90-206, Dec. 16, 1967.
July 1, 1966	2.9	6.0 percent for all employees, including 1 salary level advancement.	Do.
Oct. 1, 1967	6.0	5.0 percent for all employees.	H. Doc. 91-131.
July 1, 1968	5.0	Full comparability.	91-231, Apr. 15, 1970.
July 1, 1969	4.7	6.0 percent for all employees.	
Dec. 27, 1969	6.0		

POSTAL EMPLOYEES—Continued

Effective date	Average increase (percent)	Amount of increase	Public law and date approved
Apr. 16, 1970	8.0	8.0 percent for all employees of POD, including headquarters employees	91-375, Aug. 12, 1970.
July 20, 1971		\$250 for all employees covered by the collective-bargaining agreement of July 20, 1971, including employees in levels 1-8 not covered by the agreement.	Do.
Nov. 14, 1971		do.	Do.
Jan. 20, 1972		do.	Do.
July 20, 1972		do.	Do.
Jan. 20, 1973		do.	Do.
July 21, 1973		\$700 plus cost-of-living ¹ allowance for all employees covered by the 1973 National Agreement.	Do.
July 20, 1974		\$400 plus cost-of-living allowance for all employees covered by the National Agreement.	Do.
July 21, 1975		\$400 plus cost-of-living allowance for all employees covered by the 1975 National Agreement.	Do.
Mar. 21, 1976		\$250 plus cost-of-living allowance for all employees covered by the 1975 National Agreement.	Do.
Nov. 21, 1976		do.	Do.
July 21, 1977		\$600 plus cost-of-living allowance for all employees covered by the 1975 National Agreement.	Do.

¹ Cost-of-living increases: Nov. 1973, \$146; May 11, 1974, \$395; Nov. 9, 1974, \$457; May 1975, \$312.

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SALARY INCREASE BILLS VETOED

Bill	Amount of increase	Action taken
83d Cong., H.R. 7774	Classified employees: 5-percent increase with minimum of \$170 and maximum of \$440. Postal field service employees: 5-percent increase with minimum of \$200 and maximum of \$440.	Presidential memorandum of disapproval, Aug. 23, 1954. (Pocket veto.)
84th Cong., S. 1	Postal field service employees: 9-percent increase	Vetoed May 19, 1955. Senate sustained veto May 24, 1955.
85th Cong., H.R. 2462	Classified employees: 11-percent increase	Presidential memorandum of disapproval, Sept. 7, 1957. (Pocket veto.)
85th Cong., H.R. 2474	Postal field service employees: 12-percent average increase	Do.
86th Cong., H.R. 9883	7½ percent for all employees	Vetoed June 30, 1960. Veto overridden (Public Law 86-568).
91st Cong., H.R. 17809	Prevailing rate pay systems	Presidential memorandum of disapproval, Jan. 2, 1971.

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COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

Section 225, Public Law 90-206, approved December 16, 1967, 2 U.S.C. 351, authorized the appointment of a Commission on Executive, Legislative, and Judicial Salaries to serve for the period of the 1969 fiscal year, and the appointment of a new Commission to serve during the period of every fourth fiscal year following the 1969 fiscal year.

The Commission is composed of nine members, three to be appointed by the President, two by the President of the Senate, two by the Speaker of the House, and two by the Chief Justice of the United States.

The Commission is required to conduct quadrennial reviews of, and recommend rates of pay for, Members of Congress, the principal officials of the legislative branch, the judiciary, and the principal officials of the executive branch. The quadrennial reviews and recommendations are to be submitted to the President, who, in turn, is required to include in his next budget to the Congress, his recommendations as to the exact rates of pay he deems advisable.

The President's recommendations become effective automatically, unless within 30 days after the recommendations are submitted to the Congress, the Congress enacts a statute establishing different rates of pay, or one of the Houses of Congress disapproves any or all of them.

FISCAL YEAR 1969

The Commission's study and recommendations for fiscal year 1969 were submitted to the President in December 1968, and the President, in turn, submitted his recommendations to the Congress with his budget message in January 1969 (see H. Doc. No. 91-51). On February 4, 1969, the Senate, by a vote of 34-47, defeated a resolution (Senate Res. 82) proposing to disapprove the President's recommendations. On February 5, 1969, the House Rules Committee voted to table a resolution (H. Res. 142) providing for the adoption of a resolution (H. Res. 133) which was before the Post Office and Civil Service Committee, proposing to disapprove the President's recommendations.

Since neither House adopted a resolution of disapproval, the President's recommendations became effective in February and March 1969, as applicable for each group of officials after the end of the 30-day period following the submission of the President's recommendations.

FISCAL YEAR 1973

The appointment of the members of the Commission for fiscal year 1973 was not completed until December 11, 1972, too late for the Commission to conclude a review and formulate a report to the

President in time for him to include recommendations in his budget presentation in January 1973.

The Commission's report was submitted to the President late in June 1973, and the President's recommendations were submitted to the Congress with the budget on February 4, 1974 (see p. 1030, Appendix to Fiscal Year 1975 Budget).

The President's recommendations were vetoed upon adoption of Senate Resolution 293 on March 6, 1974, by a vote of 71 to 26. House Resolution 807, disapproving the President's recommendations was reported to the House on March 4, 1974 (H. Rept. 93-870) but was not acted on by the House.

EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT

(PUBLIC LAW 94-82, AUGUST 9, 1975)

This Act provides annual (generally October 1 of each year) automatic adjustments in the rates of pay of executives by amounts rounded to the nearest multiple of \$100, equal to the percentage of such rates of pay which corresponds to the overall average percentage of the annual comparability adjustment in the rates of pay under the General Schedule (5 U.S. Code 5305). The annual adjustments apply to the rates of pay for Members of Congress, judges, positions under the Executive Schedule, and other top positions under the Executive, Legislative, and Judicial Branches.

(22)

PAY COMPARABILITY

THE FEDERAL PAY COMPARABILITY ACT OF 1970

(Public Law 91-656, 5 U.S.C. 5305-5308)

This act provides a permanent method of adjusting the rates of pay of Federal employees who are paid under the statutory pay systems—General Schedule, Foreign Service, and Physicians, Dentists, and Nurses of the Veterans' Administration. The act also authorizes adjustments to be made in the rates of pay of employees of the legislative, judicial, and executive branches of the Government of the United States and of the government of the District of Columbia (except employees whose pay is disbursed by the Secretary of the Senate or the Clerk of the House) whose rates of pay are fixed by administrative action pursuant to law, and are not otherwise adjusted by the President.

The procedure requires the President to direct such agent as he considers appropriate (normally the Chairman of the Civil Service Commission and the Director, Office of Management and Budget) to prepare and submit to him annually a report—

That compares the rates of pay of the statutory pay systems with the pay in private industry on the basis of the annual survey of the Bureau of Labor Statistics;

That makes recommendations for adjustments in rates of pay based on comparability; and

Includes the views and recommendations of the Federal Employees Pay Council, established by this act, which is comprised of representatives of employee organizations.

There is also established a three-member Advisory Committee on Federal Pay, an independent establishment, to assist the President in carrying out the policy of this act. This Committee shall—

Review the annual report of the President's agent;

Consider such further views and recommendations from employee organizations, the President's agent, other officials of the Government, or such experts as it may consult; and

Report its findings and recommendations to the President.

The President, after considering the report of his agent and the findings and recommendations of the Advisory Committee on Federal Pay, is required to make adjustments in the statutory rates of pay as he determines appropriate to carry out the comparability principles, effective October 1 of each year. The President is required to transmit to Congress a report of the pay adjustments he makes, together with the reports submitted to him by his agent and the Advisory Committee on Federal Pay.

ALTERNATE PAY PROPOSAL

If, because of a national emergency or economic conditions affecting the general welfare, the President determines it inappropriate to make

(23)

the pay comparability adjustments, he shall prepare and transmit to the Congress, before September 1, an alternate pay adjustment plan. The alternate plan would become effective on October 1 and would continue unless within 30 days after receiving it, Congress vetoed the plan. In such event, the President is required to issue the original comparability adjustments. The congressional veto of an alternate plan would follow a procedure similar to the procedure established for congressional disapproval of an executive reorganization plan.

INITIAL ADJUSTMENTS

The 1970 act authorized the President to make the first two comparability adjustments effective on the first applicable pay period commencing on or after January 1, 1971, and January 1, 1972, respectively, rather than October 1 of each year, as provided for the subsequent adjustments.

JANUARY 1971

The first comparability increase under the 1970 act was placed into effect as of the first pay period after January 1, 1971, under Executive Order 11576, dated January 8, 1971.

JANUARY 1972

The President sent an alternative plan to the Congress, dated August 31, 1971 (H. Doc. No. 92-158) proposing that the January 1972 comparability increase be delayed until July 1972. On October 4, 1971, the House, by a vote of 174-207, failed to approve House Resolution 596, disapproving the alternative pay plan. The Senate did not vote on a disapproval resolution. Since the alternate plan was not disapproved by either House of Congress within the 30 calendar days of continuous session of the Congress following the submission of such plan, as permitted under 5 U.S.C. 5305(c), the alternative plan became effective automatically.

Subsequently, section 3 of the Economic Stabilization Act Amendments of 1971 (Public Law 92-210, December 22, 1971) directed the President to place the January 1972 comparability adjustments into effect as of the first day of the first pay period which began after January 1, 1972, in amounts which would not be greater than the wage guidelines established for wage and salary adjustments for the private sector. The President placed such comparability adjustments into effect as of the first day of the first pay period beginning after January 1, 1972, under Executive Order 11637, dated December 22, 1971.

OCTOBER 1972

The next comparability increase was due on October 1, 1972. On August 31, 1972, the President sent a message to the Congress (House Doc. No. 92-349) advising that on the basis of the provisions of section 3 of the Economic Stabilization Act Amendments of 1971, he would recommend that the increases necessary to achieve comparability be paid starting January 1, 1973, rather than on October 1, 1972, in order that the Federal employees have only one pay increase during calendar year 1972. These comparability pay increases were placed

into effect on the first day of the first pay period which began on or after January 1, 1973, under Executive Order 11691, dated December 15, 1972.

Subsequently, it was held in the case of *National Treasury Employees Union v. Richard M. Nixon*, 492 F. 2d 587, that the delay to January 1973 was improper. Executive Order 11777, April 12, 1974, amended Executive Order 11691, December 15, 1972, to provide that the pay raises granted by Executive Order 11691 were to be retroactively effective to October 1972 rather than January 1973.

OCTOBER 1, 1973

The President, on August 31, 1973, sent an alternative plan to the Congress (H. Doc. No. 93-140) proposing to delay the October 1973 increase until the first pay period beginning on or after December 1, 1973. On September 28, 1973, the Senate, by a vote of 72-16, approved the resolution (S. Res. 171) disapproving the President's alternative plan to delay the comparability adjustment from October 1 to December 1, 1973.

There was no action in the House on a comparable resolution. The adjustments became effective on the first day of the first pay period beginning on or after October 1, 1973, under Executive Order 11739, dated October 3, 1973.

OCTOBER 1, 1974

The President on August 31, 1974, sent an alternative plan to the Congress (H. Doc. 93-342) proposing to delay the October 1974 increase until January 1975.

On September 19, 1974, the Senate, by a vote of 64-35, approved the resolution (S. Res. 394) disapproving the President's alternative plan to delay the comparability adjustment from October 1974 to January 1975.

There was no action on a comparable House Resolution (H. Res. 1351). The adjustment became effective in October 1974 under Executive Order 11811, October 7, 1974.

OCTOBER 1, 1975

The President, on August 29, 1975, sent an alternative plan to the Congress (H. Doc. 94-233) proposing a 5 percent increase in lieu of an 8.66 percent increase required to achieve comparability.

On September 18, 1975, the Senate, by a vote of 39-53, failed to approve the resolution (S. Res. 239) proposing to disapprove the President's alternative plan for a 5 percent adjustment.

On October 1, 1975, the House, by a vote of 278 to 123, voted to table a motion to discharge the Post Office and Civil Service Committee from further consideration of the resolution (H. Res. 688) proposing to disapprove the President's alternative plan. Previously, on September 25, 1975, the committee, by a vote of 8-14, defeated a motion to report H. Res. 688.

PART III.—RETIREMENT ANNUITY ADJUSTMENTS

CIVIL SERVICE RETIREMENT ANNUITY ADJUSTMENTS

Effective date	Average increase (percent)	Amount of increase	Public law and date approved																					
Apr. 1, 1948	25.0	Annuity formula liberalized for future retirees, automatic survivor annuity protection provided, and those already retired given option of (a) the lesser of 25 percent or \$300 increase; or (b) retention of present annuity and 50 percent surviving widow's annuity, up to \$600. Average annuity was only about \$1,200.	80-462, Feb. 28, 1948.																					
Sept. 1, 1950		Annuitants on the rolls before Apr. 1, 1948, were given the option of increases provided by Public Law 80-426, or survivor benefits if they had not chosen it in 1948.	81-601, July 6, 1950.																					
Sept. 1, 1952	25.0	Temporary cost-of-living increase of \$36 for each 6-month period on retired rolls, with a maximum increase of the lesser of 25 percent of \$324 and no annuity to be increased beyond \$2,160. Average annuity was under \$1,400.	82-555, July 16, 1952.																					
Oct. 1, 1954		Temporary increase under Public Law 82-555 made permanent. The maximum ceiling of \$2,160 was made inoperative as to any portion of a benefit purchased by voluntary contributions.	83-747, Aug. 31, 1954.																					
Oct. 1, 1955	12.0	<table><tr><td>If annuity commences between:</td><td>Annuity not in excess of \$1,500 shall be increased by (percent)—</td><td>Annuity in excess of \$1,500 shall be increased by (percent)—</td></tr><tr><td>Aug. 20, 1920-June 30, 1955</td><td>12</td><td>8</td></tr><tr><td>July 1-Dec. 31, 1955</td><td>10</td><td>7</td></tr><tr><td>Jan. 1-June 30, 1956</td><td>8</td><td>6</td></tr><tr><td>July 1-Dec. 31, 1956</td><td>6</td><td>4</td></tr><tr><td>Jan. 1-June 30, 1957</td><td>4</td><td>2</td></tr><tr><td>July 1-Dec. 31, 1957</td><td>2</td><td>1</td></tr></table> <p>Maximum annuity increase subject to ceiling of \$4,104. The percentage increases in annuities were correlated to give recognition to salary increase provided from and after March 1955. Majority of annuities were \$1,500 or less.</p>	If annuity commences between:	Annuity not in excess of \$1,500 shall be increased by (percent)—	Annuity in excess of \$1,500 shall be increased by (percent)—	Aug. 20, 1920-June 30, 1955	12	8	July 1-Dec. 31, 1955	10	7	Jan. 1-June 30, 1956	8	6	July 1-Dec. 31, 1956	6	4	Jan. 1-June 30, 1957	4	2	July 1-Dec. 31, 1957	2	1	84-369, Aug. 11, 1955.
If annuity commences between:	Annuity not in excess of \$1,500 shall be increased by (percent)—	Annuity in excess of \$1,500 shall be increased by (percent)—																						
Aug. 20, 1920-June 30, 1955	12	8																						
July 1-Dec. 31, 1955	10	7																						
Jan. 1-June 30, 1956	8	6																						
July 1-Dec. 31, 1956	6	4																						
Jan. 1-June 30, 1957	4	2																						
July 1-Dec. 31, 1957	2	1																						
Aug. 1, 1958	10.0	Cost-of-living annuity increase of 10 percent, not to exceed \$500 for any retiree, or \$250 for survivor. Applied to (a) retirees and survivors who, on Aug. 1, 1958, received, or were entitled to receive, annuities based on service which terminated before Oct. 1, 1956; and (b) all survivors subsequently granted annuities based on service of retirees qualifying for 1958 increases.	85-465, June 25, 1958.																					
Jan. 1, 1963	5.0	An increase of 5 percent for those receiving an annuity on Jan. 1, 1963	87-793, Oct. 11, 1962.																					
		<table><tr><td>If the annuity commences between:</td><td>The annuity shall be increased by (percent)</td></tr><tr><td>Jan. 2-Dec. 31, 1963</td><td>4</td></tr><tr><td>Jan. 1-Dec. 31, 1964</td><td>3</td></tr><tr><td>Jan. 1-Dec. 31, 1965</td><td>2</td></tr><tr><td>Jan. 1-Dec. 31, 1966</td><td>1</td></tr></table> <p>A cost-of-living provision for automatic adjustment of annuities when Consumer Price Index has risen at least 3 percent.</p>	If the annuity commences between:	The annuity shall be increased by (percent)	Jan. 2-Dec. 31, 1963	4	Jan. 1-Dec. 31, 1964	3	Jan. 1-Dec. 31, 1965	2	Jan. 1-Dec. 31, 1966	1												
If the annuity commences between:	The annuity shall be increased by (percent)																							
Jan. 2-Dec. 31, 1963	4																							
Jan. 1-Dec. 31, 1964	3																							
Jan. 1-Dec. 31, 1965	2																							
Jan. 1-Dec. 31, 1966	1																							
Dec. 1, 1965	7.3	An increase of 11.1 percent if annuity commencing date was on or before Oct. 1, 1956, 6.1 percent if thereafter but not later than Dec. 1, 1965; \$10 per month or 15 percent, whichever is lesser, for pre-1948 widows. Preserved cost-of-living feature, but geared it to a more sensitive monthly indicator.	89-205, Sept. 27, 1965.																					
		Extended the increase provided by Public Law 89-205 to employees retiring no later than Dec. 30, 1965.	89-314, Nov. 1, 1965.																					
Sept. 1, 1966	10.0	An increase of 10 percent in annuities of widows or future widows of employees who died or retired prior to Oct. 11, 1962.	89-504, July 18, 1966.																					
Jan. 1, 1967	3.9	Automatic cost-of-living adjustment	5 U.S.C. 8340.																					
May 1, 1968	3.9	do	5 U.S.C. 8340.																					
Mar. 1, 1969	3.9	do	5 U.S.C. 8340.																					
Nov. 1, 1969	5.0	do	5 U.S.C. 8340.																					
Aug. 1, 1970	5.6	do	5 U.S.C. 8340.																					
June 1, 1971	4.5	do	5 U.S.C. 8340.																					
July 1, 1972	4.8	do	5 U.S.C. 8340.																					
July 1, 1973	6.1	do	5 U.S.C. 8340.																					
Jan. 1, 1974	5.5	do	5 U.S.C. 8340.																					
July 1, 1974	6.4	do	5 U.S.C. 8340.																					
Aug. 1, 1974	5.5	An increase of \$240 for retirees and \$132 for surviving spouses whose separation occurred before Oct. 21, 1969, and minimum annuities.	93-273, Apr. 26, 1974.																					
Jan. 1, 1975	7.4	Automatic cost-of-living adjustment	5 U.S.C. 8340.																					
Aug. 1, 1975	5.1	Automatic cost-of-living adjustment	5 U.S.C. 8340.																					

COST OF LIVING ADJUSTMENTS IN ANNUITIES—

5 U.S.C. 8340

The provisions of the Civil Service Retirement Act (5 U.S.C. 8340) provide that whenever the nationwide Consumer Price Index increases by at least 3 percent over the index for the month used as the base for the most recent cost-of-living annuity increase, and remains at or exceeds 3 percent for 3 consecutive months, an increase equal to the highest percentage rise in the index during the 3 consecutive months, plus an additional 1 percent, will be made automatically in each annuity. The annuity increase becomes effective on the first day of the third month following the 3-consecutive-month period.

The present procedure of providing cost-of-living adjustments in the annuities of Federal retirees is the result of several amendments to the Civil Service Retirement Act.

The 1962 amendments to the Civil Service Retirement Act (Public Law 87-793; 76 Stat. 869) provided that whenever the Consumer Price Index of the Bureau of Labor Statistics rose by an average of 3 percent or more for a full calendar year above the average base year, a comparable percentage increase in retirees' annuities would become effective on April 1 of the following year. If the increase in the Consumer Price Index was not 3 percent, the Civil Service Commission had to wait until the following January 1 for another determination.

The 1965 amendments to the Civil Service Retirement Act (Public Law 89-205; 79 Stat. 840) geared cost-of-living adjustments to a more sensitive monthly indicator instead of the average calendar year indicator. These amendments provided that whenever the Consumer Price Index rose 3 percent or more for 3 consecutive months, annuities would be increased by the highest percentage during such 3 months with the increase taking effect on the first day of the third month following the 3-consecutive-month period.

Section 204 of Public Law 91-93 (83 Stat. 139) amended the cost of living provisions of law to include an additional 1 percent adjustment when each cost-of-living adjustment is made. This additional 1 percent adjustment feature was added to take into account the 5-month period which elapses between the initial month in which the Consumer Price Index rises by 3 percent over the previous base month and the month in which the increase is reflected in the annuity check. During this elapsed period the Consumer Price Index continues its upward trend—generally attaining a level of more than 1 percent of the actual percentage rate of adjustment.

3:00 p.m.

find

Monday, November 3, 1975

Mr. John Tracey from the American Bar Association called to remind of a reply to the Segal letter re Judicial salaries.

331-2215



THE WHITE HOUSE

WASHINGTON

December 19, 1975

Dear Mr. Segal:

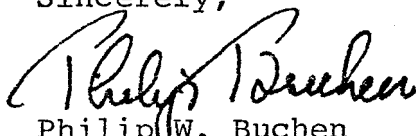
My apologies for not writing you sooner on the subject of judicial compensation. Following our meeting, I did look for a feasible way of dealing with the issue without having to wait for the next Commission on Executive Legislation and Judicial Salaries. Yet, I was able to develop no suggestions for you along these lines.

A recent development is the issuance of a report to the President by the President's Panel on Federal Compensation, a copy of which I am enclosing. Although the report does not deal in any depth with the matter of judicial compensation, the problem is mentioned at page 18.

I believe you will find that if the report has its intended effect on Executive schedule rates, it will have a similar effect on judicial salaries, although the report leaves to the next Commission on Executive Legislation and Judicial Salaries the development of precise pay rate recommendations.

I regret I have not been of greater help to you, but I stand ready to try to help in the future whenever I can.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. Bernard G. Segal
1719 Packard Building
Philadelphia, Pennsylvania 19102

cc: Herbert Brownell
John T. Connor

Enclosure



Coalition for Adequate Judicial Compensation

1800 M STREET, N.W.
Washington, D.C. 20036
(202) 331-2200

For filing

December 27, 1975

NATIONAL COORDINATOR

Bernard G. Segal
1719 Packard Building
Philadelphia, Pennsylvania 19102
(215) 491-0405

CO-CHAIRMEN

Herbert Brownell
John T. Connor

HONORARY CO-CHAIRMEN

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Emanuel Celler
Norris Cotton
William M. McCulloch

ASSOCIATE CO-CHAIRMEN

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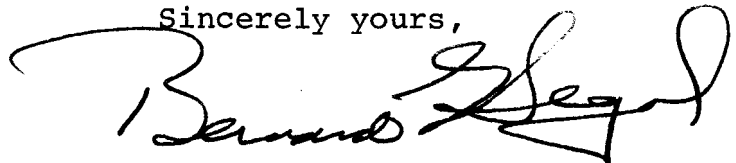
The Honorable Philip W. Buchen
Special Counsel to the President
The White House
Washington, D. C. 20500

Dear Mr. Buchen:

Thank you for your letter of December 19 advising me that you have been able to develop no suggestions for a feasible way of dealing with the subject of judicial compensation prior to the next Commission on Executive, Legislative and Judicial Salaries.

In behalf of the members of the Coalition on Adequate Judicial Compensation, and particularly Herbert Brownell and John Connor as Co-Chairmen and myself, I express our appreciation for your having met with us and for your offer to be of help in the future whenever you can. You may be sure that we will be calling upon you.

Sincerely yours,



Bernard G. Segal

BGS:fbw

cc: Herbert Brownell, Esquire
John T. Connor, Esquire



1/28/76
THE WHITE HOUSE
WASHINGTON

Copies of
material
Mr. Buchen
took with him
to his meeting
with the Chief
Justice



CHAPTER 11.—COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES [NEW]

4 Stat. 1194.

History. For legislative history of Pub.L. 91-510, see Cong. and Adm. News, p.

Existing basic pay rates

Will convert, as of the gross rate, the rate

date. was fixed at a pay was payable by

4 Stat. 1194.

History. For legislative history of Pub.L. 91-510, see Cong. and Adm. News, p.

basic pay rates

position, or class of for which is disbursed or any maximum or fee, position, or class, House resolution; and basic rate with respect

named to refer, in lieu which an employee re-effective date of this statutory provision or after such date.

4 Stat. 1195.

History. For legislative history of Pub.L. 91-510, see Cong. and Adm. News, p.

rued to—y for the making of tag the pay for, any e Clerk of the House

f. or reduce the pay e Clerk of the House. Stat. 1195.

Section effective immediately on Jan. 3, 1971, see Pub.L. 91-510, set out as item 12a of this title. History. For legislative history of Pub.L. 91-510, see Cong. and Adm. News, p.

Sec. 351. Establishment of Commission.	Sec. 355. Administrative support services.
352. Membership of Commission; appointment; Chairman; term of office; vacancies; compensation; expenses; allowances.	356. Functions of Commission.
353. Executive Director; additional personnel; detail of personnel of other agencies.	357. Report to the President.
354. Use of United States mails by Commission.	358. Recommendations of the President to Congress.
	359. Same; effective date.
	360. Same; effect on existing law and prior recommendations.
	361. Publication of recommendations.

§ 351. Establishment of Commission

There is hereby established a commission to be known as the Commission on Executive, Legislative, and Judicial Salaries (hereinafter referred to as the "Commission").

Pub.L. 90-206, Title II, § 225(a), Dec. 16, 1967, 81 Stat. 642.

Effective Date. Section effective on Dec. 16, 1967, see section 220(a) (1) of Pub.L. 90-206, set out as a note under section 3110 of Title 5, Government Organization and Employees.

Legislative History: For legislative history and purpose of Pub.L. 90-206, see 1967 U.S. Code Cong. and Adm. News, p. 235.

Index to Notes

Generally 1

1. Generally
Taxpayer lacked standing to maintain action attacking congressional pay raise effected by this chapter. *Richardson v. Kennedy*, D.C.Pa.1970, 313 F.Supp. 1252. Affirmed 91 S.Ct. 883, 401 U.S. 901, 27 L. Ed.2d 800.

§ 352. Membership of Commission; appointment; Chairman; term of office; vacancies; compensation; expenses; allowances

(1) The Commission shall be composed of nine members who shall be appointed from private life, as follows:

- (A) three appointed by the President of the United States, one of whom shall be designated as Chairman by the President;
- (B) two appointed by the President of the Senate;
- (C) two appointed by the Speaker of the House of Representatives; and
- (D) two appointed by the Chief Justice of the United States.

(2) The terms of office of persons first appointed as members of the Commission shall be for the period of the 1969 fiscal year of the Federal Government, except that, if any appointment to membership on the Commission is made after the beginning and before the close of such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

(3) After the close of the 1969 fiscal year of the Federal Government, persons shall be appointed as members of the Commission with respect to every fourth fiscal year following the 1969 fiscal year. The terms of office of persons so appointed shall be for the period of the fiscal year with respect to which the appointment is made, except that, if any appointment is made after the beginning and before the close of any such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

(4) A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

(5) Each member of the Commission shall be paid at the rate of \$100 for each day such member is engaged upon the work of the Commission and shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703(b) of Title 5, when engaged in the performance of services for the Commission.

Pub.L. 90-206, Title II, § 225(b), Dec. 16, 1967, 81 Stat. 642.

Effective Date. Section effective on Dec. 16, 1967, see section 220(a) (1) of Pub.L. 90-206, set out as a note under section 3110 of Title 5, Government Organization and Employees.

1 U.S.C.A.—17
1974 P.P.



detail of personnel

governing appointment of chapter 51 and classification and for periods covered by 352(2) and (3) of

in Executive Director level V of the Ex-

Executive Director respective rates not Schedule in section s may be necessary

of any department, eral Government is iods covering all or nd (3) of this title, establishment to as-

at. 643.

the 5, Government Or- employees.

In the same manner and agencies of the

at. 643.

the 5, Government Or- employees.

e administrative sup- asis.

1 Stat. 643.

Government Organization

ective fiscal years re- view of the rates of

representatives, and the

branch referred to in 42a and 51a of Title

tion 39a of Title 44;

a the judicial branch: Federal Judicial Sal-

ive Schedule in sub-

governors of the United 2 of Title 39.

Such review by the Commission shall be made for the purpose of determining and providing—

(i) the appropriate pay levels and relationships between and among the respective offices and positions covered by such review, and

(ii) the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5, relating to classification and General Schedule pay rates.

Pub.L. 90-206, Title II, § 225(f), Dec. 16, 1967, 81 Stat. 643, amended Pub.L. 91-375, § 6(a), Aug. 12, 1970, 84 Stat. 775.

References in Text. Section 39a of Title 44, referred to in par. (B), was repealed in the revision of Title 44 and is now covered by section 303 of Title 44, Public Printing and Documents.

The Federal Judicial Salary Act of 1964, referred to in par. (C), is Pub.L. 88-426, Aug. 14, 1964, 78 Stat. 400. Sections 402(d) and 403 thereof are classified to section 887 of Title 10, section 63 of Title 11, section 7443 of Title 26, and sections 5, 44, 135, 173, 213, 252, 603, and 792 of Title 28. 1970 Amendment. Par. (E). Pub.L. 91-375 added par. (E).

Effective Date of 1970 Amendment. Amendment by Pub.L. 91-375 effective

within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub.L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Effective Date. Section effective on Dec. 16, 1967, see section 220(a) (1) of Pub.L. 90-206, set out as a note under section 3110 of Title 5, Government Organization and Employees.

Legislative History. For legislative history and purpose of Pub.L. 91-375, see 1970 U.S. Code Cong. and Adm. News, p. 3649.

§ 357. Report to the President

The Commission shall submit to the President a report of the results of each review conducted by the Commission of the offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of section 356 of this title, together with its recommendations. Each such report shall be submitted on such date as the President may designate but not later than January 1 next following the close of the fiscal year in which the review is conducted by the Commission.

Pub.L. 90-206, Title II, § 225(g), Dec. 16, 1967, 81 Stat. 644.

Effective Date. Section effective on Dec. 16, 1967, see section 220(a) (1) of Pub.L. 90-206, set out as a note under section 3110 of Title 5, Government Organization and Employees.

§ 358. Recommendations of the President to Congress

The President shall include, in the budget next transmitted by him to the Congress after the date of the submission of the report and recommendations of the Commission under section 357 of this title, his recommendations with respect to the exact rates of pay which he deems advisable, for those offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of section 356 of this title. As used in this section, the term "budget" means the budget referred to in section 11 of Title 31.

Pub.L. 90-206, Title II, § 225(h), Dec. 16, 1967, 81 Stat. 644.

Effective Date. Section effective on Dec. 16, 1967, see section 220(a) (1) of Pub.L. 90-206, set out as a note under section 3110 of Title 5, Governmental Organization and Employees.

SALARY RECOMMENDATIONS FOR 1969 INCREASES

Transmitted to Congress Jan. 15, 1969, published in the Federal Register Feb. 15, 1969, 34 F.R. 2241.

Public Law 90-206, approved December 16, 1967 [this chapter], established the Commission on Executive, Legislative, and Judicial Salaries. The Commission is required to make recommendations to the President, at 4-year intervals, on the rates of pay for Senators, Representatives, Federal judges, Cabinet officers and other agency heads, and certain other officials in the executive, legislative, and judicial branches. The law requires that the President, in the budget next submitted by him after receipt of a report of the Commission, set forth his rec-

ommendations with respect to the exact rates of pay he deems advisable for those offices and positions covered by the law. The President's recommendations become effective 30 days following transmittal of the budget, unless in the meantime other rates have been enacted by law or at least one House of Congress has enacted legislation which specifically disapproves of all or part of the recommendations.

At the request of the President, the first report of the Commission was submitted to him in December 1963. The report has been considered by the President and, in accordance with section

225(a) of Public Law 90-206, approved December 16, 1967, 81 Stat. 644 [this section], the President recommends the following rates of pay for executive, legis-

lative and judicial officers and positions within the purview of subsection (1) of that section:

A. Senators, Members of the House of Representatives, and the Resident Commissioner from Puerto Rico	\$42,500
B. For other offices and positions in the legislative branch, as follows:	
Comptroller General of the United States	\$42,500
Assistant Comptroller General of the United States	\$40,000
General Counsel of the United States General Accounting Office, Librarian of Congress, Public Printer, Architect of the Capitol	\$38,000
Deputy Librarian of Congress, Deputy Public Printer, Assistant Architect of the Capitol	\$36,000
C. For justices, judges, and other personnel in the judicial branch, as follows:	
Chief Justice of the United States	\$82,500
Associate Justices of the Supreme Court	\$60,000
Judges, Circuit Court of Appeals; judges, Court of Claims; judges, Court of Military Appeals; judges, Court of Customs and Patent Appeals	\$42,500
Judges, District Courts; judges, Customs Court; judges, Tax Court of the United States; Director of the Administrative Office of the United States Courts	\$40,000
Deputy Director of the Administrative Office of the United States Courts; commissioners, Court of Claims; referees in bankruptcy, full-time (maximum)	\$36,000
Referees in bankruptcy, part-time (maximum)	\$18,000
D. For offices and positions under the Executive Schedule in subchapter II of Chapter 53 of title 5, United States Code [sections 5311-5317 of Title 5, Government Organization and Employees]:	
Positions at level I	\$60,000
Positions at level II	\$42,500
Positions at level III	\$40,000
Positions at level IV	\$38,000
Positions at level V	\$36,000

§ 359. Same; effective date

(1) Except as provided in paragraph (2) of this section all or part (as the case may be) of the recommendations of the President transmitted to the Congress in the budget under section 358 of this title shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations in the budget; but only to the extent that, between the date of transmittal of such recommendations in the budget and the beginning of such first pay period—

(A) there has not been enacted into law a statute which establishes rates of pay other than those proposed by all or part of such recommendations,

(B) neither House of the Congress has enacted legislation which specifically disapproves all or part of such recommendations, or

(C) both.

(2) Any part of the recommendations of the President may, in accordance with express provisions of such recommendations, be made operative on a date later than the date on which such recommendations otherwise are to take effect.

Pub.L. 90-206, Title II, § 225 (1), Dec. 16, 1967, 81 Stat. 644.

Effective Date. Section effective on section 3110 of Title 5, Government Organization and Employees. Dec. 16, 1967, see section 220(a) (1) of Pub.L. 90-206, set out as a note under

§ 360. Same; effect on existing law and prior recommendations

The recommendations of the President transmitted to the Congress immediately following a review conducted by the Commission in one of the fiscal years referred to in section 352(2) and (3) of this title shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations (other than any provision of law enacted in the period specified in paragraph (1) of subsection (1) of this section with respect to such recommendations), and

(B) any prior recommendation under this chapter.

Pub.L. 90-206, Title II, § 2:

Effective Date. Section effective Dec. 16, 1967, see section 220(a) of Pub.L. 90-206, set out as a note under section 3110 of Title 5, Government Organization and Employees.

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Generally 1

§ 361. Publication of re

The recommendations of the President transmitted to the Congress in the Statutes at Large shall be printed in the Federal Register and Regulations.

Pub.L. 90-206, Title II, § 2

Effective Date. Section effective Dec. 16, 1967, see section 220(a) of Pub.L. 90-206, set out as a note under

CHAPTER 12.—C

- Sec. 331. Definitions.
332. Notice of contest.
- (a) Filing of notice.
- (b) Contents and form of notice.
- (c) Service of notice; service.
333. Response of contestee.
- (a) Answer.
- (b) Defenses by motion or answer.
- (c) Motion for more definition.
- (d) Time for serving answer; service of motion.
334. Service and filing of papers with notice of contest.
- (a) Modes of service.
- (b) Filing of papers with notice.
- (c) Proof of service.
335. Default of contestee.
336. Deposition.
- (a) Oral examination.
- (b) Scope of examination.
- (c) Order and time of testimony.
- (d) Officer before whom deposition may be taken.
- (e) Subpoena.
- (f) Taking of testimony or his agent.
- (g) Conduct of examination; cordation of testimony; objection; objections.
- (h) Examination of deponent; witness; signature; signature of officer; signature.
337. Notice of depositions.
- (a) Time for service; filing.
- (b) Testimony by stipulation.
- (c) Testimony by affidavit for filing.

§ 381. Definitions

For purposes of this chapter:

(a) The term "election" means the election of a Representative to the United States, but not the election of a political party or convention of a political party.



and judicial officers and positions
the purview of subsection (F) of
section.

ives, and the Resident Com-	
branch, as follows:	\$42,500
States	\$42,500
eral Accounting Office, Li-	\$40,000
ect of the Capitol	\$38,000
Printer, Assistant Architect	
	\$36,000
judicial branch, as follows:	
	\$62,500
	\$60,000
Court of Claims; judges,	
er of Customs and Patent	\$42,500
Court; judges, Tax Court of	
erative Office of the United	\$40,000
of the United States Courts;	
in bankruptcy, full-time	\$36,000
	\$18,000
Schedule in subchapter II of	
Sections 5311-5317 of Title 5,	
	\$60,000
	\$42,500
	\$40,000
	\$38,000
	\$36,000

2) of this section all or part
ns of the President transmitted
n 358 of this title shall become
period which begins after the
such recommendations in the
een the date of transmittal of
the beginning of such first pay

no law a statute which estab-
proposed by all or part of such

s has enacted legislation which
such recommendations, or

of the President may, in accord-
mendations, be made operative
uch recommendations otherwise

1967, 81 Stat. 644.

on 3110 of Title 5, Government Or-
ganization and Employees.

and prior recommendations

transmitted to the Congress im-
y the Commission in one of the
and (3) of this title shall be held
render inapplicable, as the case
th-

prior to the effective date or
(3 be) of such recommendations
enacted in the period specified
of this section with respect to

(B) any prior recommendations of the President which take ef-
fect under this chapter.

Pub.L. 90-206, Title II, § 225(j), Dec. 16, 1967, 81 Stat. 644.

Effective Date. Section effective on
Dec. 16, 1967, see section 220(a) (1) of
Pub.L. 90-206, set out as a note under sec-
tion 3110 of Title 5, Government Organi-
zation and Employees.

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Generally 1

§ 361. Publication of recommendations

The recommendations of the President which take effect shall be print-
ed in the Statutes at Large in the same volume as public laws and shall
be printed in the Federal Register and included in the Code of Federal
Regulations.

Pub.L. 90-206, Title II, § 225(k), Dec. 16, 1967, 81 Stat. 644.

Effective Date. Section effective on section 3110 of Title 5, Government Or-
Dec. 16, 1967, see section 220(a) (1) of ganization and Employees.
Pub.L. 90-206, set out as a note under

1. Generally

Taxpayer lacked standing to maintain
action attacking congressional pay raise
effected by this chapter. *Richardson v.*
Kennedy, D.C.Pa.1970, 313 F.Supp. 1282.
Affirmed 91 S.Ct. 868, 401 U.S. 901, 27 L.
Ed.2d 800.

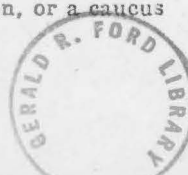
CHAPTER 12.—CONTESTED ELECTIONS [NEW]

Sec. 351.	Definitions.	Sec. 359.	Subpena for attendance at deposi- tion.
352.	Notice of contest.		(a) Issuance.
	(a) Filing of notice.		(b) Time, method and proof of service.
	(b) Contents and form of notice.		(c) Place of examination.
	(c) Service of notice; proof of service.		(d) Form.
353.	Response of contestee.		(e) Production of documents.
	(a) Answer.	350.	Officer and witness fees.
	(b) Defenses by motion prior to answer.	390.	Penalty for failure to appear, tes- tify or produce documents.
	(c) Motion for more definite state- ment.	391.	Certification and filing of deposi- tions.
	(d) Time for serving answer after service of motion.		(a) Sealing of papers; deposit with Clerk.
354.	Service and filing of papers other than notice of contest.		(b) Notification of filing.
	(a) Modes of service.		(c) Copy of deposition to parties or deponents.
	(b) Filing of papers with clerk.	392.	Record.
	(c) Proof of service.		(a) Hearing on papers, depositions and exhibits.
355.	Default of contestee.		(b) Appendix to contestant's brief.
356.	Deposition.		(c) Appendix to contestee's brief.
	(a) Oral examination.		(d) Contestant's brief; service on contestee.
	(b) Scope of examination.		(e) Contestee's brief; service on contestant.
	(c) Order and time of taking tes- timony.		(f) Reply brief of contestant.
	(d) Officer before whom testimony may be taken.		(g) Form of briefs; number of copies served and filed.
	(e) Subpena.	393.	Filing of pleadings, motions, deposi- tions, appendixes, briefs and other papers.
	(f) Taking of testimony by party or his agent.	394.	Computation of time.
	(g) Conduct of examination; re- cordation of testimony; no- tation of objections; inter- rogatories.		(a) Method of computing time.
	(h) Examination of deposition by witness; signature of wit- ness or officer; use of depo- sition.		(b) Service by mail.
357.	Notice of depositions.		(c) Enlargement of time.
	(a) Time for service; form.	395.	Death of contestant.
	(b) Testimony by stipulation.	396.	Allowance of party's expenses.
	(c) Testimony by affidavit; time for filing.		

§ 381. Definitions

For purposes of this chapter—

(a) The term "election" means an official general or special election
to choose a Representative in or Resident Commissioner to the Congress
of the United States, but does not include a primary election, or a caucus
or convention of a political party.



Records
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PV (RC)
Handbook
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COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

Independent

AUTHORITY: 81 Stat. 642,
P.L. 90-206, Sec. 225, approved December 16, 1967.

METHOD: (See below.)

MEMBERS: NINE members appointed from private life, as follows:

THREE appointed by the President,
TWO appointed by the President of the Senate,
TWO appointed by the Speaker of the House of Representatives,
TWO appointed by the Chief Justice of the United States.

CHAIRMAN: Designated by the President from one of his appointees.

TERM: Initial appointees shall serve for the term of fiscal year 1969.
(Term would expire June 30, 1970.) Every fourth fiscal year thereafter, 1973, 1977, 1981...members shall be appointed for a term expiring at the close of that particular fiscal year.

SALARY: \$100.00 per day.

PURPOSE: Review the rates of pay of Members of Congress, the Judiciary and persons in the Executive Pay Schedule to determine their appropriate salary levels. The Commission would submit its report and recommendations to the President no later than January 1 following the fiscal year in which its review was conducted.



Office of the Attorney General
Washington, D.C. 20530

March 21, 1975

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

At the meeting on proposed increases in judicial (and possibly executive and legislative) salaries, the question arose as to what effect such action might have on the eligibility of members of Congress for appointment to judgeships or executive branch positions. There was an implicit question about the application of the Ineligibility Clause of the Constitution to such salary increases if such increases were tied to a cost of living formula.

The Ineligibility Clause of the Constitution, Art. I, §6, cl. 2, provides that "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States . . . the Emoluments whereof shall have been increased during such time." One can imagine a variety of hypothetical situations involving application of the Clause, but in general, a member of Congress would be disqualified from appointment only for the remainder of the electoral term that he was presently serving when the legislation authorizing the salary increase was enacted. When the legislative authorization takes place in one electoral term but provides that the actual increase is to occur in a succeeding term, a member would be disqualified from appointment only for the remainder of the prior electoral term.

Thus, under a legislative plan authorizing automatic salary increases based on the cost of living index, the constitutional disqualification would apply only during the electoral term in which the legislation was enacted and not in any succeeding term when additional automatic increases may occur. If, however, the legislative plan requires an important further step of Congress in a succeeding term to make the increase effective, such as congressional acquiescence in the increase by failure to exercise a veto power, it seems likely the constitutional disqualification would apply during the remainder of this later electoral term, and not during the prior term when the underlying legislation was enacted.

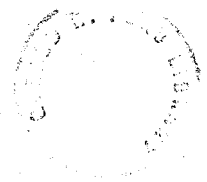
Page 2
The President

There was some suggestion that a legal analysis of the application of the constitutional provision might be helpful. This note summarizes the main conclusions; I attach a supporting memorandum. As the memorandum notes, with one possible exception, the Senate probably would be the final arbiter of the interpretation of the clause. An exception would be, if by some device or order, an objection from the executive or legislative branch were interposed to prevent the payment of the salary.

Respectfully,

Edward H. Levi
Attorney General

Enclosure



MEMORANDUM

Legislation Increasing Judicial Salaries

This memorandum addresses two issues: (a) the authority under existing legislation to increase the salaries of federal judges, and (b) the relationship between various forms of legislation increasing such salaries and the prohibition imposed by the Ineligibility Clause of the United States Constitution.

A. Existing Legislation

The only existing authority for increasing the salaries of federal judges is conferred by the Federal Salary Act of 1967, 81 Stat. 642, 2 U.S.C. § 351 et seq. The Act establishes the Commission on Executive, Legislative and Judicial Salaries, which is empowered to make recommendations to the President, at four-year intervals, 1/ on pay rates for Senators, Representatives, federal judges, and certain officers in the executive branch. The Act further authorizes the President, in the next federal budget submitted after the receipt of the Commission's report, to set

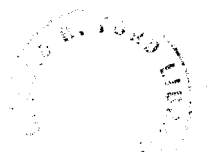
1/ Under the Act, the first Commission was to be appointed in fiscal 1969 (ending June 30, 1969) and then in every fourth fiscal year thereafter. The Commission expires at the end of the fiscal year for which it was appointed.



forth his recommendations with respect to the pay rates he deems advisable for the positions covered by the Act. The President's recommendations are to become effective thirty days following transmittal of the budget to Congress, unless during the interim Congress has enacted other pay rates or unless at least one House of Congress has enacted legislation which specifically disapproves all or part of the recommendations.

The first Commission was appointed in 1968 and made its recommendations to the President in December 1968. The President forwarded these recommendations to Congress in January 1969, and they became effective in March of that year. Under the Act, the next Commission was to be appointed during fiscal 1973 (ending June 31, 1973), and was required to submit its recommendations to the President no later than January 1, 1974. The Commission apparently made its recommendations to the President, who later forwarded them with minor revisions to Congress. The Senate, however, rejected the proposed pay increases in March 1974 and thereby rendered them ineffective.

The next Commission is to be appointed during fiscal 1977 (ending June 31, 1977) and must make its recommenda-



tions to the Congress shortly thereafter with the budget for fiscal 1978. ^{2/} Thus, if the procedures established by the Federal Salary Act are followed, the earliest possible date by which judicial salaries could be increased is March 1977.

The Commission appointed for fiscal 1973 expired in July 1973. The Act makes no provision for further recommendations by either the Commission or the President until fiscal 1977. Thus, only by special legislation could judicial salaries be increased prior to that date.

2/ Section 357 provides that the Commission's report "shall be submitted on such date as the President may designate but not later than January 1 next following the close of the fiscal year in which the review is conducted by the Commission." 2 U.S.C. § 357. Section 358 provides that the "President shall include, in the budget next transmitted by him to the Congress after the date of the submission of the report and recommendations of the Commission. . . ., his recommendations with respect to the exact rates of pay which he deems advisable. . . ." 2 U.S.C. § 358.

Thus, if so directed by the President, the Commission appointed for fiscal 1977 (beginning July 1, 1976 and ending June 31, 1977) could make its report prior to January 1977, but in no event later than January 1978. Under Section 358, the President could then submit his recommendations with the fiscal 1978 budget later in January 1977, and these recommendations would become effective in March 1977 unless disapproved by either House of Congress. Alternatively, the Commission would not report until later in 1977, and the President would not forward his recommendations to Congress until January 1978.



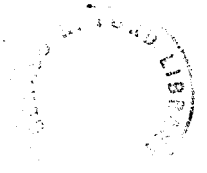
B. The Ineligibility Clause

Legislation increasing judicial salaries could pose a variety of problems with respect to the eligibility of members of Congress for appointment to the federal bench. The possible applications of the Ineligibility Clause are almost endless and depend on both the form of the legislation and the date of the appointment. For present purposes, it may prove useful to review at least the central features of the clause and its application to the forms of legislation most likely to be enacted by Congress.

The Ineligibility Clause of the United States Constitution, art. I, § 6, cl. 2, provides:

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time, and no Person holding any Office under the United States, shall be a Member of either House during his continuance in Office.

The Ineligibility Clause was apparently intended to prevent considerations of personal interest from affecting a representative's vote on legislation creating federal civil offices or increasing the financial benefits of such offices. Despite its broad purpose, the clause is drafted narrowly and includes within its ambit only a limited range of



situations. As presently relevant, the clause applies where three prerequisites are satisfied: (a) an increase in the emoluments or salary of a judicial office, (b) the appointment of a Senator or Representative to that office, and (c) both (a) and (b) occur during the same electoral term which the Senator or Representative was then serving.^{3/}

The clearest application of the clause would occur where Congress authorizes an increase in the salary of a judicial office, and that increase actually takes effect, during the same electoral term of the Representative nominated for the judicial office.^{4/} Such would be the case, for example, if Congress had approved an immediate increase in judicial salaries in 1974. Two possible factual

^{3/} It should be noted that, as a practical matter, the Senate will usually be the sole and final arbiter of the meaning of the clause. In Ex parte Levitt, 302 U.S. 633 (1937), the Court held that a citizen lacks standing to challenge a judicial appointment allegedly in violation of the Ineligibility Clause. Levitt was recently discussed with approval and expressly reaffirmed in Schlesinger v. Reservists Committee to Stop the War, ___ U.S. ___, 94 S.Ct. 3295 (1974) and United States v. Richardson, ___ U.S. ___, 94 S.Ct. 2940 (1974). It is thus difficult to perceive how a private individual, suing as a citizen or a taxpayer, could show the direct injury required under the standing doctrine to invoke the jurisdiction of the federal courts. A problem could arise, however, if the General Accounting Office or another federal department were to refuse to deliver the appointee's commission or to pay his salary. Such action might precipitate a suit by the appointee which could well bring the constitutional question before the courts. See Marbury v. Madison, 1 Cranch. 137 (1803).

^{4/} The Ineligibility Clause plainly refers to the electoral term of the representative, rather than to Congresses or sessions of Congress. Thus, electoral term covered by the clause would be two years for a member of the House and six years for a Senator. For purposes of clarity, all factual situations posited above will refer to members of the House.

situations might ensue. In the first, the Representative is later sought to be appointed to judicial office in the same electoral term (i.e., before the commencement of the next Congress in January 1975.) Here, the Ineligibility Clause clearly stands as a bar to appointment since the posited case falls squarely within the clause's literal provisions. In the second, the Representative is sought to be appointed in a subsequent electoral term (e.g., after January 1975). In this situation, however, it is apparent that the clause does not apply, since the increase was authorized in the prior electoral term and the clause prevents appointment only during that prior term. 5/

More substantial problems arise where the congressional authorization and the actual increase occur in different electoral terms. Thus, for example, suppose Congress in 1974 authorized an increase in judicial salaries to take effect in 1975, and a Representative is thereafter

5/ Accord: 33 Op. Att'y Gen. 88 (1922). As Justice Story noted:

"The reasons for excluding persons from offices who have been concerned in creating them, or increasing their emoluments, are to take away, as far as possible, any improper bias in the vote of the representative, and to secure to the constituents some solemn pledge of his disinterestedness. The actual provision, however, does not go to the extent of the principle, for his appointment is restricted only 'during the time for which he was elected,' thus leaving in full force every influence upon his mind, if the period of his election is short or the duration of it is approaching its natural termination."

Story, Constitution of the United States, 4th ed., § 867.

sought to be appointed in 1974. Although the increase has not actually occurred, it appears consistent with both the language and purpose of the clause to conclude that the appointment would be barred. On the other hand, if the appointment were made later in 1975, the clause would be inapplicable since the increase was authorized in the prior electoral term.

The above conclusion turns on an interpretation of the word "increase" in the clause to mean authorization for the increase, rather than the increase itself. The reasonableness of this view is amply demonstrated by the case of a Representative who was first elected in 1975 when the increase took effect. It would obviously serve no purpose to bar his appointment to a judicial office since Congress never even considered the issue of a salary increase during any period when he was a Representative. There is thus no temptation against which the Representative's impartiality must be guarded, and hence no reason for invocation of the prohibition imposed by the clause. On the other hand, ineligibility for appointment does appear warranted with respect to those members serving in Congress when the authorization was approved, even though the in-



crease will not occur until after the expiration of their electoral term. ^{6/} Here the clause does presumably serve its intended purpose of preventing the prospect of judicial appointment from influencing a member's vote on legislation authorizing increases in judicial salaries. ^{7/} Moreover, to conclude otherwise would create the anomaly of an increase in judicial salaries having occurred without any member of Congress being rendered ineligible -- a construction which would substantially strip the clause of effective meaning.

Closely related is the situation where salary increases are authorized for future electoral terms, but additional appropriations will be later required to fund

^{6/} Such members, of course, would be ineligible for appointment only for the remainder of the electoral term in which the legislation authorizing the increase was enacted.

^{7/} An exception is possible where the financial benefit will not actually be conferred until some point so distant in the future that the benefit may be regarded as speculative. Senator Hugo Black, for example, had voted to increase the retirement benefits of Supreme Court Justices during the same electoral term in which he was nominated for appointment to the Court. The Senate confirmed the nomination, perhaps agreeing with the Attorney General that Senator Black was nevertheless eligible "inasmuch as Mr. Black was only fifty-one years old at the time and so would be ineligible for the increased emolument for nineteen years, it was not as to him an increased emolument." See Corwin, *Annotated Constitution* at 133; N.Y. Times, Aug. 14, 1-37, p. 1, col. 3.

those increases. For example, suppose Congress in 1974 provided that judicial salaries would be increased automatically on a biennial basis beginning in 1975 in accordance with an independent standard such as the cost of living index. Under the construction outlined above, a Representative then serving in 1974 would be barred from a subsequent judicial appointment in 1974, but a Representative serving thereafter would not be barred even though the actual increases had occurred, and the appropriations to fund those increases had been made, during his electoral term. This is so because the subsequent appropriation measures were in essence ministerial acts required only to fund increases previously authorized by Congress. The "increases", within the meaning of the Ineligibility Clause, actually occurred in 1974 when the controlling congressional authorization was enacted. ^{8/} It is the undertaking of the obligation

^{8/} Nothing turns on the fact that Congress did not specify exact dollar amounts for the future increases, and indeed, the result would be the same had Congress in fact specified exact dollar amounts.

An additional possibility is worth mentioning. Suppose Congress in 1974 authorized future salary increases commencing in 1975 based on the cost of living index, but made such increases subject to prior approval by the President, at some future date (e.g., when the cost of living statistics are reported in 1975 and thereafter). In this situation, since Congress made its determination in 1974 to increase salaries, a Representative then serving would be barred from appointment for the remainder of that electoral term. The contingency of

(Cont'd. next page)



to increase salaries that controls, and the "emoluments" of the judicial office may be deemed to have been increased at that time. 9/

Two final permutations concern the situation in which Congress authorizes the establishment of a commission to propose increases in judicial salaries at certain future periods and specifies that the increases are to become effective unless vetoed by either house of Congress. 10/ Again, suppose such a commission is authorized by Congress in 1974 and then in 1975 recommends certain increases which then become effective when Congress fails to disapprove them through exercise of its veto power. In the case of a Representative appointed in 1974, it appears reasonable to conclude that the Ineligibility Clause would not prove a bar since at that time any salary increase was still contingent on further congressional approval, albeit in the

8/ (Cont'd. from previous page)

Future Presidential approval cannot obscure the fact that Congress authorized the salary increases and the clause should apply. Representatives serving in future terms when the increases actually occur would not, of course, be barred from appointment.

9/ The possible speculative nature of any future increase in the cost of living index is not controlling in this situation. Such an escalator clause is clearly an "emolument" or benefit within the meaning of the clause.

10/ This was, of course, essentially the scheme imposed by the Federal Salary Act of 1967, 81 Stat. 642, 2 U.S.C. § 351 et seq.



passive form of a failure to exercise a veto power at some future date. By contrast, the appointment of a Representative serving in 1975 would present an exceedingly close case. Although persuasive arguments can be mustered on either side, it is most probable that the clause would indeed come into play to prevent the appointment, since congressional inaction can be deemed to be an implicit authorization of the salary increase. A contrary interpretation would pose a significant problem, since again an increase in judicial salaries would have occurred yet no Representative would be regarded as barred from appointment.^{11/}

^{11/} The obvious alternative would be to regard the increase as having been approved in 1974. For the reasons previously stated, the contingent nature of the prior congressional action makes it a comparatively inappropriate point at which to deem the clause applicable.

The problem created by the appointment of Congressman Laird as Secretary of Defense is also instructive. See 42 Op. Att'y Gen. 36 (1969). There, the President submitted to Congress a proposed salary increase for Cabinet members which under the Federal Salary Act of 1967 would become effective unless disapproved by either House of Congress within a specified period. The Opinion of the Attorney General concluded that the Ineligibility Clause would not bar Congressman Laird's appointment if the appointment were made before the expiration of the date by which Congress was required to act: "[T]he salaries in question will not 'have been increased' within the meaning of the constitutional prohibition so long as Congress may still exercise its power of disapproval." The opinion clearly contemplates, however, that Congressman Laird's appointment would have been barred had he still been serving when the absence of a congressional veto allowed the increase to become effective.

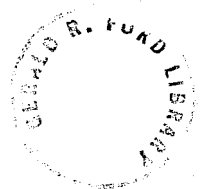


In sum, the clause may most reasonably be construed as applicable only to the electoral term during which the salary increase is authorized by Congress. Where the salary increase is not contingent on further congressional approval, as in the case of automatic future increases based on the cost of living index, the controlling factor is the electoral term during which the underlying congressional authorization was enacted. Where the increase is contingent on further congressional approval, as in the case of the hypothetical commission or the Federal Salary Act, the controlling factor is the electoral term during which the congressional acquiescence by failure to exercise its veto power allowed the increase to become effective. 12/

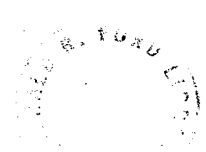
Turning to the instant problem concerning the nature of the proposed legislation on judicial salaries, it appears that the hypothetical commission or the present Federal Salary

12/ If, of course, the Representative or Senator were to resign before the period for congressional action expired, the clause would not bar his appointment. See n. 10, id. As previously stated, the prospective appointee must actually have been serving in Congress at the time the salary increase was authorized.

The problem might also be avoided by deferring the appointment until after the expiration of the Representative's or Senator's electoral term.



Act are the least appealing alternatives since they pose the problem of continuing application of the Ineligibility Clause to members of Congress and would probably result in the greatest number of disqualifications. By contrast, a predetermined method of increasing judicial salaries, which was not contingent on further congressional approval, would result in the least number of disqualifications. Thus, if future increases in judicial salaries were authorized in accordance with increases in the cost of living index, only those members of Congress serving when the legislation was adopted would be disqualified from appointment, and even then their disqualification would be only for the remainder of the electoral terms they were presently serving.



COOPERATIVE FUNDS—continued

Section 17(a)(9)(A) of the Alaska Native Claims Settlement Act limits the Federal share of the expenses of the Joint Federal-State Land Use Planning Commission for Alaska to 50%. The State of Alaska provides for the remaining 50% of Commission expenses. In years prior, a portion of the State's support has been provided in-kind through assignment of State employees and lease of office space. All State support in 1977 will be in cash.

Object Classification (in thousands of dollars)

Identification code 33-11-8061-0-7-452	1975 act.	1976 est.	TQ est.	1977 est.
Personnel compensation:				
11.1 Permanent positions.....	130	176	37	28
11.3 Positions other than permanent.....	24	61	10	2
11.5 Other personnel compensation.....		4		
Total personnel compensation.....	154	241	47	30
12.1 Personnel benefits: Civilian.....	66	75	19	11
21.0 Travel and transportation of persons.....	11	49	11	2
22.0 Transportation of things.....			7	5
23.0 Rent, communications, and utilities.....	49	14	7	8
24.0 Printing and reproduction.....		43	4	
25.0 Other services.....	285	280	7	3
26.0 Supplies and materials.....	3	8	2	1
31.0 Equipment.....	1	1		
99.0 Total obligations.....	569	711	104	60

Personnel Summary

Total number of permanent positions.....	7	9		0
Full-time equivalent of other positions.....	1	2		0
Average paid employment.....	8	11		1
Average GS grade.....	10.86	10.94		
Average GS salary.....	\$20,333	\$20,756		

COMMISSION ON AMERICAN SHIPBUILDING

Federal Funds

General and special funds:

SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

Identification code 33-12-0052-0-1-406	1975 act.	1976 est.	TQ est.	1977 est.
Program by activities:				
Study and review American shipbuilding industry (program costs, funded).....	4			
Change in selected resources (undelivered orders).....	-4			
10 Total obligations.....				
Financing:				
17 Recovery of prior period obligations.....	-6			
25 Unobligated balance lapsing.....	6			
Budget authority.....				
Relation of obligations to outlays:				
71 Obligations incurred, net.....	-6			
72 Obligated balance, start of period.....	10			
90 Outlays.....	4			

The Commission submitted its findings to the President and the Congress on October 19, 1973, and 60 days thereafter ceased to exist.

COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the Commission on Executive, Legislative, and Judicial Salaries, authorized by section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642-645), \$100,000, to remain available until expended.

Program and Financing (in thousands of dollars)

Identification code 33-12-2800-0-1-805	1975 act.	1976 est.	TQ est.	1977 est.
Program by activities:				
Administrative expenses (program costs, funded).....	2			100
Change in selected resources (undelivered orders).....	-2			
10 Total obligations.....				
Financing:				
40 Budget authority (appropriation).....				100
Relation of obligations to outlays:				
71 Obligations incurred, net.....				100
74 Obligated balance, end of period.....				-5
77 Adjustments in expired accounts.....	2			
90 Outlays.....	2			95

The Commission was established under section 225 of the Postal Revenue and Federal Salary Act of 1967 to review and recommend to the President at 4-year intervals the appropriate pay levels for upper-level positions in the executive, legislative, and judicial branches of the Federal Government.

Object Classification (in thousands of dollars)

Identification code 33-12-2800-0-1-805	1975 act.	1976 est.	TQ est.	1977 est.
Personnel compensation:				
11.1 Permanent positions.....				58
11.3 Positions other than permanent.....				5
Total personnel compensation.....				63
12.1 Personnel benefits: Civilian.....				4
21.0 Travel and transportation of persons.....				4
23.0 Rent, communications, and utilities.....				15
24.0 Printing and reproduction.....				3
25.0 Other services.....				9
26.0 Supplies and materials.....				2
99.0 Total obligations.....				100

Personnel Summary

Total number of permanent positions.....	6
Average paid employment.....	4
Average GS grade.....	9.00
Average GS salary.....	\$17,923

COMMISSION ON FEDERAL PAPERWORK

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Act of December 27, 1974, Public Law 93-556, \$100,000.

For an additional amount for "Salaries and expenses", \$4,000,-000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$2,000,000, to remain available until expended. (Treasury, Postal Service, and General Government Appropriation Act, 1976; Supplemental Appropriations Act, 1976.)

Program and Financing (in thousands of dollars)

Identification code 33-12-1200-0-1-804	1975 act.	1976 est.	TQ est.	1977 est.
Program by activities:				
40 Investigation and recommendations—Federal paperwork policies and practices.....		4,100	1,800	200
Financing:				
21 Unobligated balance available, start of period.....				-200
24 Unobligated balance, end of period.....			200	
40 Budget authority (appropriation).....		4,100	2,000	
Relation of obligations to outlays:				
71 Obligations incurred, net.....		4,100	1,800	200
72 Obligated balance, start of period.....			200	
74 Obligated balance, end of period.....		-200		
90 Outlays.....		3,900	2,000	200

THE WHITE HOUSE
WASHINGTON

January 31, 1976

PARTICIPATION OF CHIEF JUSTICE BURGER
IN SWEARING-IN OF ELLIOT RICHARDSON

Monday, February 2, 1976

2:00 p.m.

The East Room

From: Philip Buchen *P.*

I. PURPOSE

The Chief Justice will be here in the White House for the purpose of swearing-in Elliot Richardson as Secretary of Commerce. However, he would also like to talk to you very briefly on the subject of the Commission on Executive, Legislative and Judicial Salaries. (If you agree, it may be most appropriate if the Chief Justice were invited to meet alone with you for five minutes before you both go to the East Room.)

II. BACKGROUND & PARTICIPANTS

A. Background: The Chief Justice is looking to the Commission on Executive, Legislative and Judicial Salaries as a means of assuring Federal judges that the problems created by the present level of judiciary salaries will be corrected through the operation of this Commission. On January 30, the Chief Justice had delivered to you the resignation of Judge Bell from the Fifth Circuit Court of Appeals, and this resignation was prompted solely by salary considerations. The Chief Justice will cite this resignation as being indicative of what will surely happen in an increasing number of cases. Judge Bell is only 55 years old, has served 14 years on the bench, is a most qualified judge, and now finds himself unable to meet his family obligations from his judicial salary. Thus, he is leaving to take a position with a private law firm.

B. Participants: Chief Justice Burger.



III. TALKING POINTS

1. I understand that the Commission on Executive, Legislative and Judicial Salaries is to be appointed in sufficient time to permit its recommendations for salary adjustments to be considered by the President and included with the President's budget to be submitted to the Congress in January 1977.
2. I believe the Commission members should be selected as soon as possible so that they can begin their deliberations in July of this year or very soon thereafter. Three of the members are to be appointed by me, two by you as Chief Justice, two by the President of the Senate, and two by the Speaker of the House. Therefore, it is important that all four appointing officials agree upon a date by which all of the appointments will be made.
3. I know that you are ready to act promptly and I shall talk to the Congressional leaders about their views on the matter.
4. I believe the members of this Commission should be carefully chosen and should be persons who will command the respect of the public and the confidence of all three branches of government.

cc: Peter McPherson



THE WHITE HOUSE

WASHINGTON

February 3, 1976

MEMORANDUM FOR: DOUGLAS BENNETT

FROM: PHIL BUCHEN 

On Monday, February 2, the President met briefly with Chief Justice Burger along with Jim Lynn and me. The Chief Justice brought up the subject of the desirability to have members of the Commission on Executive, Legislative and Judicial Salaries appointed promptly. This Commission was established under Section 225 of the Postal Revenue and Salaries Act of 1967 (2 U.S.C. Sec. 351 et seq.) and is to be appointed at four year intervals to make recommendations to the President on pay rates for Senators, Representatives, federal judges and certain officers in the Executive branch. The Act calls for appointment of a reconstituted Commission this year in time to permit its recommendations to be considered by the President and included with the President's budget to be submitted to the Congress in January 1977. Three members are to be appointed by the President, two by the Chief Justice, two by the President of the Senate and two by the Speaker of the House.

The President expressed his willingness to join with the other appointing officers in making these appointments fairly soon so that the Commission would have ample time for its deliberations.

The Commission must be appointed from persons outside of Government and it is desirable that they be distinguished persons who will command the respect of the public and the confidence of all three branches of Government.

In order to achieve a balanced Board, it appears desirable that there be coordination between the appointing officers before their respective selections are made and announced.

After the meeting, the Chief Justice handed me information from Who's Who in America which is



attached. The names marked are ones that he thought should be among the persons to be considered by one or more of the appointing officers.

Attachment

cc: Richard Cheney
Jim Lynn

WEBB, GEORGE ARTHUR, chem. engr.; b. Liverpool, Eng., July 7, 1910; s. George and Alice E. (Shields) W.; brought to U.S., 1920, naturalized, 1924; B.S. with highest honors, U. Pitts., 1934, Ph.D., 1941; grad. student Carnegie Inst. Tech., 1934-37; m. Sara R. Baumann, July 31, 1937; 1 dau., Barbara Jeanne. With Clairton By-Products Coke plant U.S. Steel Corp., 1934-37; indsl. fellow Mellon Inst., 1937-40, sr. fellow, 1941-43, dir. engring, 1956-57, dir. adminstr., 1957-67, asst. dir., 1967-71; dir. sponsored research Carnegie-Mellon U., 1971-; research engr. Firestone Tire & Rubber Co., 1940-41; with Koppers Co., Inc., 1943-56, successively research engr., mgr. engring sect., asst. mgr. devel. dept., asst. to v.p. research, exec. sec. new products com., mgr. planning dept., 1945-56. Registered prof. engr., Pa. Mem. Am. Inst. Chem. Engrs. (chmn. Pitts. sect. 1949), Am. Chem. Soc. (dir. Pitts. sect. 1956), Am. Soc. M.E., A.A.S., Am. Soc. Engring, Edn., Nat. Soc. Prof. Engrs., Sigma Xi, Phi Lambda Upsilon, Tau Beta Pi, Sigma Tau. Clubs: Chemists (v.p. 1945), University (Pitts.). Holder 19 U.S. and fgn. patents in field of dehydrogenation, hydrolysis, halogenation, polymerization. Home: 4822 Rolling Hills Rd Pittsburgh PA 15236 Office: Carnegie Mellon Univ Pittsburgh PA 15213

WEBB, GEORGE HENRY, conveyor mfr.; b. Detroit, Feb. 26, 1920; s. Jervis Bennett and Maureen (Campbell) W.; B.S. in Mech. Engring, U. Mich., 1942; m. Barbara M. McCain, Sept. 16, 1944; children—Barbara Alice (Mrs. George H. Bufford, Jr.), Dianne M. (Mrs. George A. Abbott), Ann M. (Mrs. Jimmy L. Tuck), Patricia M. With Jervis B. Webb Co., Detroit, 1942-; exec. v.p., 1970-; also dir.; sec. dir. Webb Forging Co., Webb Electric Co., Control Engring Co., Ann Arbor Computer Co., Ad/Venture Co., Jervis B. Webb Internat. Co., Jervis B. Webb Co. Ga., Can. and Cal., Webb World Wide, Inc., Jervis B. Webb Continental Co. Mem. Am. Soc. M.E., Soc. Automotive Engrs., Engring, Soc. Detroit. Mason (Shriner, K.T.). Clubs: Detroit Athletic; Bloomfield Hills (Mich.); Orchard Lake (Mich.); Shawnee Country (Stroudsburg, Pa.); Del Safari Country (Palm Desert, Cal.). Home: 140 Harlan St Bloomfield Hills MI 48013 also 75-711 Temple Lane Palm Desert CA 92260 Office: 9000 Alpine Av Detroit MI 48204

WEBB, HAMILTON BROOKHOLDING, physician; b. N.Y.C., Apr. 2, 1914; s. Hamilton Webb and Dorothy (Titus) W.; grad. Exeter Acad., 1931; B.S., Yale, 1935; M.D., Columbia, 1939; m. Joan Gramlich, Dec. 30, 1939; children—Penelope (Mrs. James Armstrong), Polly (Mrs. Donald L. Broyles), Dorothy, Pamela (Mrs. Richard Selden), Daphne. Intern Lenox Hill Hosp., N.Y.C., 1939-40, resident, 1940-41; commd. 1st Lt. M.C., U.S. Army, 1942, advanced through grades to brigadier gen. USAF, 1970; surgeon 7th Air Force, Vietnam, 1970, TAC, Langley AFB, Hampton, Va., 1970-73; ret., 1973; practice gen. medicine, Cheyenne, Wyo., 1946-48; chief med. services Library Congress, Washington, 1973-; lectr. medicine Med. Sch., U. Kan., Kansas City, 1960-62. Decorated Legion Merit, Bronze Star, several others. Fellow Aerospace Med. Assn.; mem. A.A.S., Smithsonian Assn. Contrb. prof. jouns. Home: 4701 Willard St Chevy Chase MD 20015 Office: Library Congress Washington DC 20540

WEBB, HAROLD VERNON, assn. exec.; b. Lincoln, Kan., Aug. 5, 1919; s. Bertie Lee and Clarissa (Davis) W.; B.S. in Edn., Kan. State Tchrs. Coll., 1941, M.S. in Edn., 1949; Ph.D. in Edn., U. Wyo., 1955; m. Beulah Lucille Haas, May 24, 1942; children—David Vernon, Jon Douglas, Jeffrey Marshall. Supt. schs., Quincy, Kan., 1946-47; Bucklin, Kan., 1950-53; prin. Elmdale (Kan.) High Sch., 1947-50; instr. U. Wyo., 1953-55, dir. div. sch. services, 1955-58; lectr. Northwestern U., 1958-61; asso. exec. dir. Nat. Sch. Bds. Assn., Evanston, Ill., 1958-60, exec. dir., 1961-; Cons. in edn., 1958-; Mem. nat. adv. bd. ERIC Clearinghouse on Ednl. Mgmt. Served to 1st lt. AUS, 1941-46. Mem. N.E.A., Am. Assn. Sch. Adminstrs., Am. Soc. Assn. Execs., Edn. Comm. States (commr.), Quill, Phi Delta Kappa, Kappa Delta Pi, Pi Gamma Mu. Conglist. Home: 2505 Greenwood Av Wilmette IL 60091 Office: State Nat Bank Plaza Evanston IL 60621

WEBB, HARRY CHARLES, sulphur co. exec.; b. Felsenthal, Ark., Sept. 30, 1905; s. Victor Leach and Lillian Zenobia (Stinnett) W.; student U. Tex., m. Ruth Alene Brown, July 5, 1939; children—Harry Charles, Richard C. With Tex. Gulf Sulphur Co., Houston, 1929-53, beginning as supply asst. successively exec. asst., asst. to v.p., pub. relations; pres. Pan Am. Sulphur Co., Dallas, 1954-70, dir., 1953-70, ret.; now cons. Clubs: Houston; Petroleum, Coronado River Oaks Country. Home: 6126 Riverview Way Houston TX 77027 Office: Southwest Bldg Houston TX 77002

WEBB, HOWARD WILLIAM, JR., educator; b. Dayton, O., June 23, 1925; s. Howard William and Martha (Brown) W.; B.A., Denison U., 1947; M.A., State U. Ia., 1950, Ph.D., 1953; m. Joyce Moore Cooper, Nov. 20, 1947; children—Howard William (dec.), Amy Forrest, Sarah Winship. Asst. prof. English, Central Mo. State Coll., 1953-56; asst. prof. So. Ill. U., Carbondale, 1956-62, asso. prof. English, 1962-67, prof. English, 1967-; dir. grad. studies in English, 1961-67, atng chmn., 1968, chmn., 1968-72. Served with USNR, 1943-46. Mem. Modern Lang. Assn., Am. Studies Assn., Am. Assn. U. Profs., Midwest Modern Lang. Assn., Midcontinent Am. Studies Assn. Editor: Illinois Prose Writers: An Anthology, 1968. Contrb. articles prof. jouns. Home: 622 Glenview Dr Carbondale IL 62901

WEBB, JACK, radio, TV producer, writer, dir., actor; b. Santa Monica, Cal., Apr. 2, 1920; s. Samuel Chester and Margaret (Smith) W.; student pub. schs.; m. Julie Peck, July 1947 (div. 1957); children—Stacy, Lisa; m. 2d, Dorothy Thompson, Jan. 1955 (div. 1957); m. 3d, Jackie Loughery, June, 1958 (div. 1964). Starred radio show Pat Novak for Hire, San Francisco, 1945, Johnny Modero Pier 23, 1947; created radio show Dragnet, 1949, began TV show, 1951; producer-dir. TV series Noah's Ark; created radio show Pete Kelly's Blues, 1950, True Series, 1961; now owner; owner releasing firm Mark VII Ltd., music pub. firms Mark VII Music, Pete Kelly Music; exec. charge TV prodn. Warner Studios, 1963; producer, dir., star Dragnet, 1967-70; exec. producer, creator Adam-12, 1968-71; exec. producer The D.A., 1971, O'Hara, U.S. Treasury, 1971; feature roles in films The Men, Halls of Montezuma, He Walked by Night, You're in the Navy Now, Sunset Boulevard; producer, dir. motion picture Archie, 1959; actor-dir. motion picture Dragnet, 1954, 66. Pete Kelly's Blues, 1955, The D.I., 1957, All About Archie, 1960. Author: The Badge, 1958. Hon. chmn. United Cerebral Palsy Assn. Holder over 100 commendations of merit, award by radio, TV critics. Served with USAF, World War II; named hon. sgt. USMC. Mem. Screen Actors Guild, Screen Dir's. Guild, Am. Soc. Cinematographers, Am. Fedn. Radio Actors. Club: San Francisco Press. Maintains large pvt. collection photograph records, photographs, periodicals, etc., pertaining to U.S. in 1920s. Office: Universal City Studio University City CA 92122

WEBB, JAMES EDWIN, lawyer; b. Granville County, N.C., Oct. 7, 1906; s. John Frederick and Sarah (Gorham) W.; A.B., U.N.C., 1928; student George Washington U. Law Sch., 1933-36; LL.D., U.N.C., 1949, Syracuse U., Colo. Coll.; Sc.D., U. Notre Dame, 1961, also other hon. degrees; m. Patsy Aiken Douglas, May 14, 1938; children—Sarah Gorham, James Edwin Jr. Exec. asst. to under-secret. of treasury, 1946; dir. Bur. of Budget, 1946-49; undersec. of state, 1949-52; dep. gov. internat. bank for Reconstr. and Devel. and IMF,

1949-52; pres., gen. mgr. Republic Supply Co., 1953-58, chmn. bd., 1959-60; asst. to pres. and dir. Kerr-McGee Oil Industries, Inc., Oklahoma City, 1952-61, 69-; dir. McDonnell Aircraft Co., 1952-61, Fidelity Nat. Bank, 1957-59, Fed. Home Loan Bank, Topeka, 1956-58; adminstr. NASA, 1961-68, practice of law, Washington, 1968-; Dir. Kerr-McGee Corp., McGraw-Hill, Inc., Acuity Systems, Inc., Sperry Rand Corp., Gannett Co., Inc. Mem. Govt. Procurement Comm., 1972-73; mem. Comptroller Gen.'s Cons. Panel, Regent Smithsonian Instn.; trustee Inst. for Ct. Mgmt. Served to lt. col. as comd. officer, 1st Marine Air Warning Group, 1944-45; lt. col. USMC Res. Recipient Robert J. Collier trophy, 1966; Distinguished Service medal NASA, 1968; Presidl. Medal of Freedom, 1969; Goddard Meml. trophy, 1971; N.C. Pub. Service award, 1971; Okla. State U. Gannett Service award, 1973; Gen. Accounting Office award for pub. service, 1973; named to Okla. Hall of Fame, 1967. Mem. Nat. Geog. Soc. (trustee), Marine Corps Res. Officers Assn., Am. Soc. Pub. Adminstr. (pres. 1966-67), Nat. Acad. Pub. Adminstr. (treas. 1969-), Am. Polit. Sci. Assn., Soc. Advancement Mgmt., Am., D.C. bar assns., Acad. Polit. Sci., Am. Mgmt. Assn., Nat. Planning Assn., Phi Beta Kappa, Phi Delta Phi Presby. Democrat. Mason. Clubs: University, The Brook (N.Y.C.); University, Chevy Chase, Metropolitan (Washington); Alfalfa. Home: 2800 36th St NW Washington DC 20007 Office: 1771 N St NW Washington DC 20036

WEBB, JAMES LEWIS ADRIAN, educator, chemist; b. Webb, Miss., Nov. 17, 1917; s. Lewis Daniel and Margaret (Turner) W.; B.S., Washington and Lee U., 1939; Ph.D., Johns Hopkins, 1943; m. Jeanne Eleanor DeHoff, June 6, 1946; children—Lewis Daniel (dec.), Mary Josephine, James Lewis Adrian, Jeanne Eleanor. From asst. prof. to prof. Southwestern at Memphis, 1945-59; research chemist Chapman Chem. Co., 1951-59; mem. faculty Goucher Coll., 1959-; prof. chemistry, chmn. dept., 1965-; Mem. Am. Chem. Soc. (chmn. Memphis 1959), Phi Beta Kappa, Sigma Xi, Episcopalian. Author articles, book. Patentee in field. Home: 1915 Eastridge Rd Timonium MD 21093 Office: Dept Chemistry Goucher Coll Towson MD 21204

WEBB, JAMES PREVOST, physical scientist; b. New Orleans, Apr. 20, 1913; s. Prevost A. and Adrienne (Metreud) W.; student La. Poly. Inst., 1931-33, 38, Marquette U., 1943, George Washington U., 1945, U.S. Dept. Agr. Grad. Sch., 1947-48, U. Munich (Germany), 1951; m. Rosalie E. Young, Nov. 11, 1938; 1 dau., Rosalind E. (Mrs. Zahn). Chief draftsman N. La. area Soil Conservation Service, 1935-42; photogrammetrist S. Atlantic div. Corps. Engrs., 1942-44; engr. U.S. Coast and Geodetic Survey, 1944-46; photogrammetric engr. Army Map Service, Corps Engrs., 1946-66, chief cartography services and inspection div., 1959-66, chief photogrammetric div., 1966-70; asso. tech. dir. U.S. Army Engr. Topographic Prodn. Center, 1970-72, ret. Cons. mapping disaster area in Chile, Pan Am. Union, 1960; del. to 10th, 12th Congresses Internat. Soc. Photogrammetry. Mem. Am. Soc. Photogrammetry (dir. 1956-58, pres. 1962; internat. liaison officer 1965-68), Am. Congress Surveying and Mapping (dir. 1960-61), Nat. Rifle Assn. Methodist. (steward), Mason (32). Author manuals, tech. articles; contbg. author to Man. of Photogrammetry, 1966; Manual of Color Aerial Photograph, 1968. Home: 2828 N Harrison St Arlington VA 22207

WEBB, JAMES R., corp. exec.; b. Bklyn., 1908. Vice pres. finance, dir. F.W. Woolworth Co.; dir. Kinney Shoe Corp. Home: 49 Plymouth Rd Glen Rock NJ 07452 Office: 233 Broadway New York City NY 10017

WEBB, JAMES RUFFIN, actor; b. Denver, Oct. 4, 1909; s. Browne Ruffin and Verna (Monarch) W.; A.B., Stanford, 1930; D.H.L., Mt. Mercy Coll., 1973; m. Susan Noble, Jan. 25, 1936; children—James Cox, Helen Catherine. Fiction writer for nat. mags., including Sat. Eve. Post, Colliers, Cosmopolitan, 1936-; screenwriter, 1938-; Founder, asso. Hollywood Museum, Los Angeles Music Center; trustee of Motion Picture Relief Fund. Served to maj. AUS, 1942-46; ETO. Decorated Invasion Arrowhead, Commendation; recipient Valentine Davies award for contrib. to motion picture community, 1962. Mem. Screen Writers Guild (sec. 1950), Writers Guild Am. (pres. screen br. 1961), Writers Guild Am. West (pres. 1962-63, nat. chmn. 1964-65), Internat. Writers Guild (pres. 1964-67, chmn. 1967-69), Writers Guild Acad. (pres. 1966-), Producers-Writers Pension Plan (bd. dirs., past chmn.), Acad. Motion Picture Arts and Scis., Navy League, Alpha Tau Omega, Republican. Episcopalian. Film scripts include: Apache, 1953; Vera Cruz, 1954; Trapeze, 1956; The Big Country, 1958; Port Chop Hill, 1959; Cape Fear, 1961; How the West Was Won (Acad. writing award), 1963; Cheyenne Autumn (Western Heritage writing award), 1964; Sinful Davey, 1969; The Hawaiians, 1970; The Organization, 1971. Home: 804 N Camden Dr Beverly Hills CA 90210

WEBB, JERVIS CAMPBELL, engring. exec.; b. Mount Vernon, N.Y., Mar. 22, 1915; s. Jervis Bennett and Maureen (Campbell) W.; B.S., Mass. Inst. Tech., 1937; m. Mary E. Craig, 1957. In engring., sales depts. Jervis B. Webb Co., Detroit, 1937-52, pres. gen. mgr., 1952-; pres. Jervis B. Webb Co. of Can., Ltd., Hamilton, Ont., Jervis B. Webb Co. of Cal., Los Angeles, Webb Forging Co., Belleville, Michigan, Jervis B. Webb Co. of Ga., Webb Electric Co., Detroit, Control Engring Co., Detroit, Campbell, Henry & Calvin, Inc., Detroit, Webb World Wide, Inc., Detroit; Jervis B. Webb Internat. Co., Detroit; v.p. Ann Arbor Computer (Mich.); sec., dir. Huron Forge & Machine Co., Jervis B. Webb (U.K.) Ltd., London; pres. dir. Jervis B. Webb de Mexico, S.A.; pres. dir. Jervis B. Webb Continental Co., Wilmington, Del. Mem. Nat. council Boy Scouts Am. Trustee Nat. Sanitation Found., Traffic Safety for Mich., Industry Adv. Com. on Adv. Com. on Automation, Detroit Country Day Sch., Detroit Inst. Tech. Mem. Am. Soc. M.E., Engring, Soc. Detroit, Material Handling Inst., Am. Materials Handling Soc., Conveyor Equipment Mfrs. Assn. (pres. 1935), Am. Ordnance Assn., Employers Assn. Detroit (dir.) Foundry Equipment Mgrs. Assn. (dir.), Mich. C. of C. (dir.), Mich. Mfrs. Assn. (dir.), N.A.M., Soc. Automotive Engrs., Greater Detroit Bd. Commerce, Newcomen Soc. N.A.M. Mason, Rotarian. Clubs: Engineers (N.Y.C.); Detroit Athletic (past pres., dir.), Detroit Economic, Hundred, Detroit Golf (Detroit); Huron River Hunting and Fishing, Lake Shore (Chgo.); Bloomfield (Mich.) Open Hunt; Orisego (Mich.) Ski. Contbr. numerous articles to trade mags. Patentee bracket for overhead trolley chain conveyors. Home: 635 Hillcrest Dr Bloomfield Hills MI 48013 Office: 9000 Alpine Av Detroit MI 48204

WEBB, JIMMY LAYNE, composer; b. Elk City, Okla., Aug. 15, 1946; s. Robert Lee and Sylvia Ann (Killingworth) W. Propr., Canopy Music Films Prods. Recipient Grammy award, 1967, 68. Mem. A.S.C.A.P., Am. Fedn. Musicians, Nat. Acad. Rec. Arts and Scis. (bd. dirs.), Composers and Lyricists Guild, A.F.T.R.A., Phi Mu Alpha (hon.). Composer: Up, Up and Away, 1966; Phoenix, 1966; MacArthur Park, 1967. Address: 8979 Sunset Blvd Los Angeles CA 90069

WEBB, LANCE, bishop; b. Boaz, N.M., Dec. 10, 1909; s. John Newton Shields and Delia (Lance) W.; B.A. with highest honors, McMurry Coll., 1931, D.D., 1948; B.D., So. Meth. U., 1934, M.A., 1934; summer student Union Theol. Sem. 1939, 47; D.D., Ohio Wesleyan U., 1960, MacMurray Coll., 1967; H.D.D., Ill. Wesleyan U., 1966; LL.D., So. Meth. U., 1966, McKendree Coll., m. Mary

Clubs: University, Jonathan, San Gabriel Country. Home: 825 San Marino Av San Marino CA 91108 Office: 2500 S Atlantic Blvd Los Angeles CA 90040

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U.S. State Dept. Mission to Turkey, 1967, to India, 1970, Pakistan, 1968, Greece, 1971. Trustee Boy's Club Greater Washington, 1955-62, Am. Inst. Found., 1962-68; Asso. YM-YWHA's Greater N.Y.; bd. dirs. Nat. Conf. Christians and Jews, N.Y.C. Vice chmn. Charities Adv. Com. of D.C., 1958-62; chmn. nat. men's com. for integrity in industry, mem. bus. adv. com. Religion in Am. Life, Inc.; chmn. nat. council U.S. People for UN. Served to 1st Lt. Signal Corps, AUS, 1942-46. Recipient 1970 Human Relations award Am. Jewish Com. C.P.A., N.C., N.J., Md., D.C., N.Y. Mem. Am. Inst. C.P.A.'s (v.p. 1962-63, exec. com. 1961-67, chmn. budget and finance com. 1962-63, 1964-67, trial bd., chmn. 1973-), D.C. Inst. C.P.A.'s (pres. 1956-57), N.Y., N.J. socs. C.P.A.'s Conf. Bd., U.S. (del. 1960-62), N.Y. (exec. com.; chmn. city affairs com.) chambers commerce, Acad. Polit. Sci., Inst. Mgmt. Sci. Commerce and Industry Assn. N.Y., Inc. (council 1965-72), UN Assn. N.Y. State (adv. council), U. Ill. Found. (dir.), Phi Kappa Phi (nat. dir.), Beta Alpha Psi (hon.), Beta Gamma Sigma, Phi Alpha Chi. Jewish religion (trustee temple). Clubs: National Capital Democratic (founding); Army-Navy, Woodmont Country (Washington); Town (Scarsdale); University, Harmonie, Pinnacle (N.Y.C.). Author: Managing Growth Through Acquisition, 1968; Strategies For Survival-Socio-Economic Management, 1973; The Corporate Conscience, 1974. Contrb. articles prof. journs. Home: 9 Wayside Lane Scarsdale NY 10583 Office: 919 3d Av New York City NY 10022

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LINSLEY, EARLE GORTON, univ. Cal., May 1, 1910; s. Earle Garfield U. Cal., 1932, M.S., 1933, Ph.D., 1934, Natural History, 1947-48, m. Joan Murdoch, parasitology U. Cal. at Berkeley, 1953—, 1953—, chmn. dept. entomology and College Agr. Sci., 1960—, asso. quarant. Agr., 1938; jr. entomologist Agr. Expt. entomologist, 1943-49, asso. entomologist, 1953—, asst. dir., 1960-62, asst. dir. Inst. Basic Research Sci., 1959-60, Acad. Sci., 1939—; collaborator Dext. Com. Entomol. Nomenclature, 1944-48, Galapagos Internat. Sci. Project, 1948, Orgn. Tropical Studies, 1968—; mem. Acad. Sci., 1963-69. Recipient citize Fellow A.A.A.S., Entomol. Soc. Am., Mus. Natural History, Cal. Acad. Sci., Cal. C. of C. (agri. com. 1967—), Pacific pres. 1938-40), Canadian, Kan. entomol. Cal. Acad. Sci., Am., Western socs. Western Assn. Agril. Expt. Sta. Dirs. Soc. Systematic Zoology, Am. Forestry Sigma Xi, Alpha Zeta, Phi Sigma, Gamma Commonwealth. Author: (with Mayr) Principles of Systematic Zoology, 1955, taxonomy, biology and ecology, Edm. 1943-50. Home: 290 Alvarado Rd Berkeley

LINSLEY, RAY KEYES, civil engr.; b. 1917; s. Ray Keyes and Flora Madeline Poly. Inst., 1937; D.Sc., U. Pacific, 1938, Nov. 26, 1937; children—Dianne, Stephen, 1937-40; engr. U.S. Weather Bur., 1942-44, chief hydrology, Washington, 1950-55, prof. head dept. civil engring., 1956-58, dir. project engring., Fulbright prof. Imperial Coll., London, Bradberry & Assos., 1959-67; pres. Hydrochm. Hydrocomp, 1972—; cons. engr. Washington, 1964-65. Comm. U.S. Nat. Recipient Meritorious Service award Dept. Am. Geophys. Union (pres. hydrology sect. (Collingwood prize 1943); mem. Am. Engring. Edn., Venezuelan Soc. Hydraul. Tau Beta Pi. Author: Applied Hydrology Hydraulic Engineering, 1955; Hydrology Water-Resources Engineering, 2d edit., Palo Alto CA 94301

LINSLEY, JOHN EDWARD, ins. exec.; s. William Edward and Alice (Harrington), 1940; m. Grace Schultz, Oct. 22, 1942; Pierce, Jr.), John W. Admitted to Mo. bar Employers Mutl. Liability Ins. Co., counsel, 1953-55, v.p. charge claim dept., malpractice of Dept. Health, Edn. and Welfare Marathon County, Inc., 1967; mem. Employment of Handicapped, 1962-69, 1964-70. Mem. Am., Mo. Wis. bar Counsel (v.p. exec. com. 1968-70), Am. C. of C. U.S., Delta Theta Phi. Republic articles to prof. journs. Home: 1115 E Cross Office: 2000 Westwood Dr Wausau WI 54481

LINTNER, JOHN, educator, economist; b. 1916; s. John Virgil and Pearl (Daily) L.; A.B., 1940; M.A., Harvard, 1942, Ph.D., 1946, m. H. Hodges, June 8, 1963; 1 stepson, Allan 1939-40; staff Nat. Bur. Econ. Research, Harvard, 1941-42, faculty Grad. Sch. Bus. adminstrn., 1956-64, Gund prof. econ. 1964—. Dir. U.S. & Fgn. Securities Corp. Bank. Cons. govt. agencies, pvt. founds., bank. com. Review of Economics and Statistics Acad. Arts and Scis., Econometric Soc., mem. Finance Assn., Am. Statist. Assn., Soc. of Fellows Kappa. Author: (with J. K. Butters) Effect of Growing Enterprises, 1945; Mutual Savings Mortgage Markets, 1948; Corporate Probs. (with J. K. Butters and W. L. Carpy) Effect of Mergers, 1951. Contrb. articles prof. bus.

DAVID C. TREEN
THIRD DISTRICT, LOUISIANA

MEMBER:
COMMITTEE ON
ARMED SERVICES

MEMBER:
COMMITTEE ON
MERCHANT MARINE AND
FISHERIES

MEMBER:
REPUBLICAN TASK FORCE ON
ENERGY AND RESOURCES

Congress of the United States
House of Representatives
Washington, D.C. 20515

January 23, 1976

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Mr. Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Mr. Buchen:

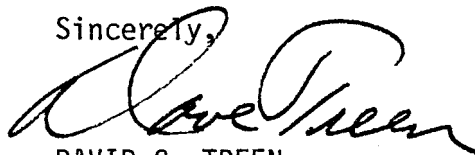
I will appreciate your advising me if the President has made the appointments required of him by 2 USC 352, which provides for the membership of the Commission on Executive, Legislative and Judicial Salaries.

It is my appreciation of the law that this Commission should be conducting the review required of it in order to report to the President no later than January 1, 1977.

If the President has not made the appointments required of him, would you please advise me of his intentions with respect thereto.

With many thanks for your assistance and with kind personal regards, I am

Sincerely,



DAVID C. TREEN
Member of Congress

DCT:am



THE WHITE HOUSE

WASHINGTON

Date: 2-13-76

TO:

PHIL BUCHEN

FROM: Max L. Friedersdorf

For Your Information ✓

Please Handle _____

Please See Me _____

Comments, Please _____

Other

*There is some
additional material
in support of signing
N.E. 6184*

To: Max Friedersdorf

From: Richard Vandivier



H.R. 6184

*Judicial
Salaries*

This Bill will carry into law a Federal salary policy which was adopted by the Legislative and Executive branches seven years ago. It has passed the Congress unanimously upon recommendation of the two Judiciary Committees without a dissenting vote.

In 1969 Congress exercised its prerogative by setting Federal judicial salaries generally, and specifically amended the Bankruptcy Act to provide a maximum salary of \$36,000 for these highly specialized jurists. The President endorsed this action and this salary policy became law. Accordingly, the present legislation merely enables this previously determined policy to obtain and does not upset any lawful balance of relative salary levels within the Federal Judiciary.

The other effect of this Bill is to rescind a delegation of authority which Congress gave initially and which clearly Congress can now restore to itself. This delegation permitted the Judicial Conference of the United States the power to set salaries of bankruptcy judges with due consideration given to case loads and related factors.

The Judicial Conference has decided upon analysis of case loads that each full time bankruptcy judge has sufficient activity in his locality to warrant the same pay. Since the Judicial Conference has made its determination that nationwide case loads in the Bankruptcy Courts are substantially equivalent the reason for delegation of this power to the Judicial Branch no longer exists, as has now been decided by a unanimous Congress.



With respect to the Judicial Conference, it should be noted that the opposition of the Conference to H.R. 6184 was communicated to both the House and the Senate. These views were given due consideration by both the House and the Senate Committees on the Judiciary. In neither Committee did the Judicial Conference's position receive any support whatsoever nor did the Conference receive any support for its position on the floor of either house.

A so-called "three-quarter" rule with respect to the relationship between the salaries of bankruptcy judges and Federal district judges may exist in the minds of some members of the Judiciary, but it is not the judicial salary policy of the United States nor has it been for seven years.

Actually the President set the \$36,000 figure presently in dispute on January 15, 1969 when he transmitted reduced salary recommendations of the Salary Commission to Congress. The Salary Commission had decided that \$40,000 was an appropriate level for bankruptcy judges.

Since that salary level was set by the Salary Commission in 1968 the "job description" has changed and is now considerably expanded.

First, with the passage of the Dischargeability Bill (P.L. 91-467) in 1970 and adoption of Rules of Bankruptcy Procedure in 1973, bankruptcy judges are for the first time vested with jurisdiction to try adversary proceedings, render judgments, conduct jury trials, punish for contempt and issue writs of habeas corpus.

Secondly, these judges resolutely try to keep current despite an avalanche of case filings. With but negligible additions in personnel, they have experienced case filing increases from 190,000 in fiscal year 1974 to

more than 250,000 in fiscal year 1975 and a strong likelihood of 280,000 in the present year.

Despite these added work dimensions, this Bill merely seeks to grant finally to 190 full time bankruptcy judges what was once given but never received.

For your convenience, attached hereto are:

Exhibit A - Remarks of Senator Burdick, February 5, 1975

Exhibit B - Senate Report

Exhibit C - House Report

Exhibit D - Article from The New York Times, February 6, 1976.

EXCERPTED CONGRESSIONAL RECORD--SENATE
February 5, 1975 S.1454

By Mr. BURDICK (by request):

S.582. A bill to amend section 40 of the Bankruptcy Act to fix the salaries of Referees in Bankruptcy. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, today I am introducing a bill which will amend section 40 of the Bankruptcy Act. The purpose of this bill is to restore to the Congress the sole and exclusive authority to fix salaries of the full-time bankruptcy judges along with all other members of the Federal judiciary similarly situated. It will also serve to implement the salary authorization made by Congress 6 years ago.

Section 40 provides that full-time bankruptcy judges shall receive salaries of not more than \$36,000 per annum and part-time bankruptcy judges, not more than \$18,000. Subject to those limitations, the statute gives the Judicial Conference of the United States the power to set the salaries of bankruptcy judges. The Conference is required to take into consideration such factors as the average number and types of cases handled by bankruptcy judges, the average amount of assets realized from such cases, the number of cases closed and pending in the territory during the preceding 10 years and such other factors as may be material.

The Judicial Conference has refused to bring any of the bankruptcy judges up to the maximum prescribed by Congress in the statute. In the past the maximum figure has been paid to at least some bankruptcy judges, those with the heaviest caseloads and the more difficult cases. Today, in spite of a record number of cases not a single bankruptcy judge receives the maximum \$36,000 which was authorized by Congress in 1969. Indeed the salaries of full-time bankruptcy judges which had been set by the Conference at \$30,000 was only increased to \$31,650 in 1972 as a result of congressional intervention.

This leveling of salaries is a result of a change in policy by the Judicial Conference in 1969. It was decided then that all full-time bankruptcy judges should be paid at the same rate. In accordance with this policy the Conference, in 1973, asked Congress for legislation repealing the language in section 40 containing the criteria for establishing the salaries of full-time bankruptcy judges.

The effect of the 6-year salary freeze has endangered the quality and effectiveness of the bankruptcy court. Three former law professors, two former State court judges, and one of the authors of the prestigious "Collier on Bankruptcy" have recently left the bankruptcy bench due to economic reasons. Other bankruptcy judges are on the verge of returning to State courts or private practice in the absence of prompt relief from

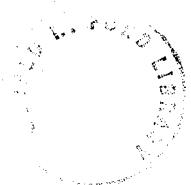
their present economic problems. Not surprisingly, the Bankruptcy Division of the Administrative Office of the U. S. Courts advises that recruitment is already becoming markedly more difficult because qualified attorneys are apprehensive over the existing inadequacy and long-range prospects for salary relief and security for bankruptcy judges.

Any weakening in the caliber of the bankruptcy bench could not come at a worse time. The volume and complexity of Federal bankruptcy litigation has already risen to heights never before experienced. Already fiscal 1975 has seen a rise of 33.2 per cent over the comparable period of fiscal 1974. Thus, fiscal 1975 could be the year with the largest number of filings in history.

It seems altogether appropriate then to rectify the salary inequities experienced by bankruptcy judges over the past several years. And, inasmuch as every full-time bankruptcy judge now receives the same salary without regard to the standards prescribed by section 40a. of the Bankruptcy Act, it also seems appropriate that Congress revoke its delegation of the authority to fix the salary of bankruptcy judges now that the reason for the congressional delegation of authority no longer exists.

Finally, a permanent return of the salary-fixing

authority to the Congress would do much to restore the confidence of bankruptcy judges and to preserve the important gains made in recent years in the quality and competence of the bankruptcy bench.



[COMMITTEE PRINT]

94TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 94-

REVISION OF THE SALARY FIXING PROCEDURE FOR
BANKRUPTCY JUDGES

— Ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary, submitted
the following

REPORT

[To accompany S. 582]

The Committee on the Judiciary, to which was referred the bill (S. 582) to improve judicial machinery by amending the procedure for fixing the salaries of bankruptcy judges and to implement the Congressional salary authorization of 1969 and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the Bill is to amend the salary setting procedure (11 U.S.C. 40) of the Bankruptcy Act. The bill would restore to the Congress the sole and exclusive authority to fix salaries of full-time bankruptcy judges. The bill would implement the Congressional salary authorization of 1969.

STATEMENT

This bill restores to the Congress the sole and exclusive authority to fix salaries of full-time bankruptcy judges and it implements the salary authorization made by Congress in 1969. It does not affect the authority of the Judicial Conference to fix salaries of part-time bankruptcy judges within the maximum set by Congress.

Under current law, the salary of a full or part-time bankruptcy judge is determined in four steps. First, the Commission on Executive, Legislative, and Judicial Salaries forwards suggested salary levels for various judicial officers and employees to the President. The President with such changes as he deems appropriate, transmits the report



gested salaries to the Congress and the salaries thus recommended become effective unless Congress takes contrary action. Congressional approval is final as to all recommended salaries except full and part-time bankruptcy judges. The Judicial Conference, using criteria prescribed by Congress in section 40a of the Bankruptcy Act is given the authority to determine the salary of individual bankruptcy judges within the statutory maximum.

HISTORY

The delegation of salary fixing authority for bankruptcy judges was enacted by Congress as a solution to a specific dilemma. Prior to 1946 bankruptcy judges were compensated by the universally deplored fee system. Congress, while decrying the fee system, determined that it would not be appropriate to grant a uniform salary level for bankruptcy judges as, in 1946, unlike today, there was a wide disparity in caseloads and geographical boundaries for the various bankruptcy courts. It was obviously impractical for Congress itself to monitor the bankruptcy system on a continual basis. The only practical alternative was to delegate salary fixing authority to the Judicial Conference while, at the same time, limiting this authority by the imposition of specific statutory standards and maxima which would insure that the implementation of this power would be within Congressional limits.

Historically, the Judicial Conference invariably and without exception authorized most full-time bankruptcy judges to receive the maximum salary permitted by section 40a.

The first statutory ceiling under the Referees' Salary Act, effective July 1, 1947, was immediately allowed to become effective as to all but 16 full-time bankruptcy judges.¹ The \$12,500 maximum authorized by the Act of July 7, 1952 was allowed to the bulk of full-time bankruptcy judges by Judicial Conference action in the fall of 1952.² The maximum \$15,000 salary authorized by the act of May 10, 1956 was approved by the Judicial Conference for most full-time bankruptcy judges, effective October 1, 1963.³ The statutory maximum of \$22,500 as fixed by Public Law 88-426 in 1964 was approved for the overwhelming majority of referees by the Judicial Conference on September 23-24, 1964 and was made retroactive to June 30, 1964.⁴

In 1969 two decisions of the Judicial Conference significantly altered the salary setting authority authorized by Congress in 40a of the Bankruptcy Act. The Judicial Conference adopted the policy that all full-time bankruptcy judges should be paid at the same rate.⁵ The Conference report dated November 1, 1969, also approved elimination of the criteria originally set by Congress in Section 40a.⁶ Thus, the Judicial Conference decided to ignore the very statutory standards which accompanied the grant of salary fixing authority.

¹ 22 Ref. J. 25 (1948).

² 28 Ref. J. 8 (1954).

³ Report of Proceedings of the Judicial Conference of the U.S. Sept. 19-20, 1946, at 18 (Administrative Office of the U.S. Courts, 1956).

⁴ Report of Proceedings of Judicial Conference of the U.S., Sept. 23-24, 1964 at 71 (Administrative Office of the U.S. Courts, 1964).

⁵ Report of Proceedings of the Judicial Conference of the U.S. Oct. 31-Nov. 1, 1969, at 76 (Administrative Office of the U.S. Courts, 1969).

⁶ *Ibid.*

Secondly, the Judicial Conference went on record as favoring salary parity between bankruptcy judges and U.S. magistrates. This policy decision also served to set the maximum salary which could be paid bankruptcy judges at 75-80 percent of the salary authorized Federal district judges.

The result of these policy changes was the refusal, for the first time, to permit any bankruptcy judge to receive the maximum salary authorized by section 40a. In 1968 the newly created Postal Revenue and Federal Salary Commission recommended that full-time bankruptcy judges receive \$40,000. The President reduced this recommended salary to \$36,000 and Congress, taking no contrary action, approved his recommendation. The Judicial Conference, acting on its new policy, ignored the congressional salary maximum by applying criteria nowhere authorized by statute and limited all full-time bankruptcy judges to a salary of \$30,000.

There are three reasons for enacting this legislation which will restore to the Congress the sole and exclusive authority to fix salaries of full-time bankruptcy judges and to implement the salary authorization made by Congress in 1969. They are:

(1) the Judicial Conference rejection of the criteria established legislatively by Congress in 40a of the Bankruptcy Act has eliminated the reason for the original congressional delegation of power;

(2) the Congressional authorization of a salary of \$36,000 is even more warranted by circumstances today than in 1969;

(3) the impact of the denial of the maximum salary authorization has threatened the quality of the bankruptcy bench at the most crucial period in its history.

NEED FOR DELEGATION OF SALARY FIXING POWER HAS BEEN ELIMINATED

The Judicial Conference in adopting the single salary policy which would be determined by criteria other than that prescribed by Congress has eliminated the justification or purpose for the Congressional grant of authority in 1946. The creation of the Commission on Executive, Legislative, and Judicial Salaries to conduct quadrennial reviews of the salary rates of designated federal judicial officers, including bankruptcy judges gives Congress the necessary capability to recommend the appropriate rates and relationships for federal bankruptcy judges' salaries. The Commission on Executive, Legislative and Judicial Salaries has in fact twice recommended that full-time bankruptcy judges receive a uniform salary of \$36,000. These recommendations were made in 1969 and 1973.

Judge Cyr in his opening statement at the hearings before the Subcommittee on Improvements in Judicial Machinery on May 1, 1975, questioned whether the Judicial Conference was equipped to exercise its salary fixing authority for bankruptcy judges. He stated:

The Conference generally meets but two days in March and two days in October of each year. It is comprised of twenty-five circuit and district judges who are concerned primarily with the administrative and judicial problems con-

fronted in the effort to cope with the expanding caseloads of their own busy courts. The Conference functions through a number of committees, including its Bankruptcy Committee, whose decisions are invariably adopted by the Conference itself. . . .

Bankruptcy judges have never been permitted to appear either before the Conference or its Bankruptcy Committee. Of course, no bankruptcy judge has been allowed membership on the Bankruptcy Committee . . . nor in any advisory capacity either to the Conference or to its Bankruptcy Committee.

In summary, as the Judicial Conference has ignored the criteria established by Congress in setting bankruptcy judges' salaries, the reason for the original delegation of power has been eliminated. The creation of the Commission on Executive, Legislative and Judicial Salaries' gives Congress the requisite assistance necessary to exercise the salary-fixing power. No further delegation of this authority is necessary.

JUSTIFICATION FOR IMPLEMENTING 1969 SALARY AUTHORIZATION

A. INCREASED VOLUME OF BANKRUPTCY FILINGS

In the years from 1948 to 1974 the number of filings in the bankruptcy courts climbed from 18,510 to 189,513. Since fiscal 1974, the number of bankruptcy cases has continued to grow at an explosive rate. Testimony presented at the May 1 hearings indicates that during the first 9 months of fiscal 1975, 184,655 bankruptcy filings were reported as compared to 136,597 in the first 9 months of fiscal 1974. This represents an increase of 48,058 filings or 35.2 percent as can be seen in the following tables.

The increase in the number of bankruptcy filings does not indicate the full measure of the increased strain on the resources of the bankruptcy courts. In fiscal year 1974, 20,746 business bankruptcies were filed which represents an increase of 18.6 percent over the prior fiscal year. The following table illustrates the number of business and non-business bankruptcies filed since 1969.

	Fiscal year—		Numerical increase	Percentage increase
	1975 (7 mos)	1974 (7 mos)		
Voluntary straight.....	111,025	85,253	+25,772	+30.2
Involuntary straight.....	780	542	+238	+43.9
Chapter IX.....	1	1	-----	-----
Chapter X.....	123	63	+60	+95.2
Chapter XI.....	1,875	1,162	+713	+61.4
Chapter XII.....	142	74	+68	+91.9
Chapter XIII.....	23,976	16,268	+7,708	+47.4
Section 77.....	0	15	-15	-----
Total.....	137,922	103,378	+34,544	+33.4

1st 9 mo fiscal year	Number of filings	Increase	Percentage of increase
1975.....	184,655	48,058	35.2
1974.....	136,597	-----	-----

Fiscal year	Non-business	Percent of total	Business	Percent of total	Total filings
1969.....	169,500	91.7	15,430	8.3	184,930
1970.....	178,202	91.7	16,197	8.3	194,399
1971.....	182,249	90.5	19,103	9.5	201,352
1972.....	164,737	90.1	18,132	9.9	182,869
1973.....	155,707	89.9	17,490	10.1	173,197
1974.....	168,767	89.1	20,746	10.9	189,513

When the Salary Commission recommended a salary level of \$36,000 in 1969 the total business filings numbered 15,430. In 1974, there were 20,746 filings representing an increase of 5,136 filings or 39.7 percent.

In addition, the increasingly heavy caseload which brings more and more complex issues before the bankruptcy court falls on a relatively static number of bankruptcy judges. As the following table indicates, the number of full-time bankruptcy judges serving as of March 1975 has increased by seven with a corresponding decrease of five in the number of part-time bankruptcy judges serving on the bench.

Date	Number full-time bankruptcy judges	Number part-time bankruptcy judges	Total
April 1969.....	183	35	218
March 1975.....	190	30	220

Thus, the individual bankruptcy judge must, through his own increased workload, cushion the every heavier number of bankruptcy case filings.

B. THE INCREASED JUDICIAL RESPONSIBILITY OF THE BANKRUPTCY JUDGE

The bankruptcy judge is in reality a trial judge of the bankruptcy court.⁸ This is not a new concept by any means. With the passage of Public Law 91-467 the so-called "Dischargeability Bill," and the adoption of the Rules of Bankruptcy Procedure, the judicial responsibilities of bankruptcy judges have been greatly expanded,⁹ vesting the bankruptcy court and specifically the bankruptcy judge with jurisdiction to determine the dischargeability of debts, and render judgments thereon,¹⁰ to conduct jury trials, to determine and punish for contempt and to issue writs of habeas corpus.¹¹

As Judge Conrad Cyr testified at the May 1st, hearings:

The jurisdictional responsibilities of bankruptcy judges embrace a wide gamut of cases. Their cases range from exceedingly large and complicated multipoint and multi-defendant adversary proceedings involving vast sums of money and intricate interpretations of the appropriate inter-

⁸ 20 Ref. J. 105 (1946).

⁹ 10 Ref. J. 48, 52 (1936).

¹⁰ Public Law 91-467, §§ 1 and 8 (Oct. 19, 1970).

¹¹ See, e.g. Rules 201(a) (3), 810, 913 and 920(a) of the Rules of Bankruptcy Procedure.

relationship of the complex provisions of the Bankruptcy Act with those of State and Federal commercial, tax, constitutional and other laws, to the relatively simple, but no less important, consumer cases wherein the rights of ordinary citizens to be relieved from the burdens of unmanageable indebtedness are the critical issues presented.

The increased jurisdictional responsibilities of the bankruptcy judges, coupled with the increase in bankruptcy filings since 1969 have given the bankruptcy courts a truly staggering caseload, both in regard to the number of filings and the complexity of legal issues presented by these filings. A random sampling of bankruptcy judges resulted in reports from 56 of the total 190 full-time and 31 part-time bankruptcy judges which are authorized for the 92 judicial districts.

Type of case	Number of cases	Number of creditors	Dollar amount of assets	Dollar amount of liabilities
Chapter 10.....	80	110,882	\$973,261,000	\$861,449,000
Chapter 11.....	1,569	593,102	3,978,686,000	4,683,750,000
Chapter 12.....	73	9,024	140,165,000	93,884,000
Total.....	1,722	713,008	5,092,112,000	5,639,083,000

As the data reflects, approximately one-third of the bankruptcy judges in the country are handling 722 business reorganization cases involving 713,000 creditors with dollar assets of over \$5 billion and dollar amounts of liabilities extending to almost \$6 billion. Significantly, these statistics do not include many of the heavy chapter XI areas. For example, the following localities are not included in the first 7 months of fiscal 1975 calculations: Tucson, Ariz.—13 filings; Eureka, Calif.—13 filings; San Francisco, Calif.—17 filings; Los Angeles, Calif.—134 filings; Tallahassee, Fla.—12 filings; Baltimore, Md.—13 filings; Grand Rapids, Mich.—10 filings; Nebraska—19 filings; New York-New Jersey—26 filings; Brooklyn, N.Y.—27 filings; Westbury, N.Y.—20 filings; Philadelphia, Pa.—46 filings; San Juan, Puerto Rico—73 filings; Memphis, Tenn.—15 filings; San Antonio, Tex.—21 filings; Roanoke, Va.—16 filings; and Milwaukee, Wis.—21 filings. Thus, there are 505 additional filings just in those limited areas which due to the incomplete reporting in this fiscal year are not included in the above data.

IMPACT OF THE DENIAL TO IMPLEMENT CONGRESSIONAL SALARY AUTHORIZATION

The refusal of the Judicial Conference to implement the maximum salary authorized by Congress of \$36,000 has had an economic impact on the bankruptcy bench which is severe and threatens to become irrevocable. Since April, 1969 when the salary of fulltime bankruptcy judges was set by the Judicial Conference at a level of \$30,000, 20 percent below the maximum authorized by Congress, the purchasing power of that salary has eroded to \$17,400 which is 23 percent below the \$22,500 the bankruptcy judge was receiving in 1965. Furthermore, even though corrective action were to be taken at once to restore the salaries to the statutory maximum, more than \$30,000 will have been irretrievably lost by every full-time bankruptcy judge in the country, due to the 6-year refusal of the Judicial Conference to permit imple-

mentation of the \$36,000 salary authorized by Congress. Likewise, immediate congressional action in returning these salaries to the statutory maximum historically allowed would at best give bankruptcy judges approximately the same purchasing power enjoyed in 1968.

But the harsh erosive effects alone do not indicate the full brunt of the economic impact of the Judicial Conference action on the bankruptcy judges. As the Salary Commission itself expressly stated:

The matter of retirement benefits ought to be considered in any comparative salary study.

A compulsory contribution of 7 percent of the bankruptcy judge's gross annual salary is required to provide the relatively meagre Civil Service retirement benefits available to him,¹² whereas district judges receive full salary upon retirement without having made any financial contribution whatever. Even if section 40a of the Bankruptcy Act did authorize the Judicial Conference to set the salaries of bankruptcy judges on the basis of a comparison with district judges salaries, it would be patently unrealistic and unfair to ignore that each full-time bankruptcy judge must now contribute more than \$2,200 each year toward his retirement fund.

The effect of the 6-year salary freeze imposed by the Judicial Conference has seriously endangered the quality and effectiveness of the bankruptcy bench.

The latest records of the Bankruptcy Division of the Administrative Office of the U.S. Courts indicates that in the past 5½ years 14 bankruptcy judges have resigned giving salary inequity as the reason for their resignation. Two such resignations occurred in 1970, none in 1971, three in 1972, two in 1973, five in 1974, and four through the first half of 1975. The following listing gives the name and location of bankruptcy judges who have resigned since 1970 because the Judicial Conference refused to implement the congressional salary authorization.

June 30, 1975: John J. Dillenschneider, Columbus, Ohio (Return to private practice).

June 30, 1975: Joseph Patchan, Cleveland, Ohio (Return to private practice).

June 25, 1975: Dudley H. Bower, Savannah, Georgia (Return to private practice).

June 1, 1975: James E. Yacos, Miami, Florida (Return to private practice).

December 31, 1974: Raymond J. Pellman, Cincinnati, Ohio (Retirement compensation).

December 31, 1974: Arthur Moller, Houston, Texas (Return to private practice).

December 1, 1974: Stephan J. Covey, Peoria, Illinois (Assume State judgeship).

November 7, 1974: Edward A. Quinnell, Marquette, Michigan (Assume State judgeship).

October 5, 1974: Daniel Cowans, San Jose, California (Return to private practice).

November 16, 1973: Robert P. Fullerton, Denver, Colorado (Assume State judgeship).

¹² Report of Proceedings of the Judicial Conference of the United States, Sept. 17 and 18, 1963, at 85. (Administrative Office of the U.S. Courts, 1963.)

September 1, 1973: Jerold L. Strashein, Omaha, Nebraska (Return to private practice).

July 31, 1972: William Corrigan, St. Louis, Missouri (Assume State judgeship).

June 15, 1972: Robert Ervin, Tallahassee, Florida (Return to private practice).

February 15, 1972: Charles T. Hamlin, Fresno, California (Assume State judgeship).

June 30, 1970: Edward J. Houston, Miami, Florida (Return to private practice).

While the 3-year period 1970 thru 1972 saw four resignations, a period of 2 and one-half years, 1973 thru June 30, 1975 has seen the number of resignations nearly triple to 11.

Among those who resigned are three former law professors, two former State court judges, and one of the authors of the prestigious Collier on Bankruptcy. Other bankruptcy judges are on the verge of returning to State courts or private practice in the absence of prompt relief from their economic problems. Not surprisingly, the Bankruptcy Division of the Administrative Office of the U.S. Courts advises that recruitment is already becoming markedly more difficult because qualified attorneys are apprehensive over the existing inadequacies and the long range prospects for salary relief and security for bankruptcy judges.

In hearings before the Subcommittee on Improvements in Judicial Machinery, Judge Joseph Patchan, Northern District of Ohio, urged that Congress take corrective action. Judge Patchan, who had recently resigned his judgeship testified:

The more long range reason for my departure is the continuing failure of the Judicial Conference to fix salaries as Congress has directed. For 6 years, in disregard of the criteria provided by Congress, the Conference has substituted its own salary policy. The effect is to deny all bankruptcy judges the full \$36,000 figure authorized by Congress in 1969. Thus, the only hope for many sorely pressed to remain on this bench is in Congress, via (the) amendment to Section 40 of the Bankruptcy Act. Unless Congress returns to itself the exclusive power to fix bankruptcy judges' salaries in whatever relation it deems proper to other judicial officers, I believe the already high rate of resignations from the bankruptcy bench will increase substantially.

With 1975 already well on its way to becoming the year with the largest number of filings in history, the committee deems it altogether imperative to rectify the salary inequities experienced by bankruptcy judges over the past several years.

ADMINISTRATIVE OFFICE OF THE U.S. COURTS,
Washington, D.C., April 25, 1975.

HON. QUENTIN N. BURDICK,
Committee on the Judiciary, U.S. Senate,
Washington, D.C.

DEAR SENATOR BURDICK: This is in response to your letter of April 22, 1975, extending the opportunity to testify or submit a statement on

behalf of the Administrative Office at the hearing to be held on May 1, 1975, on S. 582, a bill to amend Section 40 of the Bankruptcy Act.

As you know, the Judicial Conference of the United States and this office have urged the Congress to enact legislation to increase the compensation of all federal judicial officers. While we, of course, favor an increase in the salaries of referees in bankruptcy, we believe it would be unfortunate to increase the salaries of one segment of the federal judiciary without doing so for the judges of the United States Courts of Appeals, the United States District Courts, and the United States Magistrates. Furthermore, the Judicial Conference of the United States is on record as favoring parity in the salaries of magistrates and referees in bankruptcy and the provisions of S. 582 are limited solely to referees in bankruptcy.

The foregoing represents the position both of the Judicial Conference and of the Administrative Office of the United States Courts and is submitted in response to your letter. In the circumstances I do not believe it will be necessary for any further testimony to be submitted on behalf of either the Conference or the Administrative Office.

Sincerely,

WILLIAM E. FOLEY, *Deputy Director.*

COST

The anticipated cost of this legislation is \$826,500. This figure has been determined by the projected increase of \$4,350 a year for 190 full-time bankruptcy judges.

SECTION BY SECTION ANALYSIS

Section (a)—This section amends subdivisions a and b of section 40 of the Bankruptcy Act.

Subdivision a (1) is amended to provide that all full-time referees in bankruptcy shall receive a salary of \$36,000 per annum, subject to adjustment pursuant to Public Law 90-206, title II, December 16, 1967 (81 Stat. 643). The salary authorization is final and would not be subject to adjustment by the Judicial Conference.

Subdivision a (2) provides a maximum salary of \$18,000 for part-time referees in bankruptcy subject to gradation by the Judicial Conference based on average number and types of, and the average amount of gross assets realized from, cases closed and pending in the territory the referee is to serve, during the last preceding period of 10 years and to such other factors as may be material.

Section d(2) is amended to provide that compensation paid retired referees who have been recalled to perform specified duties shall be based on the salary paid the referee serving the territory except if the referee is assigned to serve on a full-time basis in the territory of a part-time referee he shall receive the rate for full-time service.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows:

SECTION 40 OF THE BANKRUPTCY ACT

[(a) Referees shall receive as full compensation for their services salaries to be fixed by the conference, in the light of the recommendations of the councils, made after advising with the district judge of their respective circuits, and of the Director, at rates not more than \$36,000 per annum for full-time referees, and not more than \$18,000 per annum for part-time referees. In fixing the amount of salary to be paid to a referee, consideration shall be given to the average number and the types of, and the average amount of gross assets realized from, cases closed and pending in the territory which the referee is to serve, during the last preceding period of ten years, and to such other factors as may be material. Disbursement of such salaries shall be made monthly by or pursuant to the order of the Director.]

[(b) The conference, in the light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, may increase or decrease any salary, within the limits prescribed in subdivision (a) of this section, if there has been a material increase or decrease in the volume of business or other change in the factors which may be considered material in fixing salaries: *Provided, however,* That during the tenure of any full-time referee his salary shall not be reduced below that at which he was originally appointed under this amendatory Act, and during any term of any such referee his salary shall not be reduced below the salary fixed for him at the beginning of that term.]

[(d)(2) Any referee who has retired or been retired under the provisions of paragraph (1) of this subdivision may, if called upon by a judge of a court or bankruptcy, perform such duties of a referee, conciliation commissioner, or special master under this title, within the jurisdiction of the court, as he may be able and willing to undertake. The retired referee shall receive as compensation for his services, either full or part time, the salary authorized for the referee serving the territory to which the retired referee is assigned. However, the rate of compensation of a retired referee assigned to serve on a full-time basis in the territory of a part-time referee shall be the minimum rate established by the Judicial Conference of the United States for full-time service. Salaries authorized under this paragraph shall be subject to the provisions of section 8344(a) of Title 5.]

(a) *The compensation of referees in bankruptcy shall be as follows:*

(1) *Each full-time referee in bankruptcy shall receive a salary of \$36,000 per annum, subject to adjustment pursuant to Public Law 90-206, title II, December 16, 1967 (81 Stat. 643).*

(2) *Each part-time referee in bankruptcy shall receive a salary of not more than \$18,000 per annum, subject to adjustment pursuant to Public Law 90-206, title II, December 16, 1967 (81 Stat. 643), and subject to further adjustment by the conference, in the light of recommendations of the councils, made after advising with the district judges of their respective circuits, and the Director. In fixing the amount of the salary to be paid to a part-time referee, consideration shall be given to the average number and types of, and the average amount of gross assets realized from,*

cases closed and pending in the territory which the part-time referee is to serve, during the last preceding period of ten years, and to such other factors as may be material.

(3) *Disbursement of salaries of referees shall be made monthly by or pursuant to order of the Director.*

(b) *The conference, in light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, may increase or decrease the salary of any part-time referee, within the limit prescribed in subdivision a (2) of this section, if there has been a material increase or decrease in the volume of business or other change in the factors which may be considered material in fixing salaries.*

(d)(2) *Any referee who has retired or been retired under the provisions of paragraph (1) of this subdivision may, if called upon by a judge of a court of bankruptcy, perform such duties of a referee, conciliation commissioner, or special master under this Act, within the jurisdiction of the court, as he may be able and willing to undertake. The retired referee shall receive as compensation for his services, either full or part time, the salary authorized for the referee serving the territory to which the retired referee is assigned. However, the rate of compensation of a retired referee assigned to serve on a full-time basis in the territory of a part-time referee shall be the rate for full-time service. Salaries authorized under this paragraph shall be subject to the provisions of section 13(b) of the Civil Service Retirement Act.*

RECOMMENDATIONS

The committee believes that S. 582 is meritorious and recommends it do pass.

○

Exhibit C

REVISION OF SALARY FIXING PROCEDURE FOR BANKRUPTCY JUDGES

SEPTEMBER 10, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. EDWARDS of California, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 6184]

The Committee on the Judiciary, to whom was referred the bill (H.R. 6184) to amend Section 40 of the Bankruptcy Act to fix the salaries of referees in bankruptcy, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to restore to the Congress the sole and exclusive authority to fix the salaries of full-time bankruptcy judges, as it now has with respect to all other Federal judicial officers.

STATEMENT

This bill restores to the Congress the sole and exclusive authority to fix the salaries of the full-time referees in bankruptcy.

Referees in bankruptcy, now called bankruptcy judges under the recently adopted Rules of Bankruptcy Procedure, are full judicial officers. Though under the original Bankruptcy Act of 1898, it was contemplated that District Court judges would be the bankruptcy judges, and the referees would act only as special masters in certain cases, evolution of practice among the District Courts, and the enactment of the Chandler Act in 1938 have conferred greater status and responsibilities on the referees in bankruptcy. Presently, in nearly all judicial districts, the bankruptcy judge, or referee, presides over all aspects of bankruptcy cases. During the course of a case there may be several full scale trials, initiated by a complaint, and tried before the court as in any court of general jurisdiction. The bankruptcy judge's orders and decisions are final in every such proceeding, unless appealed to the District Judge. The scope of their responsibilities is



wide, for the nature of litigation that finds its way into bankruptcy court knows no bounds. A bankruptcy judge in even an uncomplicated case may hear contract, tort, tax, family law, property or labor causes of action. He must hear evidence, make findings, and render a decision just as his brethren on the District Court or a State court of general jurisdiction do. In addition, the bankruptcy courts in this country deal with tens of billions of dollars of assets every year in both straight bankruptcy cases and arrangements and reorganizations, and presided over more than 248,000 new cases in fiscal 1975 alone.

The current procedure for setting the salaries of full-time referees in bankruptcy is as follows: The Commission on Executive, Legislative, and Judicial Salaries reviews salary levels of top Federal employees, including all Federal judges and bankruptcy judges, every four years. It forwards its recommendations to the President, who, after review and with such changes as he deems appropriate, transmits the recommendations to the Congress. If Congress does not act within 30 days, the recommendations become effective. Congressional approval is final with respect to all salaries covered by the Commission's mandate, except those of full- and part-time referees in bankruptcy. Currently, Congressional approval of the salary recommendations of the Salary Commission for full- and part-time referees in bankruptcy is then subject to review by the Judicial Conference of the United States. Under Section 40 of the Bankruptcy Act, the Judicial Conference of the United States is to set the salaries of the full- and part-time bankruptcy judges according to specific statutory criteria and within the statutory maximum that was last set by the Congressional salary authorization of 1969.

The reason for this anomaly is historical, and has been eliminated both by the current uniformity of salaries among the full-time bankruptcy bench, and by the creation, by Congress, in 1967, of the Commission of Executive, Legislative and Judicial Salaries. Prior to 1946, referees in bankruptcy were compensated on the universally deplored fee-system—in essence, in a commission on the size of the estate administered. This system gave the referees the appearance of partiality in their deliberations, because their fees depended on the outcome of the litigation over which they presided. Congress established the Referees' Salary and Expense Fund in 1946, and put all referees, both full- and part-time, on a salary basis. However, at that time, the case-loads of even full-time referees varied widely around the country. In order to facilitate the transition to the salary system, the Congress delegated to the Judicial Conference the power to determine the salary each referee would receive, according to specific statutory guidelines, such as caseload and size of estates administered and subject to a statutory maximum. For 23 years, the Judicial Conference set salaries for full-time referees according to the statutory criteria and periodically increasing maxima. Nearly all full-time referees were given the full amount authorized by law.

In 1967, Congress created the Commission on Executive, Legislative and Judicial Salaries. The Commission issued its first recommendation in 1968, suggesting a salary of \$40,000 for full-time referees in bankruptcy. The President reduced this recommendation to \$36,000 before transmitting the recommendations to Congress. Congress approved

these recommendations in 1969, thus amending Section 40a of the Bankruptcy Act to authorize a maximum salary for full-time referees of \$36,000. According to Section 40a, however, the Judicial Conference had to act before the referees could be given the salary increase.

Instead of following its previous policy of granting the full amount authorized by law to the great bulk of the full-time referees, the Judicial Conference articulated a new policy. First, it determined to pay all full-time referees the same amount. That is, it acknowledged that the differences in caseloads among referees around the country that had warranted Judicial Conference supervision on referees' salaries in 1946 no longer existed. Their workloads were fairly uniform, and thus their salaries would be the same. That action alone would have warranted Congressional action to regain the sole and exclusive control over Federal judicial salaries that Congress had traditionally exercised. In addition, however, the Judicial Conference at the same time decided to ignore the statutory maximum and criteria in setting the salaries of full-time referees. The reasons advanced included the uniformity of workload among the referees, and consequent lack of need for statutory standards to measure differences in salary entitlement. The studied rejection of Congressional standards in the exercise of a delegated power more than warrants Congress' cancellation of the delegation and reassumption of the authority itself. Thus, it is now time for the Congress to regain its sole and exclusive authority in the setting of judicial salaries—authority which the Judicial Conference has exercised in clear violation of the 1969 Congressional mandate.

There are three reasons for this change. First, the Judicial Conference has adopted a policy contrary to that expressed by Congress six years ago, in refusing to grant to any full-time referee the full amount allowed by the increased statutory ceiling of \$36,000 set by Congress in 1969. That Congress fully expected the Conference to grant that increase to nearly all full-time referees is evidenced by the Conference's actions with respect to prior Congressional Authorizations. The Judicial Conference invariably and without exception authorized nearly all full-time referees to receive the maximum salary permitted by Section 40a.

The first statutory ceiling under the Referees' Salary Act, effective July 1, 1947, was immediately allowed to become effective as to all but 16 full-time bankruptcy judges.¹ The \$12,500 maximum authorized by the Act of July 7, 1952 was allowed to the bulk of full-time bankruptcy judges by Judicial Conference action in the fall of 1952.² The maximum \$15,000 salary authorized by the Act of May 10, 1956 was approved by the Judicial Conference for most full-time bankruptcy judges, effective October 1, 1963.³ The statutory maximum of \$22,500 as fixed by Public Law 88-426 in 1964 was approved for the overwhelming majority of referees by the Judicial Conference on September 23-24, 1964 and was made retroactive to June 30, 1964.⁴

¹ 22 Ref. J. 23 (1948).

² 28 Ref. J. 8 (1954).

³ Report of proceedings of the Judicial Conference of the United States Sept. 19-20, 1946, at 18 (Administration Office of the U.S. Courts, 1956).

⁴ Report of proceedings of the Judicial Conference of the United States, Sept. 23-24, 1964, at 71 (Administrative Office of the U.S. Courts, 1964).

However, when Congress raised the maximum to \$36,000 in 1969, the Conference did not follow suit. Instead, it set its own ceiling of \$30,000 on the referees' salaries. Congress must now reassert its position as the policy-making body for the nation's top judicial officers, and implement the 1969 decision to pay the bankruptcy judges.

Second, the Judicial Conference has recognized that the original factors that required the delegation of authority no longer exist. In 1946, there was insufficient uniformity in workload among full-time referees such that Congress could set a single salary appropriate for all. It would have been nearly impossible for the Congress to supervise the details of the transition from the fee system to the salary system. Since 1969, the Judicial Conference has set the salaries of all full-time bankruptcy judges uniformly across the country. This means that the detailed supervision required thirty years ago is no longer necessary. Congress may now set a uniform salary that will be appropriate for all full-time bankruptcy judges.

Finally, the creation in 1967 of the Commission on Executive, Legislative, and Judicial Salaries has obviated the need for the Judicial Conference to supervise the salary levels of the bankruptcy judges. Their salaries are reviewed every four years by the Commission. The President gives additional thought to the matter, before transmitting the Commission's recommendations to the Congress. Congress also has an opportunity to consider the salary recommendations before they become law. Further review by the Judicial Conference not only duplicates these efforts, but it allows the Conference to thwart the will of Congress, as it has done for the past 6 years. Passage of this bill would restore to Congress the sole and exclusive authority to fix judicial salaries via the mechanism of periodic review of the Salary Commission's recommendations for bankruptcy judges' salaries, just as the Congress does for all other judicial salaries.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

SECTION 40 OF THE BANKRUPTCY ACT

§ 40. Compensation of Referees; Referees' Salary and Expense Fund; Retirement of Referees. [a. Referees shall receive as full compensation for their services salaries to be fixed by the conference, in the light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, at rates, in the case of full-time referees, not more than the rate determined for such referees under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted under section 461 of title 28, United States Code, and in the case of part-time referees, not more than one-half of such rate, as so adjusted. In fixing the amount of salary to be paid to a referee, consideration shall be given to the aver-

age number and the types of, and the average amount of gross assets realized from, cases closed and pending in the territory which the referee is to serve, during the last preceding period of ten years, and to such other factors as may be material. Disbursement of such salaries shall be made monthly by or pursuant to the order of the Director.

[b. The conference, in the light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, may increase or decrease any salary, within the limits prescribed in subdivision a of this section, if there has been a material increase or decrease in the volume of business or other change in the factors which may be considered material in fixing salaries: *Provided, however,* That during the tenure of any full-time referee his salary shall not be reduced below that at which he was originally appointed under this amendatory Act, and during any term of any such referee his salary shall not be reduced below the salary fixed for him at the beginning of that term.]

(a) *The compensation of referees in bankruptcy shall be as follows:*

(1) *Each full-time referee in bankruptcy shall receive a salary of \$36,000 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967.*

(2) *Each part-time referee in bankruptcy shall receive a salary of not more than \$18,000 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967, and subject to further adjustment by the conference, in the light of recommendations of the councils, made after advising with the district judges of their respective circuits, and the Director. In fixing the amount of the salary to be paid to a part-time referee, consideration shall be given to the average number and types of, and the average amount of gross assets realized from, cases closed and pending in the territory which the part-time referee is to serve, during the last preceding period of ten years, and to such other factors as may be material.*

(3) *Disbursement of salaries of referees shall be made monthly by or pursuant to order of the Director.*

(b) *The conference, in light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, may increase or decrease the salary of any part-time referee, within the limit prescribed in subdivision a (2) of this section, if there has been a material increase or decrease in the volume of business or other change in the factors which may be considered material in fixing salaries.*

* * * * *

d. (1) All referees in bankruptcy and employees in the offices of such referees shall be deemed to be officers and employees in the judicial branch of the United States Government within the meaning of the Civil Service Retirement Act.

(2) Any referee who has retired or been retired under the provisions of paragraph (1) of this subdivision may, if called upon by a judge of a court of bankruptcy, perform such duties of a referee, conciliation commissioner, or special master under this Act, within the jurisdiction of the court, as he may be able and willing to undertake. The retired referee shall receive as compensation for his serv-

ices, either full or part time, the salary authorized for the referee serving the territory to which the retired referee is assigned. However, the rate of compensation of a retired referee assigned to serve on a full-time basis in the territory of a part-time referee shall be the [minimum rate established by the Judicial Conference of the United States for] rate of full-time service. Salaries authorized under this paragraph shall be subject to the provisions of section 13(b) of the Civil Service Retirement Act.

COST OF LEGISLATION

Pursuant to the requirement of clause 7 of rule XIII of the Rules of the House of Representatives the following estimate of costs incurred in carrying out the provisions of this bill are submitted.

The anticipated cost of this legislation would be \$826,500. There are presently 190 full-time bankruptcy judges and the cost would be \$4,350 per full-time bankruptcy judge.

STATEMENTS UNDER CLAUSE 2(1) (3) OF RULE X OF THE RULES OF THE HOUSE OF REPRESENTATIVES

A. *Oversight Statement.*—No oversight findings or recommendations have previously been filed with respect to this area.

B. *Budget Statement.*—Clause 2(1) (3) (B) of rule XI is not applicable. Section 308(a) of the Congressional Budget Act of 1974 will not be implemented this year. See last paragraph of House Report No. 94-25, 94th Congress, 1st Session (1975).

C. No estimate or comparison from the Director of the Congressional Budget Office was received.

D. No related oversight findings and recommendations have been made by the Committee on Government Operations under clause 2(g) (2) of rule X.

STATEMENT UNDER CLAUSE 2(1) (4) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES CONCERNING ANY INFLATIONARY IMPACT ON PRICES AND COSTS IN THE OPERATION OF THE NATIONAL ECONOMY

The committee concludes that in view of the modest increased expenditure which would result from enactment of this legislation, there will be no inflationary impact on prices and costs in the operation of the national economy.

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THE NEW YORK TIMES, SUNDAY, FEBRUARY 1, 1976

Exhibit D

Bankruptcy Judges Opting Off the Bench

By NATHANIEL C. NASH

Both Salary and Status

up of district and circuit
court judges and presided
over by the Chief Justice
of the United States

Just last July, the judges
were given the authority to
preside over and try Chapter



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